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FEDERAL REGISTER

Vol. 81 Wednesday,

No. 12 January 20, 2016

Pages 2967–3288

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

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Contents

Federal Register

Vol. 81, No. 12

Wednesday, January 20, 2016

Agricultural Marketing Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Local Food Directories and Survey, 3094–3095

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Commodity Credit Corporation
See Farm Service Agency
See Food and Nutrition Service
See Forest Service
See Rural Housing Service

Animal and Plant Health Inspection Service
RULES
Exportation of Live Animals, Hatching Eggs, and Animal Germplasm From the United States, 2967–2986
PROPOSED RULES
Importation of Fresh Apple and Pear Fruit Into the Continental United States From Certain Countries in the European Union, 3033–3038

Army Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 3121

Bureau of Consumer Financial Protection
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 3120

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 3136–3146

Centers for Medicare & Medicaid Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 3146–3147

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 3147
Single-Source Program Expansion Supplement Grant Awards:
BCFS Health and Human Services in San Antonio, TX, 3147–3148

Coast Guard
RULES
Safety Zones:
Upper Mississippi River and Illinois River, MO and IL, 2989–2991
PROPOSED RULES
Safety Zones:
Annual Events in the Captain of the Port Lake Michigan Zone, 3069–3078
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 3148–3153

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Commodity Credit Corporation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Noninsured Crop Disaster Assistance Program and Report of Acreage, 3095–3097

Comptroller of the Currency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Leasing, 3236–3237
Securities Exchange Act Disclosure Rules and Securities of Federal Savings Associations, 3237–3238

Defense Department
See Army Department
PROPOSED RULES
Federal Acquisition Regulations:
FAR Case 2014–004, Payment of Subcontractors, 3087–3093
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 3121–3122
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Contractors' Purchasing Systems Reviews, 3135–3136
Value Engineering Requirements, 3134–3135
Meetings:
U.S. Court of Appeals for the Armed Forces Code Committee, 3121

Drug Enforcement Administration
NOTICES
Decisions and Orders:
Irwin August, D.O., 3158–3159

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Intents To Grant Exclusive Licenses, 3122

Environmental Protection Agency
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
California; San Joaquin Valley; Reclassification as Serious Nonattainment for the 2006 PM2.5 NAAQS, 2993–3001
Pennsylvania; Allegheny County's Adoption of Control Techniques Guidelines for Four Industry Categories for Control of Volatile Organic Compound Emissions, 2991–2993

Tolerance Requirements; Exemptions:
VNT1 Protein in Potato, 3001–3003
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Pennsylvania; Attainment Plan for the Lower Beaver Valley Nonattainment Area for the 2008 Lead National Ambient Air Quality Standard, 3078–3082
NOTICES
Human Health and Ecological Risk Assessments:
Tetrachlorvinphos Registration Review, 3128–3130
Meetings:
Good Neighbor Environmental Board, 3130

Farm Service Agency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Noninsured Crop Disaster Assistance Program and Report of Acreage, 3095–3097

Federal Aviation Administration
RULES
Modification of VOR Federal Airway V–443:
North Central United States, 2987–2988
Revocation and Establishment of Class E Airspace:
Bowman, ND, 2986–2987
PROPOSED RULES
Airworthiness Directives:
Airbus Airplanes, 3045–3051, 3053–3056, 3061–3069
Bombardier, Inc. Airplanes, 3038–3042
Fokker Services B.V. Airplanes, 3042–3045, 3051–3053, 3056–3061
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Damage Tolerance and Fatigue Evaluation of Composite Rotorcraft Structures, 3234–3235
FAA Acquisition Management System, 3235–3236
FAA Airport Master Record, 3235
Petitions for Exemptions; Summaries:
Freeport-McMoRan, Inc., 3234

Federal Communications Commission
PROPOSED RULES
Petitions for Rulemaking:
IDT Telecom, Inc., Regarding Interstate Telecommunications Relay Service Fund Contribution, 3085–3086
Wireline Competition Bureau Extends Comment and Reply Comment Deadlines in Business Data Services (Special Access) Rulemaking Proceeding, 3086–3087
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 3130–3134

Federal Emergency Management Agency
PROPOSED RULES
Establishing a Deductible for FEMA's Public Assistance Program, 3082–3085

Federal Energy Regulatory Commission
NOTICES
Combined Filings, 3125, 3127–3128
Filings
United Illuminating Co., 3126
United Illuminating Co. et al., 3123
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
Current Power and Gas Inc., 3123
Kingbird Solar B, LLC, 3125–3126
Meetings:
PJM Interconnection, LLC; Technical Conference, 3126–3127
Meetings; Sunshine Act, 3123–3125

Federal Housing Finance Agency
RULES
Members of Federal Home Loan Banks, 3246–3288

Federal Reserve System
NOTICES
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 3134

Federal Retirement Thrift Investment Board
NOTICES
Meetings; Sunshine Act, 3134

Fish and Wildlife Service
NOTICES
Maintenance of Annual Taking Limit for the Alaska-Chukotka Polar Bear Population, 3153–3154

Food and Nutrition Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Review of Child Nutrition Data and Analysis for Program Management, 3097–3099

Foreign-Trade Zones Board
NOTICES
Establishments of Foreign-Trade Zones Under the Alternative Site Framework:
Central Pennsylvania, 3100
Proposed Production Activities:
Klaussner Furniture Industries, Inc., Subzone 230D, Asheboro and Candor, NC, 3100–3101
Subzone Expansion Applications:
Black and Decker U.S., Inc., Foreign-Trade Zone 243, Victorville, CA, 3100

Forest Service
NOTICES
Meetings:
Forestry Research Advisory Council, 3099

General Services Administration
PROPOSED RULES
Federal Acquisition Regulations:
FAR Case 2014–004, Payment of Subcontractors, 3087–3093
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Contractors' Purchasing Systems Reviews, 3135–3136
Value Engineering Requirements, 3134–3135

Health and Human Services Department
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Children and Families Administration
See National Institutes of Health

RULES
Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards:
Technical Amendments, 3004–3023

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency

Institute of Museum and Library Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Guidelines for Grants to States Program Five-Year Evaluations, 3165

Interior Department
See Fish and Wildlife Service
See Land Management Bureau

Internal Revenue Service
PROPOSED RULES
Treatment of Certain Transfers of Property of Foreign Corporations; Hearing, 3069
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 3238–3240
Credit for Indian Coal Production and Inflation Adjustment Factor for Calendar Year 2015, 3238

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Certain Uncoated Paper From Indonesia, 3104–3105
Certain Uncoated Paper From the People's Republic of China, 3110–3112
Sales at Less Than Fair Value:
Certain Uncoated Paper From Australia, 3108–3110
Certain Uncoated Paper From Brazil, 3115–3117
Certain Uncoated Paper From Indonesia, 3101–3104
Certain Uncoated Paper From Portugal, 3105–3108
Certain Uncoated Paper From the People's Republic of China, 3112–3115

International Trade Commission
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Certain Biaxial Integral Geogrid Products From China, 3157–3158

Justice Department
See Drug Enforcement Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 3159–3160

Labor Department
See Mine Safety and Health Administration

Land Management Bureau
NOTICES
Applications for Withdrawals of Public Lands:
Yuma, AZ, 3155–3156
Meetings:
Dakotas Resource Advisory Council, 3154–3155
Plats of Surveys:
New Mexico, 3157
North Dakota, 3155–3156

Legal Services Corporation
NOTICES
Request for Letters of Intent To Apply for 2015 Technology Initiative Grant Funding, 3162–3165

Mine Safety and Health Administration
NOTICES
Petitions for Modifications of Applications of Existing Mandatory Safety Standards, 3160–3162

National Aeronautics and Space Administration
PROPOSED RULES
Federal Acquisition Regulations:
FAR Case 2014–004, Payment of Subcontractors, 3087–3093
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Contractors' Purchasing Systems Reviews, 3135–3136
Value Engineering Requirements, 3134–3135

National Foundation on the Arts and the Humanities
See Institute of Museum and Library Services

National Institute of Standards and Technology
NOTICES
Meetings:
Advisory Committee on Earthquake Hazards Reduction, 3117–3118

National Institutes of Health
NOTICES
Meetings:
National Institute of Dental and Craniofacial Research, 3148

National Oceanic and Atmospheric Administration
RULES
Endangered and Threatened Wildlife and Plants:
Banggai Cardinalfish and Harrisson's Dogfish; Final Listing Determinations on Proposal To List, 3023–3031
Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic:
South Atlantic Greater Amberjack; Commercial Accountability Measure and Closure, 3031–3032
NOTICES
Requests for Nominations:
General Advisory Committee and the Scientific Advisory Subcommittee to the United States Delegation to the Inter-American Tropical Tuna Commission, 3118–3120

National Science Foundation
NOTICES
Meetings:
Astronomy and Astrophysics Advisory Committee, 3165–3166

Nuclear Regulatory Commission
NOTICES
Concentration Averaging and Encapsulation Branch Technical Position, 3166–3167

Personnel Management Office
NOTICES
Excepted Service:
Consolidated Listing of Schedules A, B, and C Exceptions, 3167–3195

Rural Housing Service
NOTICES
Solicitations of Applications:
Section 533 Housing Preservation Grants for Fiscal Year 2016, 3099–3100

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 3205–3206, 3224–3225
Self-Regulatory Organizations; Proposed Rule Changes:
BATS Exchange, Inc., 3195–3203, 3218
Chicago Board Options Exchange, Inc., 3203–3205, 3210–3213
Depository Trust Co., 3218–3220
International Securities Exchange, LLC, 3217–3218
ISE Gemini, LLC, 3213
Miami International Securities Exchange, LLC, 3206–3207
NASDAQ Stock Market, LLC, 3220–3224
NYSE Arca, Inc., 3213–3217
NYSE MKT, LLC, 3225–3229
Options Clearing Corp., 3208–3210

Small Business Administration
NOTICES
Disaster Declarations:
Kansas, 3229

State Department
RULES
Privacy Act; Systems of Records, 2988–2989
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for Employment as a Locally Employed Staff or Family Member, 3230–3231
Culturally Significant Objects Imported for Exhibition:
A Japanese Constellation: Toyo Ito, SANAA and Beyond Exhibition, 3231
Asia in Amsterdam Exhibition, 3231
Peter Fischli David Weiss: How To Work Better Exhibition, 3230
Van Dyck, Rembrandt, and the Portrait Print Exhibition, 3231
Meetings:
Department of State Advisory Committee on Private International Law, 3229–3230

Susquehanna River Basin Commission
NOTICES
Projects Approved for Consumptive Uses of Water, 3232–3234

Transportation Department
See Federal Aviation Administration

Treasury Department
See Comptroller of the Currency
See Internal Revenue Service
See United States Mint

United States Mint
NOTICES
Pricing Changes for 2016 Products, 3240

Veterans Affairs Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for Adaptive Sports Grant, VA Form 10096, 3242–3243
Application for Benefits for Certain Children With Disabilities Born of Vietnam and Certain Korea Service Veterans, 3241–3242
Claim for Repurchase of Loan, 3240–3241
Income Verification, 3241
Pre-Discharge Compensation Claim, 3244
VA/DOD Joint Disability Evaluation Claim, 3243
Verification of VA Benefits, 3243
Meetings:
MyVA Federal Advisory Committee, 3242

Separate Parts In This Issue

Part II
Federal Housing Finance Agency, 3246–3288

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR

Proposed Rules:

319.....3033

9 CFR

91.....2967

12 CFR

1263.....3246

14 CFR

71 (2 documents) 2986, 2987

Proposed Rules:

39 (9 documents) ...3038, 3042, 3045, 3051, 3053, 3056, 3059, 3061, 3066

22 CFR

171.....2988

26 CFR

Proposed Rules:

1.....3069

33 CFR

165.....2989

Proposed Rules:

165.....3069

40 CFR

52 (2 documents) 2991, 2993

81.....2993

174.....3001

Proposed Rules:

52.....3078

42 CFR

38.....3004
50.....3004
51.....3004
51a.....3004
51b.....3004
51c.....3004
51d.....3004
52.....3004
52a.....3004
52b.....3004
52c.....3004
52d.....3004
52e.....3004
55a.....3004
56.....3004
57.....3004
59.....3004
59a.....3004
62.....3004
63a.....3004
64.....3004
65.....3004
65a.....3004
66.....3004
67.....3004
124.....3004
136.....3004
403.....3004
417.....3004
430.....3004
433.....3004
434.....3004
435.....3004
436.....3004
438.....3004
440.....3004
441.....3004
456.....3004
457.....3004
1001.....3004

44 CFR

Proposed Rules:

206.....3082

45 CFR

16.....3004
63.....3004
75.....3004
87.....3004
95.....3004
98.....3004
261.....3004
262.....3004
263.....3004
265.....3004
286.....3004
287.....3004
301.....3004
302.....3004
303.....3004
304.....3004
309.....3004
400.....3004
1000.....3004
1301.....3004
1304.....3004
1309.....3004
1321.....3004
1326.....3004
1328.....3004
1336.....3004
1355.....3004
1357.....3004

47 CFR

Proposed Rules:

64.....3085
69.....3086

48 CFR

Proposed Rules:

19.....3087
42.....3087
52.....3087

50 CFR

223.....3023
622.....3031

Rules and Regulations

Federal Register
Vol. 81, No. 12
Wednesday, January 20, 2016

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

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 91

[Docket No. APHIS–2012–0049]

RIN 0579–AE00

Exportation of Live Animals, Hatching Eggs, and Animal Germplasm From the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are revising the regulations pertaining to the exportation of livestock from the United States. Among other things, we are removing most of the requirements for export health certifications, tests, and treatments from the regulations, and instead directing exporters to follow the requirements of the importing country regarding such processes and procedures. We are retaining only those export health certification, testing, and treatment requirements that we consider necessary to have assurances regarding the health and welfare of livestock exported from the United States. We also are allowing pre-export inspection of livestock to occur at facilities other than an export inspection facility associated with the port of embarkation, under certain circumstances, and replacing specific standards for export inspection facilities and ocean vessels with performance standards. These changes will provide exporters and the Animal and Plant Health Inspection Service (APHIS) with more flexibility in arranging for the export of livestock from the United States while continuing to ensure the health and welfare of the livestock. Additionally, if APHIS knows that an importing country requires an export health certificate endorsed by the competent veterinary authority of the United States for any animal other than livestock, including pets, or for any hatching eggs or animal germplasm, we are requiring that the animal, hatching eggs, or animal germplasm have such a health certificate to be eligible for export from the United States. This change will help ensure that all animals, hatching eggs, and animal germplasm exported from the United States meet the health requirements of the countries to which they are destined. Finally, we are making editorial amendments to the regulations to make them easier to understand and comply with.

DATES: Effective February 19, 2016.

FOR FURTHER INFORMATION CONTACT: Dr. Jack Taniewski, Director for Animal Export, National Import Export Services, VS, APHIS, 4700 River Road, Unit 39, Riverdale, MD 20737–1231; (301) 851–3300.

SUPPLEMENTARY INFORMATION:

Background

Under the Animal Health Protection Act (AHPA, 7 U.S.C. 8301 *et seq.*), the Secretary of Agriculture may prohibit or restrict the exportation of any animal, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of any pest or disease of livestock from or within the United States. The AHPA also authorizes the Secretary to prohibit: (1) The exportation of any livestock if the Secretary determines that the livestock is unfit to be moved; (2) the use of any means of conveyance or facility in connection with the exportation of any animal or article if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of any pest or disease of livestock from or within the United States; and (3) the use of any means of conveyance in connection with the exportation of livestock if the Secretary determines that the prohibition or restriction is necessary because the means of conveyance has not been maintained in a clean and sanitary condition or does not have accommodations for the safe and proper movement and humane treatment of livestock.

The Secretary has delegated this authority to the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA). Pursuant to this authority, APHIS has issued the regulations in 9 CFR part 91, ''Inspection and Handling of Livestock for Exportation'' (''the regulations'').

We had not substantively amended these regulations for many years and some revisions were needed. Some provisions, such as those that require pre-export inspection of livestock at an export inspection facility associated with the port of embarkation and those that set forth specific construction and maintenance standards for export inspection facilities and ocean vessels, sometimes interfered with exports. Other requirements, particularly those that required certain tests and certifications for all livestock intended for export from the United States, were not always required by importing countries or necessary for us to have assurances regarding the health and welfare of the livestock at the time of export.

For these reasons, on February 26, 2015, we published in the **Federal Register** (80 FR 10398–10417, Docket No. APHIS–2012–0049) a proposed rule [1] to remove requirements that we determined to be unnecessary or overly prescriptive from the regulations in order to provide exporters and APHIS with more options for inspecting and handling livestock intended for export.

Additionally, we proposed to amend the regulations so that, when an importing country is known to require an export health certificate for any animal other than livestock or for any animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes intended for export to that country, the animal or other commodity would have to have an export health certificate in order to be eligible for export from the United States.

Finally, we proposed to group certain provisions that were located in disparate sections of the regulations, and to make certain other editorial changes to make the regulations easier to read.

We solicited comments concerning our proposal for 60 days ending April 27, 2015. We received 48 comments by that date. They were from exporters, brokers, non-profit animal welfare

[1] To view the proposed rule, its supporting documents, or the comments that we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0049.*

organizations, and private citizens. We discuss the comments that we received below, grouped by topic in the following order:

- General comments on the proposed rule;
- Comments regarding specific sections of the proposed rule; and
- Comment regarding the Program Handbook.

General Comments on the Proposed Rule

One commenter stated that we had issued the proposed rule based on the erroneous assumption that the AHPA allows APHIS to regulate exports of livestock solely in order to protect and promote the welfare of the animals to be exported. The commenter stated that the AHPA does not delegate such authority to APHIS. In the commenter's opinion, the AHPA limits the scope of APHIS' regulation of livestock exports to those requirements that are necessary to ensure that livestock arrive in the importing country in acceptable condition and do not disseminate diseases or pests of livestock within or from the United States. Moreover, the commenter stated that, within these parameters, APHIS may only issue regulations with the intent of protecting and promoting international markets for U.S. livestock. The commenter stated that this is reflected in section 8301 of the AHPA, which provides that regulation of exports pursuant to the Act is necessary in order to ''prevent and eliminate . . . burdens on foreign commerce'' and to ''protect the economic interests of the livestock and related industries of the United States.'' The commenter concluded that the rule should be withdrawn on the grounds that APHIS had exceeded its statutory authority in issuing it.

We agree with the commenter that the primary purpose of the AHPA is to ensure that livestock that are imported into, exported from, or moved interstate within the United States do not contribute to the dissemination of pests or diseases of livestock within or from the United States. However, we disagree with the commenter's interpretation of the AHPA with regard to livestock exports.

As we noted earlier in this document, the AHPA authorizes the Secretary to prohibit the exportation of any livestock if the Secretary determines that the livestock is unfit to be moved and to prohibit the use of any means of conveyance in connection with the exportation of livestock if the Secretary determines that the prohibition or restriction is necessary because the means of conveyance has not been maintained in a clean and sanitary condition or does not have accommodations for the safe and proper movement and humane treatment of livestock. The section of the AHPA that contains these authorizations, 7 U.S.C. 8304, does not limit our authority in the manner suggested by the commenter.

Additionally, we disagree with the commenter that the Congressional findings in section 8301 of the AHPA necessarily imply such limitations. In addition to the findings cited by the commenter, Congress also finds in that section that ''the health of animals is affected by the methods by which animals are transported in interstate commerce or foreign commerce.'' We note, in that regard, that the AHPA does not define the term ''health,'' either explicitly or contextually.

The same commenter asserted that APHIS had overstated the rigidity of the previous regulations in part 91. The commenter pointed out that, at the time the proposed rule was issued, § 91.4 of the regulations provided that the Administrator may permit the exportation of livestock not otherwise permitted under the regulations, under such conditions as the Administrator may prescribe to prevent the spread of livestock diseases and to insure the humane treatment of the animals while in transit. The commenter also pointed out that paragraph (b) of § 91.14 had allowed for the use of temporarily designated ports of embarkation in conjunction with such exports. Because of these two provisions, the commenter asserted that the regulations allowed for any variances APHIS saw necessary to implement, that there was, accordingly, no need for the proposed rule, and that APHIS should therefore withdraw it.

The provisions of § 91.4 and paragraph (b) of § 91.14 were intended for specific unusual or unforeseen situations. They were not intended as a means to establish generally applicable exemptions from the regulations or alternate conditions for the exportation of livestock from the United States. Given that we considered numerous revisions to the regulations to be necessary, and given the scope of the revisions that we proposed, we consider it to have been appropriate and necessary to issue a proposed rule.

The same commenter stated that, while we had cited a recent and appreciable increase in the volume of livestock exports from the United States as part of the reason for the rule, we had provided no evidence that the previous regulations could not accommodate this increase.

The proposed rule pointed to several inefficiencies in the previous regulations that were exacerbated by the recent increase in the volume of livestock exports from the United States. For example, we pointed out that the regulations required all animals offered for exportation to undergo pre-export inspections within 24 hours of embarkation at an export inspection facility associated with the port of embarkation and additionally required most animals to be afforded 5 hours of rest at this export inspection facility. We also stated that, in our experience, it can take more than 24 hours to unload a large lot of animals into an export inspection facility for inspection. We stated that this sometimes creates a tight timeframe for unloading the animals into the facility and subsequently loading the animals for export, increased the possibility of hastened loading and unloading, and increased the likelihood that the animals could become injured or distressed because of this haste. Finally, we pointed out that some export inspection facilities associated with ports of embarkation simply lack the ability to accommodate a large lot of livestock.

Several commenters stated that we should prohibit the export of livestock, prohibit the use of shipping containers to transport livestock, set an annual limit on the number of livestock exported from the United States, prohibit the export of livestock for slaughter, or prohibit any movement of animals to slaughter. Similarly, a number of commenters suggested that we prohibit the export of horses for slaughter purposes.

Such prohibitions are outside the scope of our statutory authority.

One commenter stated that we should make an inquiry regarding the use of the livestock to be exported. The commenter pointed out that, under section 8314 of the AHPA, APHIS may ''gather and compile information'' that APHIS ''considers to be necessary for the administration and enforcement'' of the AHPA, and that such an inquiry would be consistent with this statutory authority.

We disagree with the commenter that such an inquiry is within our statutory authority. With regard to livestock exports, the section of the AHPA that the commenter cited allows APHIS to gather and collect information in order to administer the section of the AHPA that pertains to live animal exports and the inspections related to such exports. Accordingly, we can collect and gather information in order to have assurances that: (1) Animals exported from the United States will not disseminate pests of diseases of livestock within or from the United States; (2) livestock exported

from the United States are fit to be moved; (3) the means of conveyance or facilities used in conjunction with the exportation of such livestock will not contribute to the dissemination of pests and diseases of livestock within or from the United States; and (4) the means of conveyance used in conjunction with the export of such livestock has been maintained in a clean and sanitary condition and has accommodations for the safe and proper movement and humane treatment of the livestock. Inquiring regarding the intended use of the livestock in the importing country does not further any of these goals and is, accordingly, outside the scope of our statutory authority.

That being said, many countries have different importation requirements for various classes of livestock. To facilitate the export of livestock to those countries, as part of our export health certification processes, we inquire regarding the intended use of the livestock in the importing country. It is important to note, however, that in such instances, this inquiry is a service that we provide at the behest of the importing country.

Several commenters asked us to modify the proposed rule to prohibit the export by sea of horses for slaughter. One commenter pointed out that, under 15 CFR 754.5, the Department of Commerce (DOC) prohibits the export by sea of horses for slaughter, and states that they will consult with USDA in order to enforce this prohibition.

While APHIS is committed to coordinating with DOC to enforce this prohibition, we do not consider it necessary to modify the proposal in such a manner. This is due to the manner in which DOC enforces 15 CFR 754.5. Under the section, exporters who wish to export horses for slaughter must obtain a short supply license from DOC. One of the conditions on the license itself prohibits the exportation by sea of horses for slaughter, and makes the licensee subject to possible revocation of his or her license, as well civil and criminal penalties, for noncompliance with this prohibition. Based on our interaction with DOC and knowledge of the slaughter horse industry, these conditions have proven to be successful, and slaughter horses are currently exported from the United States via aircraft or overland conveyance.

Several commenters asked us whether the rule pertains to animals temporarily exported from the United States for a particular event or exhibition. If it did not, they asked that provisions regarding temporary exportation of livestock and other animals be added to this final rule.

The regulations in part 91 do not pertain to the export of livestock or other animals for a temporary show or exhibition. However, requirements for the temporary export and subsequent reimportation of several species of animals are contained in 9 CFR part 93. For example, paragraph (b) of § 93.317 of the 9 CFR contains requirements for horses exported to Canada for subsequent reimportation into the United States within a period of 30 days, and paragraph (f) of § 93.101 of the 9 CFR contains requirements for U.S.-origin birds intended for reimportation into the United States following a particular theatrical performance or exhibition in Canada or Mexico.

One commenter suggested that the regulations in part 91 should state that APHIS may collaborate with other Federal agencies to implement and enforce the regulations.

Since section 8310 of the AHPA explicitly authorizes such collaboration, we do not consider it necessary to include this statement in part 91.

One commenter suggested modifying the proposed rule to require exporters to maintain contingency plans to respond to adverse events that may befall a shipment of livestock during movement from their premises of export to the port of embarkation.

We see merit in such a requirement, particularly when pre-export inspection of the livestock intended for export is conducted at a facility other than the export inspection facility associated with the port of embarkation. Accordingly, in this final rule, we require that, in order for us to authorize pre-export inspection at such facilities, among other requirements, the exporter must maintain contact information for a veterinarian licensed in the State of embarkation to perform emergency medical services, as needed, on the animals intended for export.

The same commenter also suggested modifying the proposed rule to specify that APHIS personnel must visually monitor aircraft and ocean vessels as they depart from the port of embarkation.

The commenter did not explain how such monitoring would promote or safeguard the health and safety of the livestock aboard the aircraft or ocean vessels, nor is the purpose of such monitoring readily apparent to us.

Finally, one commenter stated that APHIS had insufficient resources to implement the rule. The commenter's assertion, however, was based in large part on the stated assumption that APHIS would not abide by provisions of the rule that make certain of our services contingent on the availability of APHIS personnel. We will, however, adhere to these provisions.

Comments Regarding Specific Sections of the Proposed Rule

Comments Regarding Proposed § 91.1 (''Definitions'')

In proposed § 91.1, we proposed definitions of terms that would be used in the revised regulations. We received several comments on our proposed definitions.

We proposed to define *date of export* as ''the date animals intended for export are loaded onto an ocean vessel or aircraft, or if moved by land to Canada or Mexico, the date the animals cross the border.''

One commenter pointed out that several foreign countries define the term differently in their import requirements. In such instances, the commenter asked whether exporters should abide by the importing country's understanding of the term or APHIS'.

In such instances, exporters should abide by the importing country's understanding of the term. However, APHIS continues to collaborate with our trading partners to harmonize their definitions regarding U.S. livestock exports with our own.

We proposed to define *livestock* as ''horses, cattle (including American bison), captive cervids, sheep, swine, and goats, regardless of intended use.''

One commenter pointed out that the AHPA defines *livestock* as ''all farm-raised animals,'' and that our proposed definition was significantly more restrictive than the AHPA's definition. The commenter asked whether our definition should be considered a statement of Agency policy regarding the animals APHIS considers to be livestock. If so, the commenter expressed concern that it could adversely impact ongoing domestic surveillance and disease control efforts in other species of animals that APHIS has traditionally considered to be livestock.

The definition of *livestock* that we proposed in § 91.1 pertains solely to the regulations in part 91, and is not intended as a statement of general APHIS policy. The restrictive definition of *livestock* reflects the classes of livestock that can feasibly be inspected at an export inspection facility associated with a port of embarkation. Moreover, these are the primary classes of livestock exported from the United States.

We proposed to replace *premises of origin,* used in the previous part 91, with *premises of export.* We stated that this was because *premises of origin* is

often used in common speech to mean the premises where animals were born and/or raised, whereas we meant the premises where the animals are assembled for pre-export isolation (if such isolation is required by the importing country) or, if the importing country does not require pre-export isolation, the premises where the animals are assembled for pre-export inspection and/or testing, or the germplasm is collected and stored, before being moved to a port of embarkation or land border port.

One commenter stated that exporters do not construe *premises of origin* to mean the premises where animals are born and/or raised. For this reason, the commenter stated that we should retain the term *premises of origin* within the regulations.

While it may be true that, in the commenter's experience, exporters do not construe the term *premises of origin* to mean the premises where animals are born and/or raised, this is a misconstrual that we do encounter as an Agency from time to time.

The same commenter stated that, if we retain the term *premises of origin,* we should also retain the term *origin health certificate,* which we proposed to replace with the term *export health certificate.* Since we have decided not to retain *premises of origin,* however, we are also not retaining the term *origin health certificate*.

Comments Regarding Proposed § 91.3 (''General Requirements'')

In proposed § 91.3, we proposed general requirements for the export of livestock, animals other than livestock, and animal germplasm.

Paragraph (a) of proposed § 91.3 concerned the issuance of export health certificates. In proposed paragraph (a)(1) of § 91.3, we proposed that livestock would have to have an export health certificate in order to be eligible for export from the United States.

One commenter suggested that we should instead require export health certificates for livestock when either APHIS or the exporter is aware that the importing country requires such certificates. If APHIS is not aware of such a requirement, the commenter suggested that we should authorize the export of the animals based on a good-faith effort by the exporter to determine whether the importing country requires export health certificates for the animals.

We are making no revisions in response to this comment. As we stated in the proposed rule, regardless of whether a foreign country allows livestock to be imported into their country without an export health certificate, pursuant to the AHPA, we need assurances that the livestock were fit to be moved for export from their premises of export at the time that movement occurred, and the export health certificate provides such assurances.

The commenter also asked whether this general requirement means that APHIS no longer intends to maintain IRegs, our Web site containing information regarding the animal and animal product import requirements of foreign countries.

We intend to the maintain IRegs.

In proposed paragraph (a)(2) of § 91.3, we proposed that, if an importing country is known to require an export health certificate for any animal other than livestock or for any animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes intended for export to that country, the animal, animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes would have to have an export health certificate in order to be eligible for export from the United States. We stated that this requirement was necessary because several countries have entered into export protocols with the United States for animals other than livestock or animal germplasm in which these countries require export health certificates, and we have operationally required such export health certificates out of deference to these export protocols for many years.

One commenter stated that it was not long-standing APHIS operational policy to require such certificates.

This policy has been in effect for 9 years.

Several commenters pointed out that ''known to require'' is passive voice, and asked whether APHIS or the exporter would be expected to know whether an importing country required an export health certificate for animals other than livestock, animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes.

While it is the responsibility of the exporter to make a reasonable effort to determine the requirements of the importing country for particular animals and commodities, for purposes of the proposed requirement, we meant when APHIS knows the importing country to require export health certificates.

One commenter understood ''known to require'' in the sense that we intended it, but also understood the proposed rule to suggest that the only way by which APHIS learns of such requirements is through export protocols with foreign countries. The commenter pointed out that many foreign countries have import requirements for animals other than livestock, germplasm, and hatching eggs that were not established through export protocols negotiated with APHIS. The commenter also pointed out that export protocols for animals other than livestock, animal germplasm, and hatching eggs sometimes do not require export health certification.

We acknowledge that many export protocols do not require export health certification for animals other than livestock, germplasm, and hatching eggs. The reference to export protocols was intended to illustrate one of the means by which APHIS becomes aware of such requirements. We also learn of them through routine dialogue with foreign countries, exporters, and brokers, among other means.

Several commenters pointed out that our authority under the AHPA with regard to exports of animals other than livestock, as well as animal germplasm and hatching eggs, is limited to determining that the animals, animal germplasm, or hatching eggs will not present a risk of disseminating diseases or pests of livestock within or from the United States. In instances when the importing country requires export health certificates but has not demonstrated such a risk, the commenters questioned our authority under the AHPA to impose a Federal requirement requiring export health certificates for such animals and commodities. The commenters acknowledged that, in the absence of such certificates, the animals and commodities could not be validly exported to the country, but stated that export health certificates are more aptly characterized in such instances as a discretionary service to facilitate trade. One of these commenters construed the proposed rule to suggest that we were issuing the provisions pursuant to the World Trade Organization's Agreement on Sanitary and Phytosanitary Measures (SPS Agreement), and pointed out that the SPS Agreement is not a statute and does not provide APHIS with authority to regulate exports.

In a similar vein, one commenter stated that we should require export health certificates for animals other than livestock, animal germplasm, and hatching eggs only when we consider the animals or commodities to be potential vectors of pests and diseases of livestock. The commenter also asked whether APHIS has any efforts underway or planned in the future to encourage trading partners to relieve restrictions on the importation of animals and articles that we do not

consider to be potential vectors of pests and diseases of livestock.

Several foreign countries consider any animal, germplasm, or hatching egg offered for importation to their country without an export health certificate issued by the competent veterinary authority of the exporting country to present a risk of disseminating pests or diseases of livestock within their country, and accordingly prohibit such importation.

Because of this, if we are aware that the importing country has such requirements, we consider it necessary to require export health certificates for the animals, germplasm, or hatching eggs in order to provide assurances to the importing country that, in our determination as the competent veterinary authority of the United States, we do not consider the animals, germplasm, or hatching eggs to present a risk of disseminating pests or diseases of livestock. In other words, the export health certificate functions as a requirement that we impose in order to communicate our determination that the animals or articles do not present a risk of disseminating pests or diseases of livestock from the United States. Accordingly, while we acknowledge that issuing such export health certificates is consistent with the SPS Agreement, insofar as it respects the measures that other countries impose on the importation of animals other than livestock, animal germplasm, or hatching eggs in order to protect animal health within their country, we also consider it consistent with our statutory authority under the AHPA.

We disagree that such certification should more accurately be considered a discretionary service offered by APHIS, rather than a Federal requirement. Such an approach could be construed to suggest that APHIS has evaluated all classes of animals or articles subject to such certification requirements by importing countries and determined that they present no risk of disseminating pests or diseases of livestock from the United States. We have not done so.

Finally, when we have concerns regarding the risk basis for a foreign country's import requirements, we dialogue with the country to encourage them to revise the requirements.

One commenter asked whether the proposed provisions mean that APHIS will provide export health certification for invertebrate animals, if required by an importing country. If so, the commenter asked which staff in APHIS he should contact regarding such certification.

We will do so to the extent possible. The commenter should contact the National Import Export Services staff in APHIS' Veterinary Services program.

A commenter pointed out that the paragraph would not regulate exports of animal products. The commenter stated that such products can disseminate pests and diseases of livestock, and that importing countries sometimes require export health certificates for such commodities.

The regulations in part 91 have historically pertained to live animals. The proposed rule sought to extend their scope to germplasm and hatching eggs. Such commodities are potentially viable. Animal products, however, are not viable. Thus, we are not adding provisions for the certification of such commodities to part 91.

Finally, in light of the comments received on proposed paragraph (a)(2) of § 91.3 discussed above, we are modifying its provisions from those in the proposed rule. In this final rule, it requires that, if APHIS knows that an import country requires an export health certificate endorsed by the competent veterinary authority of the United States for any animal other than livestock or for any animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes intended for export to that country, the animal or other commodity must have an endorsed export health certificate in order to be eligible for export from the United States.

Paragraph (b) of proposed § 91.3 concerned the content of export health certificates. In paragraph (b)(1) of proposed § 91.3, we proposed minimum requirements for export health certificates for livestock. In paragraph (b)(2) of proposed § 91.3, we proposed that, in addition to such minimum requirements, the export health certificate would have to meet any other information or issuance requirements specified by the importing country.

Some commenters construed these two paragraphs to mean that the requirements of the importing country would supersede our own requirements. Other commenters understood the information or issuance requirements specified by the importing country to be in addition to our minimum requirements.

The latter interpretation is correct.

Paragraph (d) of proposed § 91.3 concerned testing requirements for livestock intended for export from the United States. Among other provisions, we proposed that samples must be taken and tests made by an accredited veterinarian or APHIS representative within the timeframe allowed by the importing country. If the importing country does not specify a timeframe, we proposed that the samples would have to be taken and tests made within 30 days prior to export, except that tuberculin tests could be conducted within 90 days prior to the date of export.

One commenter pointed out that APHIS representatives, as we proposed to define them, could include individuals without doctorates of veterinary medicine. The commenter stated that the AHPA requires animal health certificates to be issued by veterinarians, and that allowing non-veterinarians to do so is outside the scope of our statutory authority.

The AHPA does not set such limits on the issuance of certificates. Additionally, as we mentioned in the proposed rule, for certain species of aquaculture, we consider employees of the United States Fish and Wildlife Service best qualified to provide such certification.

One commenter pointed out that an importing country could specify a timeframe for sampling and testing that allows the samples to be taken and tests made outside the period of time that APHIS considers the samples or tests to reliably indicate the animals' freedom from disease at the time of export. The commenter suggested that this could result in diseased animals being exported from the United States. For that reason, the commenter stated that we should instead require all samples to be taken and tests made 30 days prior to the date of export, except for tuberculin tests, which could be conducted 90 days prior to export.

We disagree with the commenter that allowing the tests to be taken outside of the period of time that we consider to reliably indicate the animals' freedom from disease at the time of export could result in diseased animals being exported from the United States. Testing is not the sole requirement for export. The livestock must also be visually inspected by an APHIS veterinarian prior to embarkation for fitness to travel. This includes inspecting the animal for signs and symptoms of infection with a disease of livestock. Any animals with signs or symptoms of such infection are subject to a full veterinary examination.

One commenter suggested that we should require follow-up tests for Program diseases, which we proposed to define as ''diseases for which there are cooperative State-Federal programs and domestic regulations in subchapter C of the 9 CFR,'' at the port of embarkation in order to ensure that diseased livestock are not exported from the United States.

We do not consider such testing to be necessary in order to ensure that diseased livestock are not exported from the United States; as we mentioned above, this is one of the primary purposes of pre-export inspection. Additionally, we note that many tests for Program diseases must be administered at set intervals in order to produce statistically reliable results, and that certain tests, such as the tuberculin test, can lead to anergy, *i.e.,* erroneous results due to a lack of sensitivity to a test brought about by overtesting, if they are administered too frequently.

Finally, one commenter suggested that we should also require testing for chemical residues that would make the livestock unsuitable for human consumption.

APHIS does not have statutory authority to require such tests. We note, however, that most foreign countries have regulatory bodies that specify the maximum chemical residues that may be present in food for human consumption in that country.

Comments Regarding Proposed § 91.4 (''Prohibited Exports'')

In proposed § 91.4, we proposed to prohibit the export of any animal, animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes under Federal, State, or local government quarantine or movement restrictions for animal health reasons unless the importing country issues an import permit or other written instruction allowing that animal or other commodity to enter its country and APHIS concurs with the export of the animal, animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes.

One commenter asked us what the term ''under quarantine'' meant. The commenter pointed to various scenarios under which an exporter may voluntarily place movement restrictions on animals or commodities prior to export, such as to fulfill animal isolation requirements of the importing country.

For purposes of this section, a Federal, State, or local animal health authority must place the movement restrictions on the animal or commodity in order for it to be considered under quarantine.

The same commenter pointed out that the definition of the term ''quarantine'' can vary from State to State and locality to locality, and that a State or locality may impose a ''quarantine'' for purposes other than to prevent the dissemination of pests and diseases of livestock.

For the purposes of the section, we consider a quarantine to be the imposition of movement restrictions in order to prevent the dissemination of pests and diseases of livestock that are under official control at the Federal, State, or local level.

Comments Regarding Proposed § 91.5 (''Identification of Livestock Intended for Export'')

In proposed § 91.5, we proposed identification requirements for livestock intended for export. With one exception, we proposed to require the livestock to be identified in accordance with 9 CFR part 86. That part contains national identification standards for livestock moving in interstate commerce. We considered this requirement to be necessary in order to align our export requirements with our domestic regulations, and to facilitate the interstate movement of animals intended for export from their premises of export to an export inspection facility, port of embarkation, or land border port.

The exception that we proposed to this general requirement was for horses. We proposed to allow horses to be identified by an individual animal tattoo alone, without an accompanying description of the horse, if allowed by the importing country. We stated that this was because the United States has several long-standing export protocols with other countries that allow horses to be identified solely by individual animal tattoos.

One commenter stated that movement for export differs from movement in interstate commerce, that the movement channels are understood by States and localities to be distinct, and that such identification would not substantially facilitate the movement of livestock from their premises of export. The commenter suggested that, for export purposes, livestock only need to be uniquely identified in a manner which allows the animals intended for export to be correlated to the animals listed on the export health certificate. The commenter stated that, while identification in accordance with part 86 would allow for such correlation, it was not the only means of ensuring it.

We agree with the commenter, and have revised the section accordingly. As a result of this revision, the exception for horses is no longer necessary, and has not been finalized.

Comments Regarding Proposed § 91.6 (''Cleaning and Disinfection of Means of Conveyance, Containers, and Facilities Used During Movement; Approved Disinfectants'')

In proposed § 91.6, we proposed cleaning and disinfection requirements for means of conveyance, containers, and facilities used during movement of livestock to ports of embarkation. Among other requirements, we proposed that the means of conveyance, containers, and facilities would have to be cleaned and disinfected with a disinfectant approved by the Administrator for purposes of the section. Whereas the regulations had previously required disinfectants listed in § 71.10 of the 9 CFR to be used, we proposed to list all approved disinfectants in the Program Handbook that accompanied the proposed rule.

Several commenters expressed concern that, by moving the list of approved disinfectants to the Program Handbook, we could change the list arbitrarily and without notifying the public.

Section 91.6 sets forth the criteria we will use for amending the list of approved disinfectants. APHIS will approve a disinfectant if we determine that the disinfectant is effective against pathogens that can be spread by the animals intended for export and, if the disinfectant is a chemical disinfectant, if it is registered or exempted for the specified use by the U.S. Environmental Protection Agency (EPA) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 *et seq.,* FIFRA). We will remove a disinfectant from the list if it no longer meets these conditions for approval. We will notify the public of any changes to the list of disinfectants approved for use.

Several commenters stated that the criteria for approval of a disinfectant in § 71.10 are significantly more stringent than those that we proposed in § 91.6, and that the former should be used to ensure the safety and efficacy of all disinfectants used to disinfect means of conveyances, containers, and facilities used in conjunction with the export of livestock from the United States.

Section 71.10 contains no criteria for approving or withdrawing approval of disinfectants. The absence of such criteria in § 71.10 was, in fact, our stated purpose for proposing criteria in § 91.6.

One commenter suggested that we should ensure that chemical disinfectants used for purposes of § 91.6 do not pose a risk to the health of livestock.

When such disinfectants are registered with EPA under FIFRA, or EPA grants an FIFRA exemption for a specified use, EPA takes the risks to the environment, including to livestock, associated with the use of that disinfectant into consideration.

Comments Regarding Proposed § 91.7 (''Pre-Export Inspection'')

In proposed § 91.7, we proposed requirements regarding pre-export inspection of livestock intended for export from the United States.

The regulations had previously required livestock offered for exportation to any country other than Mexico or Canada to be inspected by an APHIS veterinarian within 24 hours of embarkation of the animals at an export inspection facility associated with the port of embarkation. In proposed paragraph (a) of § 91.7, we proposed that all livestock intended for export by air or sea would have to receive a visual health inspection from an APHIS veterinarian within 48 hours prior to embarkation. We proposed to extend the period of time within which livestock would have to receive pre-export inspection from 24 to 48 hours prior to embarkation based on the fact that we proposed to allow such inspection to take place at a facility other than the export inspection facility associated with the port of embarkation, under certain circumstances. We also did so out of recognition that, even when such inspection occurs at the export inspection facility associated with the port of embarkation, it can take more than 24 hours to load a large lot of animals safely into an ocean vessel.

One commenter pointed out that, unlike the previous regulations, the proposed regulations would not require pre-export inspection for livestock destined for overland export through Mexico.

The commenter is correct; we did not propose to retain this requirement. This is because the Secretariat of Agriculture, Livestock, Rural Development, Fisheries, and Food, the competent veterinary authority of Mexico, inspects both livestock destined for overland importation into Mexico and livestock destined for overland transit through Mexico at the U.S./Mexico border. The previous regulations were written in a manner which took into consideration the inspection afforded to livestock intended for overland importation into Mexico, but not that afforded to livestock intended for overland transit through Mexico. We additionally note that overland exports of livestock from the United States through Mexico are minimal.

Several commenters stated that extending the time period within which livestock must receive pre-export inspection from 24 to 48 hours prior to embarkation increased the likelihood that livestock unfit to travel would be exported from the United States.

The commenters provided no evidence in support of this assertion. In contrast, in our experience, animals are at an increased risk of stress or injury if they are offloaded or inspected hastily.

Several commenters stated that a visual health inspection was insufficient to detect signs or symptoms of diseases and pests of livestock, and suggested that we should require full veterinary examinations of all livestock destined for export from the United States in order to ensure that no diseased animals are exported from the United States. Similarly, one commenter asked us what a visual health inspection entails.

A visual health inspection entails careful examination of livestock for signs and symptoms that the livestock may not be fit to travel. Signs and symptoms include, but are not limited to, warts, growths, rashes, abscesses, abrasions, unhealed wounds, or unusual discharge of fluid.

APHIS veterinarians are trained to identify signs and symptoms of infection with a disease of livestock, and perform a full veterinary examination on any animal that exhibits such signs or symptoms during pre-export inspection.

We consider this protocol, coupled with the testing prescribed in § 91.3 of the regulations, to be sufficient to ensure that diseased livestock are not exported from the United States.

In proposed paragraph (a) of § 91.7, we also proposed a list of conditions that, if discovered during pre-export inspection, would make an animal unfit to travel. We proposed that the following classes of animals are unfit to travel:

- Livestock that are sick, injured, weak, disabled, or fatigued.
- Livestock that are unable to stand unaided or bear weight on each leg.
- Livestock that are blind in both eyes.
- Livestock that cannot be moved without causing additional suffering.
- Newborn livestock with an unhealed navel.
- Livestock that have given birth within the previous 48 hours and are traveling without their offspring.
- Pregnant livestock that would be in the final 10 percent of their gestation period at the planned time of unloading in the importing country.
- Livestock with unhealed wounds from recent surgical procedures, such as dehorning.

Several commenters stated that evidence of infection with a disease of livestock was not included among the proposed conditions, and suggested that the list be modified to include evidence of infectious disease as a condition that renders an animal unfit to travel.

Sick livestock, which we proposed to be unfit to travel, include livestock with evidence of infection with a disease of livestock.

One commenter asked whether a navel with a dried remnant of an umbilicus would be considered unhealed.

In some instances, such a navel could be considered healed. It will be at the discretion of the APHIS veterinarian whether to consider a particular navel healed.

The commenter also asked when APHIS considers wounds from a medical procedure to be healed.

APHIS veterinarians determine on a case-by-case basis whether a wound is healed. This determination is based on the age and general health status of the animal, the nature of the medical procedure performed, the usual recovery period associated with the procedure, and the nature of the wound.

A commenter asked how APHIS determines that animals other than livestock, animal gerplasm, or hatching eggs are fit to travel for export from the United States.

If the animals or commodities meet the conditions for importation specified by the importing country, APHIS considers them to be fit to travel.

Finally, in paragraph (a) of § 91.7, we proposed that the owner of animals or the owner's agent would have to make arrangements for any livestock found unfit to travel.

Several commenters suggested that we specify what type of arrangements the owner must make for livestock found unfit to travel. One of the commenters suggested that humane euthanasia should be listed as a type of approved arrangement, while another suggested that we should require humane euthanasia of all livestock considered unfit to travel.

If an APHIS veterinarian determines that an animal is unfit to travel for export, the owner of the animal or owner's agent must make arrangements to remove the animal from the lot of animals intended for export. Unless we consider the animal unfit to travel because we consider it a risk of disseminating a pest or disease of livestock, we do not have authority to specify the manner of arrangements which must be made.

Accordingly, while we recommend euthanasia of certain animals that we consider unfit to travel, such as animals that cannot be moved without further suffering or animals that are unable to stand unaided, we cannot require such euthanasia.

Finally, we do not recommend that all classes of animals that we consider unfit to travel be euthanized. Certain conditions that render an animal unfit to travel, such as pregnancy, are not terminal, and should not be considered as such.

In proposed paragraph (b) of § 91.7, we proposed that the APHIS veterinarian conducting pre-export inspection would either have to do so at the export inspection facility associated with the port of embarkation of the livestock; at an export isolation facility approved by APHIS, when use of such a facility is authorized by the Administrator in accordance with proposed paragraph (c) of § 91.7; or at an export inspection facility other than the export inspection facility associated with the port of embarkation, when use of such a facility is authorized by the Administrator in accordance with proposed paragraph (d) of § 91.7. We also proposed that, if the facility used to conduct the inspection is a facility other than the export inspection facility associated with the port of embarkation, it would have to be located within 28 hours driving distance under normal driving conditions from the port of embarkation, and livestock would have to be afforded at least 48 hours rest, with sufficient feed and water during that time period, prior to movement from the facility. We proposed that the facility would have to be located within 28 hours driving distance because we could not foresee any instances which would suggest authorizing inspections at an export isolation facility located more than 28 hours driving distance from the port of embarkation, and because, pursuant to the 28 hour law (49 U.S.C. 80502), the maximum amount of time that most livestock may be transported in interstate commerce without rest, feed, and water is 28 hours.

Several commenters stated that a 28 hour driving distance under normal conditions would allow pre-export inspection to be done at a significant distance from the port of embarkation. The commenters expressed concern that such travel could be stressful to the livestock and increase the risk of injury or illness befalling the animals being exported, and asked us to set a significantly lower maximum driving distance between the location at which pre-export inspection takes place and the port of embarkation. One of these commenters suggested a maximum driving distance of 60 miles or 90 minutes, whichever is further.

We agree that, under certain conditions, such travel could be stressful to the livestock. The rigors of up to 28 hours of continuous travel were, in fact, why we proposed that the livestock would need at least 48 hours of rest, with sufficient feed and water during that time period, prior to movement to the port of embarkation. It is also, in part, why we proposed conditions that would limit the use of facilities other than an export inspection facility associated with the port of embarkation to conduct pre-export inspections.

However, if livestock are properly rested, fed, and watered and if the means of conveyance transporting the livestock is equipped for such travel, with APHIS exercising monitoring and oversight, we do not consider a significant driving distance between the facility at which pre-export inspection takes place and the port of embarkation to present an intrinsic and irresolvable risk to livestock health. We have, on occasion, authorized pre-export inspection of livestock at a facility a considerable distance from the port of embarkation in order to facilitate the timely export of the animals, and have not encountered significant adverse impacts to the health or wellbeing of the livestock transported due to the distance traveled. Rather, in our experience, as well as the experience of several commenters, it is frequent loading and unloading, rather than travel itself, which puts animals at the greatest likelihood of sustaining injury or other significant adverse impacts to their health or wellbeing.

For these reasons, we do not consider it necessary to lessen the maximum allowable driving distance between the facility at which pre-export inspection is conducted and the port of embarkation from that in the proposed rule. In this regard, we note that a maximum driving distance of 60 miles or 90 minutes could impede the orderly export of certain lots of livestock and is not necessary to ensure the health and wellbeing of the livestock exported.

One commenter pointed out that the 28 hour law allows livestock to be transported more than 28 hours without rest, feed, and water, if the animals have food, water, space, and an opportunity for rest aboard the means of conveyance. The commenter stated that, if our intent was to have the regulations in § 91.7 align with the provisions of the 28 hour law, then we should provide an exemption from the maximum allowable driving distance for livestock provided such food, water, space, and opportunity for rest.

Our reference to the 28 hour law was to illustrate that a long-standing statute considers there to be potential adverse impacts to livestock health and wellbeing if the animals are moved for more than 28 hours within the United States without rest, feed, and water. Accordingly, we used the statute as one of our reference points in determining what maximum allowable driving distance to propose between the facility at which pre-export inspection is conducted and the port of embarkation. Another reference point was importer requests to date for pre-export inspection of livestock at facilities other than an export inspection facility associated with the port of embarkation. A 28 hour maximum driving distance between the facility at which the pre-export inspection is conducted and the port of embarkation would accommodate all such requests to date.

One commenter suggested that, instead of a mandatory 48 hour rest period for livestock inspected at a facility other than an export inspection facility associated with the port of embarkation prior to movement from the facility, the rest period should be tiered to the class of livestock being moved and the distance between the facility and the port of embarkation. Alternatively, the commenter asked us to explain our rationale for the 48 hour rest period.

We intended to propose a 48 hour rest period prior to the pre-export inspection of the livestock. This rest period was intended to serve in lieu of a rest period at the export inspection facility associated with the port of embarkation, so that livestock inspected at a facility other than the export inspection facility associated with the port of embarkation could be loaded directly into aircraft or ocean vessels at the port of embarkation. Since there would not be visual health inspection of the animals at the export inspection facility associated with the port of embarkation, and since the animals could travel a significant distance from the facility at which the pre-export inspection is conducted to the port of embarkation, it would be commensurately important for us to be assured that the livestock are fit for travel before they leave the facility at which the pre-export inspection is conducted. Therefore, we considered a somewhat prolonged rest period warranted.

However, we did not clarify that livestock inspected at a facility other than the export inspection facility associated with the port of embarkation would be exempt from requirements for rest, feed, and water at the export inspection facility associated with the port of embarkation.

In this final rule, we have amended both paragraph (b) of § 91.7 and § 91.8, which contains our rest, feed, and water

requirements for livestock inspected at an export inspection facility associated with the port of embarkation, to clarify our intent.

As we mentioned earlier in this document, in proposed paragraphs (c) and (d) of § 91.7, we proposed conditions under which we may authorize pre-export inspection at an export isolation facility, or an export inspection facility not associated with the port of embarkation, respectively. In both paragraphs, we proposed that such authorization could occur if the exporter could show, to the satisfaction of the Administrator, that the livestock would suffer undue hardship if they had to be inspected at the export inspection facility associated with the port of embarkation.

One commenter stated that this condition was subjective.

While we agree that the condition relies on a subjective determination, the factors that we will consider in making this determination are objective. For example, we will consider the species to be inspected, the size of the lot, the likelihood of adverse climatic conditions that could affect loading the animals into and unloading the animals from the export inspection facility, and the resources that would be available at the facility the day that the livestock would be expected to arrive.

Comments Regarding § 91.8 (''Rest, Feed, and Water Prior to Export'')

In proposed § 91.8, we proposed that all livestock intended for export by air or sea would have to be allowed a period of at least 2 hours of rest prior to being loaded onto an ocean vessel or aircraft for export. We also proposed that an inspector could extend the required rest period up to 5 hours, at his or her discretion and based on a determination that more rest is needed in order for the inspector to have assurances that the animals are fit to travel prior to loading. Finally, we proposed that adequate food and water would have to be available to the livestock during this rest period.

In the previous regulations in part 91, we had required livestock intended for export from the United States by sea or air to be allowed a period of at least 5 hours for rest at the export inspection facility associated with the port of embarkation, with adequate feed and water available, before movement to an ocean vessel or aircraft for loading for export, unless the livestock had food and water in the carrier that transported them to the export inspection facility, and they will reach the destination country within 36 hours after they were last fed and watered in the United States, or, if they are under 30 days of age, within 24 hours after they were last fed and watered in the United States.

A number of commenters stated that our proposed minimum rest period was too short. Several of these commenters suggested that we maintain a rest period of at least 5 hours. One of the commenters suggested a 3 hour minimum rest period. Another cited a peer-reviewed study that, in the commenter's opinion, suggested the need for a minimum rest period of 8 hours for livestock destined for export.[2]

We are making no change in response to these comments. As several commenters pointed out, movement from the premises of export to the port of embarkation may be of relatively short duration. If, for example, livestock have traveled 90 minutes to the port of embarkation, a mandatory rest period that is two to four times as long as this travel time appears excessive. For livestock that have traveled a longer distance, as we stated in the proposed rule, it is not generally our experience that they appear taxed by movement from the premises of export to the port of embarkation, and usually need time merely to become limber for the rigors of sea or air travel.

We disagree with the commenter who cited *Knowles* that the article suggests an 8-hour rest period is necessary for all ruminants. The article states that it pertains only to sheep destined to slaughter, and notes that, for other livestock moved for breeding or production purposes, ''welfare problems rarely arise'' that would suggest the need for significant rest, feed, and water. It also is worth noting that the article is from 1998, and examines conditions governing the transport of sheep to slaughter as these existed in the European Union during the 1990s. We do not consider the article applicable to current livestock export practices in the United States.

One commenter asked us whether a rest period of less than 5 hours would violate the 28 hour law.

This rest period is distinct from any rest period that must be afforded to livestock under the 28 hour law.

Finally, as we mentioned in our discussion of the comments received on proposed § 91.7, we have modified § 91.8, including its title, to clarify that it pertains only to animals inspected at an export inspection facility associated with the port of embarkation.

As modified, it states that all livestock that are intended for export by air or sea and that will be inspected for export at an export inspection facility associated with the port of embarkation must be allowed a period of at least 2 hours rest at an export inspection prior to being loaded onto an ocean vessel or aircraft for export. Adequate food and water must be available to the livestock during the rest period. An inspector may extend the required rest period up to 5 hours, at his or her discretion and based on a determination that more rest is needed in order to have assurances that the animals are fit to travel prior to loading. Pre-export inspection of the animals must take place at the conclusion of this rest period.

Comments Regarding Proposed § 91.11 (''Export Isolation Facilities'')

In proposed § 91.11, we proposed standards for APHIS approval of isolation facilities associated with the export of livestock from the United States. We stated that we considered such standards necessary because several importing countries require an ''officially approved'' or ''APHIS-approved'' period of isolation for livestock.

One commenter stated that such isolation is solely a requirement of an importing country, rather than an APHIS requirement, and that establishing standards for export isolation facilities could be construed to suggest that APHIS has identified a need for such requirements to prevent the dissemination of pests and diseases of livestock within the United States. The commenter also pointed out that the isolation required for livestock destined for export differs from importing country to importing country, and sometimes from species to species, is usually highly prescriptive, and is subject to change. For these reasons, the commenter questioned the need for standards for export isolation facilities and suggested that we not finalize the section.

We agree with the commenter that pre-export isolation is conducted solely to fulfill the requirements of an importing country, and is not required by APHIS for animal health purposes. We also agree with the commenter that the variety of export isolations required by foreign countries, as well as the prescriptive nature and mutability of those requirements, are significant impediments to establishing general standards for approval of export isolation facilities. Accordingly, we have decided not to finalize the section, as proposed.

However, we do consider it necessary to specify in the section that, if an importing country requires export

[2] See: Knowles, T.G. 1998. *A review of road transport of slaughter sheep.* Veterinary Record 143:212–219. We refer to this article later in this document as *Knowles.*

isolation for livestock, such isolation must occur before the animals may be moved to a port of embarkation, and both the manner in which this isolation occurs and the facility at which it occurs must meet the requirements specified by the importing country.

As a result of this revision, § 91.11 does not contain conditions for APHIS approval of export isolation facilities. Accordingly, we have removed a reference to such approval that was in proposed § 91.7.

We have, however, retained the guidance in the Program Handbook regarding construction and operational standards for export isolation facilities. While this guidance is no longer tiered to a requirement of the regulations, it may aid exporters in fulfilling the requirements of an importing country regarding such isolation.

Comments Regarding Proposed § 91.12 (''Ocean Vessels'')

In proposed § 91.12, we proposed requirements regarding the ocean vessels on which livestock are exported from the United States.

In proposed paragraph (a) of § 91.12, we proposed that such vessels would need to be inspected and certified prior to initial use to transport any livestock from the United States.

We proposed that this certification would be valid for up to 3 years; however, the ocean vessel would have to be recertified prior to transporting livestock any time significant changes are made to the vessel, including to livestock transport spaces or life support systems; any time a major life support system fails; any time species of livestock not covered by the existing certification are to be transported; and any time the owner or operator of the ocean vessel changes.

Several commenters suggested that we should also require a vessel to be recertified if there is a significant mortality rate of livestock transported aboard the vessel during a particular voyage.

The purpose of the inspection and certification is to determine whether an ocean vessel is suitable for the export of livestock. High livestock mortality rates during a particular voyage do not necessarily suggest that a vessel is unsuitable for the export of livestock. For example, they could be the result of significant and unforeseen adverse weather conditions.

However, we do note that, under paragraph (f) of § 91.12, the owner or operator of an ocean vessel is required to submit a written report to APHIS within 5 business days after completing a voyage. In the report, the owner or operator must document the number of each species that died and provide an explanation for those mortalities. The owner or operator must also document whether a major life support system failed during the voyage.

If a significant number of the livestock aboard the vessel died during the voyage, and either the report indicates or APHIS has reason to believe that failure of a major life support system aboard the vessel directly contributed to the death of the livestock, the vessel will need to be recertified before it can be used again to export livestock from the United States.

In proposed paragraph (c) of § 91.12, we proposed feed and water requirements for livestock exported from the United States aboard ocean vessels. We proposed that sufficient feed and water would have to be provided to livestock aboard the ocean vessel, taking into consideration the livestock's species, body weight, the expected duration of the voyage, and the likelihood of adverse climatic conditions during transport.

One commenter stated that we did not require that livestock must be fed during the voyage. Similarly, two commenters pointed out that the previous regulations in part 91 had required ocean vessels to provide livestock with feed and water immediately after the livestock are loaded onto the vessel unless an APHIS representative determines that all of the livestock are 30 days of age or older and the vessel will arrive in the country of destination within 36 hours after the livestock were last fed and watered within the United States, or, if any of the livestock in the shipment are younger than 30 days, that the vessel will arrive in the country of destination within 24 hours after the livestock were last fed and watered within the United States.

One of the commenters acknowledged our rationale for proposing to remove this requirement from the regulations—that we have discovered that livestock can sometimes go more than 36 hours without feed or water without suffering duress—but also pointed out that we proposed to require livestock to have adequate access to feed and water during the voyage, and suggested that it is difficult to discern what adequate access to feed and water constitutes if livestock can go an indefinite amount of time aboard an ocean vessel without being fed or watered.

The other commenter pointed out that the previous regulations ensured that livestock over 30 days old would be fed at least once within a 36 hour period, and that this previous requirement was itself significantly less stringent than the 28 hour law. The commenter suggested that, in this final rule, we should specify that livestock aboard an ocean vessel must be fed and watered within 36 hours of departure from the port of embarkation.

In light of the concerns raised, we have modified paragraph (c) of § 91.12 to specify that livestock aboard the vessel must be fed and watered within 28 hours of the time they were last fed and watered within the United States. This provision is generally consistent with the 28 hour law.

A commenter stated that proposed paragraph (c) of § 91.12 does not require ocean vessels to maintain a surplus of feed in the event that the voyage takes significantly longer than expected.

In the Program Handbook that accompanied the proposed rule, we stated that, in order for us to consider feed maintained aboard an ocean vessel to be sufficient for a voyage, it would have to include a 15 percent surplus for unforeseen circumstances.

In proposed paragraph (d) of § 91.12, we proposed general requirements for the accommodations for livestock exported from the United States by ocean vessel.

In proposed paragraph (d)(1) of § 91.12, we proposed requirements for pens for livestock.

One commenter expressed concern that these proposed requirements did not require the pens to house species that are compatible with each other. The commenter pointed out that the World Organisation for Animal Health's (OIE's) standards for the transport of animals by sea recommend that animals that are likely to be hostile to other animals that are housed in the same pen should not be commingled.

We have modified paragraph (d)(1) of § 91.12 to specify that animals that may be hostile to each other may not be housed in the same pen.

In proposed paragraph (d)(2) of § 91.12, we proposed that livestock would have to be positioned during transport so that an animal handler or other responsible person could observe each animal regularly and clearly to ensure the livestock's safety and welfare.

A commenter suggested that we modify the paragraph to require the animals to be observed at least once every 12 hours.

In our experience, in order to provide routine care to livestock aboard ocean vessels, handlers observe the animals several times a day. Therefore, we do not consider it necessary to modify the paragraph to specify that the livestock must be observed at least once every 12 hours.

In proposed paragraph (d)(7) of § 91.12, we proposed that the vessel must have a system or arrangements, including a backup system in working order or alternate arrangements, for managing waste to prevent excessive buildup in livestock transport spaces during the voyage.

A commenter suggested modifying the paragraph to require the waste management system to have an alarm if the system malfunctions.

Malfunctions to waste management systems tend to be easily detectable because of the odor of the waste. Provided that the vessel maintains a backup system in working order or has alternate arrangements, we do not consider it necessary that it also maintain an alarm in the event of a system malfunction.

In proposed paragraph (d)(8) of § 91.12, we proposed that the vessel must have adequate illumination to allow clear observation of the livestock during loading, unloading, and transport.

A commenter suggested that we modify the paragraph to require the vessel to maintain a back-up lighting system.

Ocean vessels are constructed with back-up lighting systems. Therefore, we do not consider it necessary to require them.

In proposed paragraph (d)(12) of § 91.12, we proposed that the owner or operator of the ocean vessel must have on board during loading, transport, and unloading at least 3 persons (or at least 1 person if fewer than 800 head of livestock will be transported) with previous experience with ocean vessels that have handled the kind(s) of livestock to be carried, as well as a sufficient number of attendants with the appropriate experience to be able to ensure proper care of the livestock.

Several commenters suggested that we require at least one of these personnel to be a licensed veterinarian. One of these commenters asked us to delineate what we meant by ''a sufficient number of attendants with the appropriate experience to be able to ensure proper care of the livestock,'' and asked whether we intended one of these attendants to be a veterinarian.

We can foresee instances, such as a particularly short voyage to the importing country, when it may not be necessary for the vessel to have a veterinarian on board. However, we do agree that, for certain voyages, having a veterinarian on board may be necessary to ensure proper care of the livestock. Accordingly, in this final rule, we have modified paragraph (d)(12) of § 91.12 to specify that the APHIS representative assigned to inspect the vessel prior to loading will determine whether the personnel aboard the vessel are sufficient and possess adequate experience, including, if necessary, veterinary experience, to ensure proper care of the livestock.

A number of commenters suggested additional general requirements for ocean vessels.

Several commenters suggested that we should require ocean vessels to maintain a means of humanely euthanizing sick or injured livestock aboard the vessel, and should require at least one of the personnel aboard the ship to be trained in humanely euthanizing livestock by using the means of euthanasia carried by the vessel.

We have added such a requirement.

Several commenters suggested that we should require ocean vessels to maintain an alarm system when major life support systems aboard the vessel malfunction.

Malfunctioning major life support systems are usually easy to detect. However, we have added a requirement that the vessel must have replacement parts for major life support systems and the means, including qualified personnel, to make the repairs or replacements.

Several commenters suggested that we require ocean vessels to have a system that monitors ammonia levels aboard the vessel and alerts personnel aboard the ship if the levels exceed certain thresholds.

Excessive ammonia is easily detectable; therefore we do not consider such a requirement to be necessary.

Several commenters suggested that we require ocean vessels to maintain a system to monitor temperature, humidity, and carbon monoxide levels aboard the vessel.

Ocean vessels are constructed with such monitoring systems. Therefore, we do not consider such requirements to be necessary.

A commenter suggested that we require ocean vessels to have fire extinguishers on each level that contains livestock.

In 46 CFR 95.05–10, the United States Coast Guard requires shipping vessels to have fire extinguishers installed in all cargo compartments, unless they carry exclusively coal or grain in bulk.

Finally, one commenter suggested that ocean vessels that export livestock maintain contingency plans for emergencies. The commenter pointed out that the OIE's standards for the transport of animals by sea suggest that ocean vessels maintain such plans.

The OIE standards suggest that a ''major adverse event'' constitutes an emergency, but the standards do not define this term nor delineate the content of such plans. An ocean vessel may experience what we consider to be a major adverse event for any number of reasons, from adverse weather to system malfunctions to human error, and asking the vessel owner or operator to develop standard procedures for any major adverse event that could occur would place a significant paperwork burden on ocean vessel owners and operators.

Accordingly, we consider it appropriate, instead, to require ocean vessel owners or operators to document major adverse events that led to livestock deaths aboard a particular voyage. Additionally, when the major adverse event was a failure to a major life support system, the vessel will have to be inspected and recertified by APHIS before it may be used to export livestock from the United States again.

In proposed paragraph (e) of § 91.12, we proposed that an inspector could exempt an ocean vessel that uses shipping containers to transport livestock to an importing country from the requirements in proposed paragraph (d) of § 91.12, if the inspector determines that the containers themselves are designed, constructed, and managed in a manner to reasonably assure the livestock are protected from injury and remain healthy during loading, unloading, and transport to the importing country.

Several commenters understood that the intent of the rule was to acknowledge that certain of the requirements in paragraph (d) of § 91.12 are not applicable to ocean vessels that use shipping containers. However, they questioned the breadth of the exemption, and stated that certain of the requirements in paragraph (d) of § 91.12 are necessary to ensure that livestock exported from the United States remain healthy during the voyage to the importing country. Several of these commenters stated that, at a minimum, the requirements pertaining to feed and water, ventilation, and lighting, appear to be generally applicable to all ocean vessels used to export livestock.

In proposed paragraph (e) of § 91.12, we stated that guidance regarding the paragraph could be found in the Program Handbook that accompanied the proposed rule. In the Program Handbook, we provided guidance regarding the manner in which APHIS representatives would inspect ocean vessels that use shipping containers to transport livestock. We provided four areas that would be subject to particular

scrutiny: The size of the containers; the materials used to construct the containers; the waste management and ventilation systems in the containers; and the manner in which potable water would be provided to the livestock.

Accordingly, it was not our intent to suggest that an inspector could exempt an ocean vessel that uses shipping containers from any of the requirements of paragraph (d) of § 91.12 that he or she so chooses. The inspector could only exempt the vessel after determining that it had in place an alternate means of meeting the aim of the requirements in paragraph (d), which is to provide reasonable assurances that livestock are protected from injury and remain healthy during loading, unloading, and transport to the importing country.

However, we do agree with the commenters that the paragraph should mention the particular areas that an inspector will evaluate as part of his or her inspection of ocean vessels that use shipping containers to transport livestock. Accordingly, we have modified paragraph (e) of § 91.12 to specify that particular attention will be paid to the manner in which the containers are constructed, the space the containers afford to livestock transported within them, the manner in which the owner or operator of the vessel would provide feed and water to the animals in the containers, and the manner in which air and effluent are managed within the containers.

As we mentioned earlier in this document, in proposed paragraph (f) of § 91.12, we proposed that the owner or operator of any ocean vessel used to export livestock (including vessels that use shipping containers) from the United States would have to submit a written report to APHIS within 5 business days after completing a voyage. Among other information requirements, we proposed that the report would have to include the number of each species that died and an explanation for those mortalities.

A commenter suggested that the report should also include the number of livestock injured during the voyage, and the nature of these injuries.

Injuries could include minor wounds or abrasions from which the livestock recovered quickly during the voyage. Conversely, animals that suffered significant or debilitating injuries during the voyage are likely to have died or been humanely euthanized. Accordingly, we do not consider it necessary to maintain a report regarding all animals injured aboard the vessel.

However, the commenter does identify a third category of animals that we did not consider in our proposed rule: Animals that sustained injuries or exhibited symptoms of illness that were significant enough to require medical attention from the personnel entrusted with care of the animals. Information regarding the number of such animals, as well as the nature of their injuries or illnesses, helps us interpret other aspects of the report accurately. Additionally, we have reason to believe that ocean vessels already maintain such information as part of their daily logs. We have modified paragraph (f) accordingly to specify that this information must be included in the report.

Comments Regarding Proposed § 91.13 (''Aircraft'')

In proposed § 91.13, we proposed requirements regarding aircraft used to export livestock from the United States.

A number of commenters pointed out that, unlike ocean vessels, we did not propose general requirements regarding accommodations for the humane transport of livestock aboard aircraft. The commenters suggested that we should add such requirements in this final rule.

Unlike ocean vessels, an international trade association stringently regulates aircraft. The International Air Transport Association (IATA) represents more than 250 commercial airlines worldwide, including those used to export livestock from the United States. IATA's ''Live Animals Regulations'' set forth minimum space requirements, feed and water requirements, ambient temperature requirements, ventilation requirements, and handling requirements for aircraft that transport livestock. These requirements are at least as stringent as our requirements for ocean vessels.

Additionally, we note that, in 14 CFR part 25, the Federal Aviation Administration has its own Federal requirements for airworthiness of aircraft used to transport people, animals, or cargo.

Because of these existing regulations, we did not consider it necessary to propose our own regulations regarding accommodations for the humane transport of livestock aboard aircraft.

Comment Regarding the Program Handbook

As we mentioned earlier in this document, we made a draft Program Handbook available along with the proposed rule. The Program Handbook provided guidance and other information regarding the proposed regulations. In instances in which the proposed regulations specified a performance or construction standard, the Program Handbook provided a means of meeting that performance or construction standard.

One commenter expressed concern that we would change the guidance in the Program Handbook arbitrarily, and without an opportunity for public participation.

It is Agency policy to take public comment on proposed substantive changes to Program standards and similar policy documents.

Miscellaneous

In paragraph (e) of § 91.3, we proposed that an original signed export health certificate would have to accompany livestock destined for export for the entire duration of movement from the premises of export to their port of embarkation or land border port, except when the export health certificate had been issued and endorsed electronically. Similarly, we also proposed that, except when an export health certificate had been issued and endorsed electronically, the original signed export health certificate would have to accompany animals other than livestock, animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes destined for export to their port of embarkation or land border port.

The intent of these provisions was to clarify that the means of issuing and endorsing an electronic export health certificate differs from the means of issuing and endorsing a paper-based export health certificate. However, we realize that the provisions could also be construed to mean that, if an export health certificate is issued and endorsed electronically, no export health certificate needs to accompany the animals or commodities destined for export or otherwise be available for review when the animals or commodities arrive at their port of embarkation or land border port.

This is not necessarily the case. Some importing countries require a paper-based export health certificate to accompany the animals or commodities destined for export, even if the export health certificate was issued and endorsed electronically. Other countries recognize electronically issued and endorsed export health certificates, but require them to accompany the animals or commodities destined for export.

Additionally, some importing countries allow the export health certificate for certain commodities to be issued and endorsed at the port of embarkation or land border port, regardless of the means of issuance and endorsement.

Accordingly, we have modified paragraph (e) of § 91.3 in this final rule. The paragraph now provides that an export health certificate for livestock must be issued and endorsed before the livestock move from the premises of export, and an export health certificate for animals other than livestock or other commodities must be issued and, if required by the importing country, endorsed by an APHIS representative prior to departure of the animals from the port of embarkation or the crossing of the land border port.

In light of this modification, we have also modified paragraph (a)(1) of § 91.3 to specify that livestock must have an endorsed export health certificate in order to be eligible for export from the United States. In the proposed rule, we did not indicate that the export health certificate needs to be endorsed.

In proposed paragraph (b) of § 91.6, we proposed that livestock for export could be unloaded only into a facility which has been cleaned and disinfected in the presence of an APHIS representative or an accredited veterinarian. We also proposed that a statement certifying to such action would have to be attached to the export health certificate by the APHIS representative or accredited veterinarian.

While this proposed requirement was also in the previous regulations in part 91, operationally we have long allowed facilities to be cleaned and disinfected without the presence of an APHIS representative or accredited veterinarian, provided that an APHIS representative or accredited veterinarian inspects the cleaned and disinfected facility, certifies that he or she has conducted this inspection, and attaches a statement certifying to this action. Whether an APHIS representative or accredited veterinarian conducts this inspection depends on the requirements of the importing country. In this final rule, we have revised paragraph (b) of § 91.6 to reflect this long-standing operational practice.

In proposed paragraph (b) of § 91.7, we proposed that, if, as a result of pre-export inspection, the APHIS veterinarian inspecting the animals deems clinical examination to be necessary to determine the animal's health, any testing or treatment related to this clinical examination would have to be conducted by an APHIS veterinarian or an accredited veterinarian.

In reviewing the proposed rule, we realized that this requirement could be construed to suggest that APHIS provides treatment as part of our clinical examinations. We do not. Rather, we coordinate with a licensed veterinarian; it is this veterinarian who provides the treatment. In this final rule, we have modified paragraph (b) of § 91.7 to make this clear.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been reviewed under Executive Order 12866. This rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 604, we have performed a final regulatory flexibility analysis, which is summarized below, regarding the economic effects of this rule on small entities. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

This rule amends 9 CFR part 91, which contains requirements for the inspection and handling of livestock (cattle, horses, captive cervids, sheep, goats, and swine) to be exported from the United States. Among other things, the rule removes some prescriptive requirements applicable to livestock, either completely or by replacing them with performance standards, and makes other adjustments in inspection and handling requirements to assist exporters. These changes will provide APHIS and exporters more flexibility in arranging for the export of livestock from the United States while continuing to ensure the animals' health and welfare.

The rule also adds requirements for individual identification of livestock intended for export. The rule also specifies that, if APHIS knows that an importing country requires an export health certificate endorsed by the competent veterinary authority of the United States for any animal other than livestock, including pets, or for any hatching eggs or animal germplasm, the animal, hatching eggs, or animal germplasm must have such a health certificate to be eligible for export from the United States. These changes will help ensure that all live animals, hatching eggs, and animal germplasm exported from the United States meet the health requirements of the countries to which they are destined and that APHIS has assurances regarding their health and welfare at the time of export.

Entities directly affected by this rule include exporters of live animals, hatching eggs, and animal germplasm. While we do not know the size distribution of these exporters, we expect that the majority are small by Small Business Administration standards, given the prevalence of small entities among livestock producers. Operators of export inspection facilities, export isolation facilities within 28 hours driving distance from a port of embarkation, and ocean vessels would also be directly affected. These industries are also largely composed of small businesses. The provisions of the rule would facilitate the export process for affected parties.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR chapter IV.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule, which were filed under 0579–0432, have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the **Federal Register** providing notice of what action we plan to take.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this final rule, please contact Ms. Kimberly Hardy, APHIS' Information

Collection Coordinator, at (301) 851–2727.

List of Subjects in 9 CFR Part 91

Animal diseases, Animal welfare, Exports, Livestock, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are revising 9 CFR part 91 to read as follows:

PART 91—EXPORTATION OF LIVE ANIMALS, HATCHING EGGS OR OTHER EMBRYONATED EGGS, ANIMAL SEMEN, ANIMAL EMBRYOS, AND GAMETES FROM THE UNITED STATES

Subpart A—General Provisions

Sec.
91.1 Definitions.
91.2 Applicability.
91.3 General requirements.
91.4 Prohibited exports.

Subpart B—Livestock

91.5 Identification of livestock intended for export.
91.6 Cleaning and disinfection of means of conveyance, containers, and facilities used during movement; approved disinfectants.
91.7 Pre-export inspection.
91.8 Rest, feed, and water at an export inspection facility associated with the port of embarkation prior to export.
91.9 Ports.
91.10 Export inspection facilities.
91.11 Export isolation.
91.12 Ocean vessels.
91.13 Aircraft.
91.14 Other movements and conditions.

Authority: 7 U.S.C. 8301–8317; 19 U.S.C. 1644a(c); 21 U.S.C. 136, 136a, and 618; 46 U.S.C. 3901 and 3902; 7 CFR 2.22, 2.80, and 371.4.

Subpart A—General Provisions

§ 91.1 Definitions.

As used in this part, the following terms will have the meanings set forth in this section:

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with part 161 of this chapter to perform functions specified in parts 1, 2, 3, and 11 of subchapter A, and subchapters B, C, and D of this chapter, and to perform functions required by cooperative State-Federal disease control and eradication programs.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal. Any member of the animal kingdom (except a human).

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

APHIS representative. An individual who is authorized by APHIS to perform the function involved.

Date of export. The date animals intended for export are loaded onto an ocean vessel or aircraft or, if moved by land to Canada or Mexico, the date the animals cross the border.

Export health certificate. An official document issued in the United States that certifies that animals or other commodities listed on the certificate meet the export requirements of this part and the importing country.

Export inspection facility. A facility that is affiliated with a port of embarkation and that has been approved by the Administrator as the location where APHIS will conduct health inspections of livestock before they are loaded onto ocean vessels or aircraft for export from the United States.

Export isolation facility. A facility where animals intended for export are isolated from other animals for a period of time immediately before being moved for export.

Horses. Horses, mules, and asses.

Inspector. An individual authorized by APHIS to inspect animals and/or animal products intended for export from the United States.

Livestock. Horses, cattle (including American bison), captive cervids, sheep, swine, and goats, regardless of intended use.

Premises of export. The premises where the animals intended for export are isolated as required by the importing country prior to export or, if the importing country does not require pre-export isolation, the farm or other premises where the animals are assembled for pre-export inspection and/or testing, or the germplasm is collected or stored, before being moved to a port of embarkation or land border port.

Program diseases. Diseases for which there are cooperative State-Federal programs and domestic regulations in subchapter C of this chapter.

Program Handbook. A document that contains guidance and other information related to the regulations in this part. The Program Handbook is available on APHIS' import-export Web site (*http://www.aphis.usda.gov/import_export/index.shtml*).

State of origin. The State in which the premises of export is located.

§ 91.2 Applicability.

You may not export any animal or animal germplasm from the United States except in compliance with this part.

§ 91.3 General requirements.

(a) *Issuance of export health certificates.* (1) Livestock must have an endorsed export health certificate in order to be eligible for export from the United States.

(2) If APHIS knows that an import country requires an export health certificate endorsed by the competent veterinary authority of the United States for any animal other than livestock or for any animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes intended for export to that country, the animal or other commodity must have an endorsed export health certificate in order to be eligible for export from the United States.

(b) *Content of export health certificates*—(1) *Livestock; minimum requirements.* Regardless of the requirements of the importing country, at a minimum, the following information must be contained on an export health certificate for livestock:

(i) The species of each animal.

(ii) The breed of each animal.

(iii) The sex of each animal.

(iv) The age of each animal.

(v) The individual identification of the animals as required by § 91.5.

(vi) The importing country.

(vii) The consignor.

(viii) The consignee.

(ix) A certification that an accredited veterinarian inspected the livestock and found them to be fit for export.

(x) A signature and date by an accredited veterinarian.

(xi) An endorsement by the APHIS veterinarian responsible for the State of origin.

(2) *Livestock; additional requirements.* In addition to the minimum requirements in paragraph (b)(1) of this section, the export health certificate must meet any other information or issuance requirements specified by the importing country.

(3) *Animals other than livestock, animal semen, animal embryos, hatching eggs, other embryonated eggs, and gametes.* Export health certificates for animals other than livestock, animal semen, animal embryos, hatching eggs, other embryonated eggs, and gametes must meet any information requirements specified by the importing country.

(c) *Inspection requirements for livestock.* In order to be eligible for export, livestock must be inspected within the timeframe required by the importing country. If the importing country does not specify a timeframe, the livestock must be inspected within 30 days prior to the date of export.

(d) *Testing requirements for livestock.* All samples for tests of livestock that are

required by the importing country must be taken by an APHIS representative or accredited veterinarian. The samples must be taken and tests made within the timeframe allowed by the importing country and, if specified, at the location required by the importing country. If the importing country does not specify a timeframe, the samples must be taken and tests made within 30 days prior to the date of export, except that tuberculin tests may be conducted within 90 days prior to the date of export. All tests for program diseases must be made in laboratories and using methods approved by the Administrator for those diseases. The Program Handbook contains a link to an APHIS Web site that lists laboratories approved to conduct tests for specific diseases. Approved methods are those specified or otherwise incorporated within the domestic regulations in subchapter C of this chapter.

(e) *Movement of livestock, animals other than livestock, animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes with an export health certificate*—(1) *Livestock.* An export health certificate for livestock must be issued and endorsed before the livestock move from the premises of export.

(2) *Animals other than livestock, animal semen, animal embryos, hatching eggs, other embryonated eggs, and gametes.* When an export health certificate is required by the importing country for any animal other than livestock or for animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes, it must be issued and, if required by the importing country, endorsed by an APHIS representative prior to departure of the animal or other commodity from the port of embarkation or the crossing of the land border port. When presented for endorsement, the health certificate must be accompanied by reports for all laboratory tests specifically identified on the certificate. The laboratory reports must either be the originals prepared by the laboratory that performed the tests or must be annotated by the laboratory that performed the test to indicate how the reports may be verified.

(f) *Validity of export health certificate*—(1) *Livestock.* Unless specified by the importing country, the export health certificate is valid for 30 days from the date of issuance, provided that the inspection and test results under paragraphs (c) and (d) of this section are still valid.

(2) *Animals other than livestock, animal semen, animal embryos, hatching eggs, other embryonated eggs, and gametes.* Unless specified by the importing country, the export health certificate is valid for 30 days from the date of issuance.

(Approved by the Office of Management and Budget under control number 0579–0432)

§ 91.4 Prohibited exports.

No animal, animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes under Federal, State, or local government quarantine or movement restrictions for animal health reasons may be exported from the United States unless the importing country issues an import permit or other written instruction allowing entry of the animal, animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes, and APHIS concurs with the export of the animal, animal semen, animal embryos, hatching eggs, other embryonated eggs, or gametes.

Subpart B—Livestock

§ 91.5 Identification of livestock intended for export.

Livestock that are intended for export must be identified in a manner that allows individual animals to be correlated to the animals listed in the export health certificate. If the importing country requires a specific or an additional form of identification, the livestock must also bear that form of identification.

(Approved by the Office of Management and Budget under control number 0579–0432)

§ 91.6 Cleaning and disinfection of means of conveyance, containers, and facilities used during movement; approved disinfectants.

(a) All export health certificates for livestock must be accompanied by a statement issued by an APHIS representative and/or accredited veterinarian that the means of conveyance or container in which the livestock will be transported from the premises of export has been cleaned and disinfected prior to loading the livestock with a disinfectant approved by the Administrator for purposes of this section or by a statement that the means of conveyance or container was not previously used to transport animals.

(b) Livestock moved for export may be unloaded only into a facility which has been cleaned and disinfected prior to such unloading with a disinfectant approved by the Administrator for purposes of this section, and has subsequently been inspected by an APHIS representative or accredited veterinarian. A statement certifying to such action must be attached to the export health certificate by the APHIS representative or accredited veterinarian.

(c) *Approved disinfectants.* The Administrator will approve a disinfectant for purposes of this section upon determining that the disinfectant is effective against pathogens that may be spread by the animals intended for export and, if the disinfectant is a chemical disinfectant, that it is registered or exempted for the specified use by the U.S. Environmental Protection Agency. The Program Handbook provides access to a list of disinfectants approved by the Administrator for use as required by this section. Other disinfectants may also be approved by the Administrator in accordance with this paragraph. The Administrator will withdraw approval of a disinfectant, and remove it from the list of approved disinfectants, if the disinfectant no longer meets the conditions for approval in this section.

(Approved by the Office of Management and Budget under control number 0579–0432)

§ 91.7 Pre-export inspection.

(a) All livestock intended for export by air or sea must receive a visual health inspection from an APHIS veterinarian within 48 hours prior to embarkation, unless the importing country specifies otherwise. The purpose of the inspection is to determine whether the livestock are sound, healthy, and fit to travel. The APHIS veterinarian will reject for export any livestock that he or she finds unfit to travel. The owner of the animals or the owner's agent must make arrangements for any livestock found unfit to travel. Livestock that are unfit to travel include, but are not limited to:

(1) Livestock that are sick, injured, weak, disabled, or fatigued;

(2) Livestock that are unable to stand unaided or bear weight on each leg;

(3) Livestock that are blind in both eyes;

(4) Livestock that cannot be moved without causing additional suffering;

(5) Newborn livestock with an unhealed navel;

(6) Livestock that have given birth within the previous 48 hours and are traveling without their offspring;

(7) Pregnant livestock that would be in the final 10 percent of their gestation period at the planned time of unloading in the importing country; and

(8) Livestock with unhealed wounds from recent surgical procedures, such as dehorning.

(b) The APHIS veterinarian must conduct the inspection at the export

inspection facility associated with the port of embarkation of the livestock; at an export isolation facility, when authorized by the Administrator in accordance with paragraph (c) of this section; or at an export inspection facility other than the facility associated with the port of embarkation, when authorized by the Administrator in accordance with paragraph (d) of this section. Unless APHIS has authorized otherwise, any sorting, grouping, identification, or other handling of the livestock by the exporter must be done before this inspection. The APHIS veterinarian may also conduct clinical examination, including testing, of any livestock during or after this inspection if he or she deems it necessary in order to determine the animal's health. Any treatment related to this clinical examination performed on the animal must be performed by a licensed veterinarian. Finally, if the facility used to conduct the inspection is a facility other than the export inspection facility associated with the port of embarkation, it must be located within 28 hours driving distance under normal driving conditions from the port of embarkation; livestock must be afforded at least 48 hours rest, with sufficient feed and water during that time period, prior to the pre-export inspection; and the exporter must maintain contact information for a veterinarian licensed in the State of embarkation to perform emergency medical services, as needed, on the animals intended for export.

(c) *Conditions for approval of pre-export inspection at an export isolation facility.* (1) The Administrator may allow pre-export inspection of livestock to be conducted at an export isolation facility, rather than at an export inspection facility, when the exporter can show to the satisfaction of the Administrator that the livestock would suffer undue hardship if they had to be inspected at the export inspection facility, when the distance from the export isolation facility to the port of embarkation is significantly less than the distance from the export isolation facility to the export inspection facility associated with the port of embarkation, when inspection at the export isolation facility would be a more efficient use of APHIS resources, or for other reasons acceptable to the Administrator.

(2) The Administrator's approval is contingent upon APHIS having personnel available to provide services at that location. Approval is also contingent upon the Administrator determining that the facility has space, lighting, and humane means of handling livestock sufficient for the APHIS personnel to safely conduct required inspections. The Program Handbook contains guidance on ways to meet these requirements. Owners and operators may submit alternative plans for meeting the requirements to APHIS for evaluation and approval. Alternatives must be at least as effective in meeting the requirements as those described in the Program Handbook in order to be approved. Alternate plans must be approved by APHIS before the facility may be used for purposes of this section.

(d) The Administrator may allow pre-export inspection of livestock to be conducted at an export inspection facility other than the export inspection facility associated with the port of embarkation when the exporter can show to the satisfaction of the Administrator that the livestock would suffer undue hardship if they had to be inspected at the export inspection facility associated with the port of embarkation, when inspection at this different export inspection facility would be a more efficient use of APHIS resources, or for other reasons acceptable to the Administrator.

(e) The APHIS veterinarian will maintain an inspection record that includes the date and place of the pre-export inspection, species and number of animals inspected, the number of animals rejected, a description of those animals, and the reasons for rejection.

(f) If requested by the importing country or an exporter, the APHIS veterinarian who inspects the livestock will issue a certificate of inspection for livestock he or she finds to be sound, healthy, and fit to travel.

§ 91.8 Rest, feed, and water at an export inspection facility associated with the port of embarkation prior to export.

All livestock that are intended for export by air or sea and that will be inspected for export at an export inspection facility associated with the port of embarkation must be allowed a period of at least 2 hours rest at an export inspection facility prior to being loaded onto an ocean vessel or aircraft for export. Adequate food and water must be available to the livestock during the rest period. An inspector may extend the required rest period up to 5 hours, at his or her discretion and based on a determination that more rest is needed in order to have assurances that the animals are fit to travel prior to loading. Pre-export inspection of the animals must take place at the conclusion of this rest period.

§ 91.9 Ports.

(a) Except as provided in paragraph (b) of this section, livestock exported by air or sea may be exported only through ports designated as ports of embarkation by the Administrator. Any port that has an export inspection facility that meets the requirements of § 91.10 permanently associated with it is designated as a port of embarkation. The Program Handbook contains a list of designated ports of embarkation. A list may also be obtained from a Veterinary Services area office. Information on area offices is available on APHIS' import-export Web site (*http://www.aphis.usda.gov/import_export/index.shtml*).

(b) The Administrator may approve other ports for the exportation of livestock on a temporary basis with the concurrence of the port director. The Administrator will grant such temporary approvals only for a specific shipment of livestock, and only if pre-export inspection of that shipment has occurred at an export isolation facility or an export inspection facility not associated with the port of embarkation, as provided in § 91.7.

(c) Temporarily approved ports of embarkation will not be added to the list of designated ports of embarkation and are only approved for the time period and shipment conditions specified by APHIS at the time of approval.

(Approved by the Office of Management and Budget under control number 0579–0432)

§ 91.10 Export inspection facilities.

(a) Export inspection facilities must be approved by the Administrator before they may be used for any livestock intended for export. The Administrator will approve an export inspection facility upon determining that it meets the requirements in paragraph (b) of this section. This approval remains in effect unless it is revoked in accordance with paragraph (c) of this section, or unless any of the following occur, in which case reapproval must be sought:

(1) The owner of the facility changes.

(2) Significant damage to the facility occurs or significant structural changes are made to the facility.

(b)(1) Export inspection facilities must be constructed, equipped, and managed in a manner that prevents transmission of disease to and from livestock in the facilities, provides for the safe and humane handling and restraint of livestock, and provides sufficient offices, space, and lighting for APHIS veterinarians to safely conduct required health inspections of livestock and related business. The Program Handbook contains guidance on ways to meet these requirements. Owners and operators may submit alternative plans for meeting the requirements to APHIS

for evaluation and approval; the address to which to submit such alternatives is contained in the Program Handbook. Alternatives must be at least as effective in meeting the requirements as the methods described in the Program Handbook in order to be approved. Alternatives must be approved by APHIS before being used for purposes of this section.

(2) For the purposes of approval or a subsequent audit, APHIS representatives must have access to all areas of the facility during the facility's business hours to evaluate compliance with the requirements of this section.

(3) The application for approval of an export inspection facility must be accompanied by a certification from the authorities having jurisdiction over environmental affairs in the locality of the facility. The certification must state that the facility complies with any applicable requirements of the State and local governments, and the U.S. Environmental Protection Agency regarding disposal of animal wastes.

(c) The Administrator will deny or revoke approval of an export inspection facility for failure to meet the requirements in paragraph (b) of this section.

(1) APHIS will conduct site inspections of approved export inspection facilities at least once a year for continued compliance with the standards. If a facility fails to pass the inspection, the Administrator may revoke its approval. If the Administrator revokes approval for a facility that serves a designated port of embarkation, the Administrator may also remove that port from the list of designated ports of embarkation.

(2) APHIS will provide written notice of any proposed denial or revocation to the operator of the facility, who will be given an opportunity to present his or her views on the issues before a final decision is made. The notice will list any deficiencies in detail. APHIS will provide notice of pending revocations at least 60 days before the revocation is scheduled to take effect, but may suspend facility operations before that date and before any consideration of objections by the facility operator if the Administrator determines the suspension is necessary to protect animal health or public health, interest, or safety. The operator of any facility whose approval is denied or revoked may request another inspection after remedying the deficiencies.

§ 91.11 Export isolation.

If an importing country requires export isolation for livestock, such isolation must occur before the animals may be moved to a port of embarkation, and both the manner in which this isolation occurs and the facility at which it occurs must meet the requirements specified by the importing country.

§ 91.12 Ocean vessels.

(a) *Inspection of the ocean vessel*—(1) *Certification to carry livestock.* Ocean vessels must be certified by APHIS prior to initial use to transport any livestock from the United States. The owner or the operator of the ocean vessel must make arrangements prior to the vessel's arrival at a designated port of embarkation in the United States for an APHIS representative to inspect the vessel while it is at that port of embarkation. Alternatively, at the discretion of the Administrator and upon request of the exporter, transporting company, or their agent, the inspection may be done at a foreign port. If APHIS determines that the ocean vessel meets the requirements of paragraph (d) of this section, APHIS will certify the vessel to transport livestock from the United States. APHIS may certify a vessel that does not meet all of the requirements in paragraph (d), provided that an exemption from the requirements the vessel does not meet has been granted to the vessel pursuant to paragraph (e) of this section. The certification will specify the species of livestock for which the vessel is approved. The certification will be valid for up to 3 years; however, the ocean vessel must be recertified prior to transporting livestock any time significant changes are made to the vessel, including to livestock transport spaces or life support systems; any time a major life support system fails; any time species of livestock not covered by the existing certification are to be transported; and any time the owner or operator of the ocean vessel changes. The owner or operator of the vessel must present the following documentation to APHIS prior to its initial inspection for certification and when requested by APHIS prior to subsequent inspections for recertification:

(i) General information about the vessel, including year built, length and breadth, vessel name history, port of registry, call sign, maximum and average speed, fresh water tank capacity and fresh water generation rate, and feed silo capacity (if the vessel has a silo);

(ii) A notarized statement from an engineer concerning the rate of air exchange in each compartment of the vessel;

(iii) The species of livestock that the vessel would transport;

(iv) Scale drawings that provide details of the design, materials, and methods of construction and arrangement of fittings for the containment and movement of livestock; provisions for the storage and distribution of feed and water; drainage arrangements; primary and secondary sources of power; and lighting;

(v) A photograph of the rails and gates of any pens;

(vi) A description of the flooring surface on the livestock decks; and

(vii) The following measurements: Width of the ramps; the clear height from the ramps to the lowest overhead structures; the incline between the ramps and the horizontal plane; the distance between footlocks on the ramps; the height of side fencing on the ramps; the height of the vessel's side doors through which livestock are loaded; the width of alleyways running fore and aft between livestock pens; and the distance from the floor of the livestock pens to the beams or lowest structures overhead.

(2) *Prior to each voyage.* Prior to loading any livestock intended for export from the United States, an APHIS representative must inspect the vessel to confirm that the ocean vessel has been adequately cleaned and disinfected as required by paragraph (b) of this section, has sufficient food and water for the voyage as required by paragraph (c) of this section, and continues to meet the requirements of paragraph (d) of this section. APHIS will schedule the inspection after the owner or operator of the ocean vessel provides the following information:

(i) The name of the ocean vessel;

(ii) The port, date, and time the ocean vessel will be available for inspection, and estimated time that loading will begin;

(iii) A description of the livestock to be transported, including the type, number, and estimated average weight of the livestock;

(iv) Stability data for the ocean vessel with livestock on board;

(v) The port of discharge; and

(vi) The route and expected length of the voyage.

(3) The information in paragraphs (a)(2)(i) through (a)(2)(vi) must be provided at least 72 hours before the vessel will be available for inspection.

(b) *Cleaning and disinfection.* (1) Any ocean vessel intended for use in exporting livestock, and all fittings, utensils, containers, and equipment (unless new) used for loading, stowing, or other handling of livestock aboard the vessel must be thoroughly cleaned and

disinfected to the satisfaction of an APHIS representative prior to any livestock being loaded. The disinfectant must be approved by the Administrator. Guidance on cleaning and disinfecting ocean vessels may be found in the Program Handbook.

(2) The Administrator will approve a disinfectant for the purposes of this paragraph upon determining that the disinfectant is effective against pathogens that may be spread by the animals and, if the disinfectant is a chemical disinfectant, that it is registered or exempted for the specified use by the U.S. Environmental Protection Agency. The Program Handbook provides access to a list of disinfectants approved by the Administrator. Other disinfectants may also be approved by the Administrator in accordance with this paragraph. The Administrator will withdraw approval of a disinfectant, and remove it from the list of approved disinfectants in the Program Handbook, if the disinfectant no longer meets the conditions for approval in this section.

(3) All ocean vessels, upon docking at a U.S. port to load livestock, must have disinfectant foot baths at entryways where persons board and exit the ocean vessel, and require such baths before allowing any person to disembark.

(c) *Feed and water.* Sufficient feed and water must be provided to livestock aboard the ocean vessel, taking into consideration the livestock's species, body weight, the expected duration of the voyage, and the likelihood of adverse climatic conditions during transport. Guidance on this requirement may be found in the Program Handbook. Livestock aboard the vessel must be provided feed and water within 28 hours of the time they were last fed and watered within the United States.

(d) *Accommodations for the humane transport of livestock; general requirements.* Ocean vessels used to transport livestock intended for export must be designed, constructed, and managed to reasonably assure the livestock are protected from injury and remain healthy during loading and transport to the importing country. Except as provided below in paragraph (e) of this section, no livestock may be loaded onto an ocean vessel unless, in the opinion of an APHIS representative, the ocean vessel meets the requirements of this section. The Program Handbook contains guidance on ways to meet the requirements. Owners and operators may submit alternative means and methods for meeting the requirements to APHIS for evaluation and approval. Alternatives must be at least as effective in meeting the requirements as those described in the Program Handbook in order to be approved. Alternatives must be approved by APHIS before being used for purposes of this section.

(1) *Pens.* All pens, including gates and portable rails used to close access ways, must be designed and constructed of material of sufficient strength to securely contain the livestock. They must be properly formed, closely fitted, and rigidly secured in place. They must have smooth finished surfaces free from sharp protrusions. They must not have worn, decayed, unsound, or otherwise defective parts. Flooring must be strong enough to support the livestock to be transported and provide a satisfactory non-slip foothold. Pens on exposed upper decks must protect the livestock from the weather. Pens next to engine or boiler rooms or similar sources of heat must be fitted to protect the livestock from injury due to transfer of heat to the livestock or livestock transport spaces. Any fittings or protrusions from the vessel's sides that abut pens must be covered to protect the livestock from injury. Pens must be of appropriate size for the species, size, weight, and condition of the livestock being transported and take into consideration the vessel's route. Animals that may be hostile to each other may not be housed in the same pen.

(2) *Positioning.* Livestock must be positioned during transport so that an animal handler or other responsible person can observe each animal regularly and clearly to ensure the livestock's safety and welfare.

(3) *Resources for sick or injured animals.* The vessel must have an adequate number of appropriately sized and located pens set aside to segregate livestock that become sick or injured from other animals. It must also have adequate veterinary medical supplies, including medicines, for the species, condition, and number of livestock transported.

(4) *Ramps, doors, and passageways.* Ramps, doors, and passageways used for livestock must be of sufficient width and height for their use and allow the safe passage of the species transported. They must have secure, smooth fittings free from sharp protrusions and non-slip flooring, and must not have worn, decayed, unsound, or otherwise defective parts. Ramps must not have an incline that is excessive for the species of livestock transported and must be fitted with foot battens to prevent slippage at intervals suitable for the species. The sides of ramps must be of sufficient height and strength to prevent escape of the species of livestock transported.

(5) *Feed and water.* The feeding and watering system must be designed to permit all livestock in each pen adequate access to feed and water. The system must also be designed to minimize soiling of pens and to prevent animal waste from contaminating feed and water. Similarly, feed must be loaded and stored aboard the vessel in a manner that protects it from weather and sea water and, if kept under animal transport spaces, protects it from spillage from animal watering and feeding and from animal waste. If the normal means of tending, feeding, and watering of livestock on board the ocean vessel is wholly or partially by automatic means, the vessel must have alternative arrangements for the satisfactory tending, feeding, and watering of the animals in the event of a malfunction of the automatic means.

(6) *Ventilation.* Ventilation during loading, unloading, and transport must provide fresh air and remove excessive heat, humidity, and noxious fumes (such as ammonia and carbon dioxide). Ventilation must be adequate for variations in climate and weather and to meet the needs of the livestock being transported. Ventilation must be effective both when the vessel is stationary and when it is moving and must be turned on when the first animal is loaded. The vessel must have on board a back-up ventilation system (including emergency power supply) in good working order or replacement parts and the means, including qualified personnel, to make the repairs or replacements.

(7) *Waste management.* The vessel must have a system or arrangements, including a backup system in working order or alternate arrangements, for managing waste to prevent excessive buildup in livestock transport spaces during the voyage.

(8) *Lighting.* The vessel must have adequate illumination to allow clear observation of livestock during loading, unloading, and transport.

(9) *Bedding.* Bedding must be loaded and stored aboard the vessel in a manner that protects it from weather and sea water and, if kept under animal transport spaces, protects it from spillage from animal watering and feeding and from animal waste.

(10) *Cleaning.* The vessel must be designed and constructed to allow thorough cleaning and disinfection and to prevent feces and urine from livestock on upper levels from soiling livestock or their feed or water on lower levels.

(11) *Halters and ropes.* Halters, ropes, or other equipment provided for the handling and tying of horses or other

livestock must be satisfactory to ensure the humane treatment of the livestock.

(12) *Personnel.* The owner or operator of the ocean vessel must have on board during loading, transport, and unloading at least 3 persons (or at least 1 person if fewer than 800 head of livestock will be transported) with previous experience with ocean vessels that have handled the kind(s) of livestock to be carried, as well as a sufficient number of personnel with the appropriate experience to be able to ensure proper care of the livestock. The APHIS representative assigned to inspect the ocean vessel prior to loading will determine whether the personnel aboard the vessel are sufficient and possess adequate experience, including, if necessary, veterinary experience, to ensure proper care of the livestock.

(13) *Vessel stability.* The vessel must have adequate stability, taking into consideration the weight and distribution of livestock and fodder, as well as effects of high winds and seas. If requested by APHIS, the owner or operator of the vessel must present stability calculations for the voyage that have been independently verified for accuracy.

(14) *Means of humane euthanasia.* Ocean vessels must maintain a means of humanely euthanizing sick or injured livestock aboard the vessel. One of the personnel aboard the vessel must be trained in humanely euthanizing livestock by using the means of euthanasia carried by the vessel.

(15) *Life support systems.* The ocean vessel must maintain replacement parts for major life support systems aboard the vessel, and the means, including qualified personnel, to make the repairs or replacements.

(16) *Additional conditions.* The vessel must meet any other condition the Administrator determines is necessary for approval, as dictated by specific circumstances and communicated to the owner and operator of the vessel, to protect the livestock and keep them healthy during loading, unloading, and transport to the importing country.

(e) *Accommodations for the humane transport of livestock; vessels using shipping containers.* An inspector may exempt an ocean vessel that uses shipping containers to transport livestock to an importing country from requirements in paragraph (d) of this section that he or she specifies, if the inspector determines that the containers themselves are designed, constructed, and managed in a manner to reasonably assure the livestock are protected from injury and remain healthy during loading, unloading, and transport to the importing country. During such inspections, particular attention will be paid to the manner in which containers are constructed, the space the containers afford to livestock transported within them, the manner in which the vessel would provide feed and water to the animals in the containers, and the manner in which air and effluent are managed within the containers. The Program Handbook contains exemption guidance.

(f) *Operator's report.* (1) The owner or operator of any ocean vessel used to export livestock (including vessels that use shipping containers) from the United States must submit a written report to APHIS within 5 business days after completing a voyage. The report must include the name of the ocean vessel; the name and address of all exporters of livestock transported on the vessel; the port of embarkation; dates of the voyage; the port where the livestock were discharged; the number of each species of livestock loaded; the number of each species that died and an explanation for those mortalities; and the number of animals that sustained injuries or sustained illnesses that were significant enough to require medical attention from the personnel entrusted with the care of the animals, as well as the nature of these injuries or illnesses. The report must also document any failure of any major life support system for the livestock, including, but not limited to, systems for providing feed and water, ventilation systems, and livestock waste management systems. Any such failure must be documented, regardless of the duration or whether the failure resulted in any harm to the livestock. The report must include the name, telephone number, and email address of the person who prepared the report and the date of the report. The report must be submitted to APHIS by facsimile or email. Contact numbers and addresses, as well as an optional template for the report, are provided in the Program Handbook.

(2) If an ocean vessel used to export livestock experiences any failure of a major life support system for livestock during the voyage, the owner or operator of the ocean vessel must notify APHIS immediately by telephone, facsimile, or other electronic means. Contact numbers and addresses are provided in the Program Handbook.

(3) Failure to provide timely reports as required by this section may result in APHIS disapproving future livestock shipments by the responsible owner or operator or revoking the vessel's certification under paragraph (a) of this section to carry livestock.

(Approved by the Office of Management and Budget under control number 0579–0432)

§ 91.13 Aircraft.

(a) Prior to loading livestock aboard aircraft, the stowage area of the aircraft and any loading ramps, fittings, and equipment to be used in loading the animals must be cleaned and then disinfected with a disinfectant approved by the Administrator, to the satisfaction of an APHIS representative, unless the representative determines that the aircraft has already been cleaned and disinfected to his or her satisfaction.

(1) The Administrator will approve a disinfectant for purposes of this section upon determining that the disinfectant is effective against pathogens that may be spread by the animals and, if the disinfectant is a chemical disinfectant, that it is registered or exempted for the specified use by the U.S. Environmental Protection Agency.

(2) The Program Handbook provides access to a list of disinfectants approved by the Administrator for use as required by this section. Other disinfectants may also be approved by the Administrator in accordance with paragraph (a)(1) of this section.

(3) The Administrator will withdraw approval of a disinfectant, and remove it from the list of approved disinfectants in the Program Handbook, if the disinfectant no longer meets the conditions for approval in this section.

(b) The time at which the cleaning and disinfection are to be performed must be approved by the APHIS representative, who will give approval only if he or she determines that the cleaning and disinfection will be effective up to the projected time the livestock will be loaded. If the livestock are not loaded by the projected time, the APHIS representative will determine whether further cleaning and disinfection are necessary.

(c) The cleaning must remove all garbage, soil, manure, plant materials, insects, paper, and other debris from the stowage area. The disinfectant solution must be applied with a device that creates an aerosol or mist that covers 100 percent of the surfaces in the stowage area, except for any loaded cargo and deck surface under it that, in the opinion of the APHIS representative, do not contain material, such as garbage, soil, manure, plant materials, insects, waste paper, or debris, that may harbor animal disease pathogens.

(d) After cleaning and disinfection is performed, the APHIS representative will sign and deliver to the captain of the aircraft or other responsible official of the airline involved a document

stating that the aircraft has been properly cleaned and disinfected, and stating further the date, the carrier, the flight number, and the name of the airport and the city and state in which it is located. If an aircraft is cleaned and disinfected at one airport, then flies to a subsequent airport, with or without stops en route, to load animals for export, an APHIS representative at the subsequent airport will determine, based on examination of the cleaning and disinfection documents, whether the previous cleaning and disinfection is adequate or whether to order a new cleaning and disinfection. If the aircraft has loaded any cargo in addition to animals, the APHIS representative at the subsequent airport will determine whether to order a new cleaning and disinfection, based on both examination of the cleaning and disinfection documents and on the inspection of the stowage area for materials, such as garbage, soil, manure, plant materials, insects, waste paper, or debris, that may harbor animal disease pathogens.

(e) Cargo containers used to ship livestock must be designed and constructed of a material of sufficient strength to securely contain the animals and must provide sufficient space for the species being transported given the duration of the trip, as determined by APHIS.

§ 91.14 Other movements and conditions.

The Administrator may, upon request in specific cases, permit the exportation of livestock not otherwise provided for in this part under such conditions as he or she may prescribe in each specific case to prevent the spread of livestock diseases and to ensure the humane treatment of the animals during transport to the importing country.

Done in Washington, DC, this 13th day of January 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–00962 Filed 1–19–16; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–1834; Airspace Docket No. 15–AGL–8]

Revocation and Establishment of Class E Airspace; Bowman, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface at Bowman Regional Airport, Bowman, ND, to accommodate new standard instrument approach procedures for the safety and management of Instrument Flight Rules (IFR) operations at the airport. Class E airspace extending upward from 700 feet above the surface would be removed at Bowman Municipal Airport, Bowman, ND, due to closure of the air traffic control tower. The FAA found it necessary to establish airspace at Bowman Regional Airport to accommodate standard instrument approach procedures (SIAPs) at the airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations at the Bowman Regional Airport.

DATES: Effective 0901 UTC, March 31, 2016. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone: 817–222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Bowman Regional Airport, Bowman, ND and removes Class E airspace at Bowman Municipal Airport, Bowman, ND.

History

On September 15, 2015, The FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class E airspace extending upward from 700 feet above the surface at Bowman Regional Airport, Bowman, ND (80 FR 55275) and remove Class E airspace extending upward from 700 feet above the surface at Bowman Municipal Airport, Bowman, ND (80 FR 55275, September 15, 2015). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

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

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) Part 71 establishes Class E airspace extending upward from 700 feet above the surface within a 6-mile radius, at Bowman Regional Airport, Bowman, ND. New standard instrument approach procedures were developed for the safety of IFR operations at the airport. Additionally, this action removes Class E airspace extending upward from 700 feet above the surface at Bowman

Municipal Airport, Bowman, ND, due to closure of the airport. This action accommodates new standard instrument approach procedures at Bowman Regional Airport and enhances the safety and management of IFR operations at the airport.

Regulatory Notices and Analyses

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

Environmental Review

The FAA issued a Federal Finding of No Significant Impact/Record of Decision (FONSI/ROD) for the proposed relocation of the Bowman County Airport and associated actions at Bowman County, North Dakota on August 2, 2010. This action to establish Class E airspace extending upward from 700 feet above the surface at Bowman Regional Airport, Bowman, ND, and to remove Class E airspace extending upward from 700 feet above the surface at Bowman Municipal Airport, Bowman, ND, due to closure of the airport is a part of the associated actions covered in the FONSI/ROD and evaluated in the Environmental Assessment dated June 2010.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AGL ND E5 Bowman, ND [New]

Bowman Regional Airport, ND
(Lat. 46°09′56″ N., long. 103°18′03″ W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Bowman Regional Airport.

AGL ND E5 Bowman, ND [Removed]

Bowman Municipal Airport, ND

Issued in Fort Worth, TX, on January 6, 2016.

Robert W. Beck,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–00627 Filed 1–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–7611; Airspace Docket No. 15–AGL–20]

RIN 2120–AA66

Modification of VOR Federal Airway V–443; North Central United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies VOR Federal airway V–443, which extends across the United States/Canadian border, in the north central United States. The FAA is taking this action to reflect and accommodate route changes made in Canadian airspace as part of Canada's Windsor-Toronto-Montreal (WTM) airspace redesign project.

DATES: Effective date 0901 UTC, March 31, 2016. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA, Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

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

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the air traffic service route structure in the north central United States to maintain the efficient flow of air traffic.

History

In 1962, the FAA published in the **Federal Register** a rule that extended V–443 from the Cleveland, OH, VHF Omnidirection Range Tactical Air Navigation (VORTAC) navigation aid (NAVAID) over the Aylmer, Ontario, Canada, Omnidirection Range/Distance Measuring Equipment (VOR/DME) NAVAID to the Toronto, Ontario, Canada, VOR/DME NAVAID, excluding the airspace within Canada (27 FR 11497, November 22, 1962). The route extension was established in concert with the Canadian Department of Transport to provide a more direct route between Cleveland and Toronto.

In 1989, the FAA published in the **Federal Register** a rule to amend V–443 (54 FR 39166, September 25, 1989). The amendment inserted an intersection fix between the Aylmer, ON, Canada, VOR/DME and the Toronto, ON, Canada, VOR/DME NAVAIDs to adjust the arrival/departure routes to/from Toronto, ON, Canada, and alleviate the congestion and compression of air traffic in that area. As a result, the V–433 description was amended to reflect the route being realigned from the Aylmer, Ontario, Canada, VOR/DME, to an intersection fix defined by the Aylmer 051° and Toronto 210° radials, to the Toronto, ON, Canada, VOR/DME.

In November 2014, Canada removed the V–443 route segment from the Aylmer, ON, Canada, VOR/DME, to the Toronto, ON, Canada, VOR/DME, as part of their WTM airspace redesign program; however, corresponding action amending the FAA's V–443 legal description was not accomplished. This disconnect led to the charted depiction of V–443 being amended in the Instrument Flight Rules (IFR) low altitude enroute charts and the FAA National Airspace System Repository (NASR) database being updated, but the V–443 legal description published in FAA Order 7400.9, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR part 71, remaining unchanged.

Since the basis for establishing the V–443 route segment between the Alymer, ON, Canada, VOR/DME to the Toronto, ON, Canada, VOR/DME no longer exists, the FAA is amending the route description in FAA Order 7400.9 and 14 CFR part 71.

VOR Federal airways are published in paragraph 2010 of FAA Order 7400.9Z dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airway listed in this document will be subsequently amended in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

The FAA is amending Title 14 of the Code of Federal Regulations (14 CFR) part 71 by removing the route segment of V–443 that extends from Aylmer, ON, Canada, to Toronto, ON, Canada. The remaining portion of V–443 is unchanged. This action responds to the route changes made by Canada as part of their WTM airspace redesign project. Canada has subsequently removed this route segment and it no longer exists on aeronautical charts. Therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

All radials in the route description below are unchanged and stated in True degrees.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a. This airspace action consists of modifying an airway and it is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exists that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 2010(a) Domestic VOR Federal Airways.

* * * * *

V–443 [Amended]

From INT Newcomerstown, OH, 099° and Bellaire, OH, 044° radials; Newcomerstown; Tiverton, OH; Dryer, OH; INT Dryer 049° and Aylmer, ON, Canada, 205° radials; to Aylmer. The airspace within Canada is excluded.

* * * * *

Issued in Washington, DC, on January 7, 2016.

Gary A. Norek,

Manager, Airspace Policy Group.

[FR Doc. 2016–00521 Filed 1–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Part 171

[Public Notice: 9405]

RIN 1400–AD86

Privacy Act; STATE–09, Records Maintained by the Office of Civil Rights

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is issuing a final rule to amend its Privacy Act regulation exempting portions of a system of records from certain provisions of the Privacy Act of 1974. Certain portions of the Records Maintained by the Office of Civil Rights, STATE–09, contain investigatory material for law enforcement purposes, and testing or examination material.

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

FOR FURTHER INFORMATION CONTACT: John Hackett, Director; Office of Information Programs and Services, A/GIS/IPS; Department of State, SA–2; 515 22nd Street NW., Washington, DC 20522–8001, or at *Privacy@state.gov.*

SUPPLEMENTARY INFORMATION: The system, Records Maintained by the Office of Civil Rights, designated as STATE–09, supports the Office of Civil Rights, Department of State, in the investigation, processing, and resolution of informal and formal complaints of discrimination filed against the Department in accordance with 29 CFR part 1614 and the Department's internal procedures for addressing Equal Employment Opportunity (EEO) complaints; in the investigation, processing, and resolution of complaints of discrimination under 42 U.S.C. 2000d; and complaints under 20 U.S.C. 1681, 29 U.S.C. 794 and 794d, 42 U.S.C. 6101, 29 U.S.C. 621, and 36 CFR chapter XI.

For additional background, see the notice of proposed rulemaking and the system of records notice published on July 14, 2015 (80 FR 40951 and 80 FR 41137, respectively). The Department received no public comment on these documents.

List of Subjects in 22 CFR Part 171

Privacy.

For the reasons stated in the preamble, 22 CFR part 171 is amended as follows:

PART 171—[AMENDED]

■ 1. The authority citation for part 171 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 22 U.S.C. 2651a; Public Law 95–521, 92 Stat. 1824, as amended; E.O. 13526, 75 FR 707; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

§ 171.36 [Amended]

■ 2. Section 171.36 is amended by adding an entry, in alphabetical order, for ''Records Maintained by the Office of Civil Rights, STATE–09'' to the lists in paragraphs (b)(5) and (6).

Joyce A. Barr,

Assistant Secretary for Administration, U.S. Department of State.

[FR Doc. 2016–00557 Filed 1–19–16; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–1121]

RIN 1625–AA00

Safety Zone; Upper Mississippi River and Illinois River, MO and IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing emergency temporary safety zones for all waters of the Upper Mississippi River (UMR) between miles 109.9 and 185.5 and all waters of the Illinois River (ILR) between miles 0 and 128.9. The emergency safety zones are needed to protect persons, property, and infrastructure from potential damage and safety hazards associated with high waters. Entry of vessels or persons into these zones is prohibited unless specifically authorized by the Captain of the Port (COTP). Deviation from the safety zones may be requested and will be considered on a case-by-case basis as specifically authorized by the Captain of the Port (COTP) or a designated representative.

DATES: This rule is effective without actual notice from January 20, 2016 until 11:59 p.m. on January 22, 2016. For the purposes of enforcement, actual notice will be used from 3:00 p.m. on December 28, 2015 until January 20, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2015–1121 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Sean Peterson, Chief of Prevention, U.S. Coast Guard; telephone 314–269–2332, email *Sean.M.Peterson@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

BNM Broadcast Notice to Mariners
CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
ILR Illinois River
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
UMR Upper Mississippi River
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because of the increased safety risks caused by high waters on the UMR and ILR. On December 28, 2015, the Coast Guard determined that immediate action is necessary to establish emergency safety zones to protect life and property from the hazards associated with and resulting from high waters. It is impracticable to publish an NPRM because we must establish these safety zones by December 28, 2015. Broadcast Notices to Mariners (BNM) and information sharing with waterway users will update mariners of the closures and enforcement times during this emergency situation.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Providing 30 days notice would be contrary to public interest because immediate action is needed to protect life and property from the hazards associated with and resulting from high waters.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Upper Mississippi River determined that potential hazards associated with and resulting from high waters and related recovery efforts are present in the area. These hazards require additional safety measures in the form of safety zones extending from mile 109.9 to 185.5 on the UMR and mile 0 to 128.9 on the ILR to protect those operating in the area and for the Coast Guard to maintain navigational safety.

IV. Discussion of the Rule

The Coast Guard is establishing two temporary emergency safety zones prohibiting access to the UMR between miles 109.9 and 185.5 and the ILR between miles 0 and 128.9, extending the entire widths of the rivers beginning at 3:00 p.m. on December 28, 2015, through 11:59 p.m. on January 22, 2016 or until waters recede and conditions allow for safe navigation, whichever occurs earlier. Deviation from the emergency safety zones may be requested and will be considered on a case-by-case basis as specifically authorized by the COTP or a designated representative. Deviation requests will

be considered and reviewed on a case-by-case basis. The COTP may be contacted by telephone at 314–269–2332 or can be reached by VHF–FM channel 16.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on a number of these statutes and E.O.s, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under E.O. 12866. Accordingly, it has not been reviewed by the Office of Management and Budget. This rule establishes temporary emergency safety zones placing restrictions on vessels transiting the UMR between miles 109.9 and 185.5 and the ILR between miles 0 and 128.9. Notifications of enforcement times will be communicated to the marine community via BNM. The impacts on navigation will be limited to ensure the safety of mariners and vessels during hazardous conditions associated with high waters.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zones may be small entities, for the reasons stated in section V. A. above, this rule will not have significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under E.O. 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

Also, this rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a closure of the UMR between miles 109.9 and 185.5 and the ILR between miles 0 and 128.9. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–1121 to read as follows:

§ 165.T08–1121 Safety Zone; Upper Mississippi River between miles 109.9 and 185.5; and Illinois River between miles 0 and 128.9; MO and IL.

(a) *Location.* The following areas are safety zones:

(1) All waters of the Upper Mississippi River between miles 109.9 and 185.5, extending the entire width of the river; and

(2) All waters of the Illinois River between miles 0 and 128.9, extending the entire width of the river.

(b) *Definitions. Designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officers operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP) Upper Mississippi River in the enforcement of the safety zones.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zones described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative via VHF–FM channel 16, or through Coast Guard Sector Upper Mississippi River at 314–269–2332. Those in the safety zones must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement periods.* This rule is effective from 3:00 p.m. on December 28, 2015 through 11:59 p.m. on January 22, 2016, or until waters recede and conditions allow for safe navigation, whichever occurs first.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public through broadcasts notice to mariners of the enforcement period for the emergency safety zones as well as any changes in the dates and times of enforcement.

Dated: December 28, 2015.

R.S. Rhodes,

Commander, U.S. Coast Guard, Alternate Captain of the Port Upper Mississippi River.

[FR Doc. 2016–01017 Filed 1–19–16; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0475; FRL–9941–36–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Allegheny County's Adoption of Control Techniques Guidelines for Four Industry Categories for Control of Volatile Organic Compound Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is converting a conditional approval of a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania on behalf of the Allegheny County Health Department (ACHD) to a full approval. This SIP revision includes amendments to the ACHD Rules and Regulations, Article XXI, Air Pollution Control, and meets the requirement to adopt reasonably available control technology (RACT) for sources covered by EPA's control techniques guidelines (CTG) for the following categories: miscellaneous metal and/or plastic parts surface coating processes; automobile and light-duty truck assembly coatings; miscellaneous industrial adhesives; and fiberglass boat manufacturing materials. Upon review of the submittal, EPA found that the average monomer volatile organic compound (VOC) content limits were referenced but not included in the regulation for fiberglass boat manufacturing materials. ACHD has revised the regulation and submitted the table of VOC content limits for fiberglass boat manufacturing materials to EPA in order to address specific RACT requirements for Allegheny County. Therefore, EPA is converting the conditional approval of the revisions to the Pennsylvania SIP to a full approval in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on February 19, 2016.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2014–0475. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, 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 through *www.regulations.gov* or may be viewed during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the state submittal are available at the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201 and at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

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

SUPPLEMENTARY INFORMATION:

I. Background

Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include reasonably available control measures (RACM), including RACT, for sources of emissions. Section 182(b)(2)(A) provides that for certain nonattainment areas, states must revise their SIP to include RACT for sources of VOC emissions covered by a CTG document issued after November 15, 1990 and prior to the area's date of attainment. In 2008, EPA developed new CTGs for miscellaneous metal and plastic parts coatings, automobile and light-duty assembly coatings, miscellaneous industrial adhesives, and fiberglass boat manufacturing materials.

II. Summary of SIP Revision

On November 15, 2013, the Pennsylvania Department of Environmental Protection (PADEP) submitted to EPA on behalf of ACHD a SIP revision concerning the adoption of the EPA CTGs for miscellaneous metal and/or plastic parts surface coating processes, automobile and light-duty truck assembly coatings, miscellaneous industrial adhesives, and fiberglass boat manufacturing materials in Allegheny County. These ACHD regulations, with a state effective date of June 8, 2013, are contained in the ACHD Rules and Regulations, Article XXI, Air Pollution Control sections 2105.83 (Control of VOC Emissions from Miscellaneous Metal and/or Plastic Parts Surface Coating Processes), 2105.84 (Control of VOC Emissions from Automobile and Light-Duty Truck Assembly Coatings), 2105.85 (Control of VOC Emissions from Miscellaneous Industrial Adhesives),

and 2105.86 (Control of VOC Emissions from Fiberglass Boat Manufacturing Materials) in order to establish: (1) Applicability for miscellaneous metal and/or plastic parts surface coating processes, automobile and light-duty truck assembly coatings, miscellaneous industrial adhesives, and fiberglass boat manufacturing materials; (2) exemptions; (3) record-keeping and work practice requirements; and (4) emission limitations. Upon review of the November 15, 2013 submittal, EPA found that the table of average monomer VOC content limits for fiberglass boat manufacturing materials was referenced; however, the table was erroneously not included in the regulation. Pursuant to section 110(k)(4) of the CAA, PADEP submitted on behalf of ACHD a letter dated July 16, 2014 committing to submit a SIP revision to EPA addressing this error.

On March 26, 2013 (78 FR 18241), EPA conditionally approved the SIP revision concerning the adoption of these CTGs. On September 9, 2015, PADEP submitted to EPA on behalf of ACHD a supplemental SIP revision containing the regulation with the missing table of average monomer VOC content limits, and thereby addressed its July 16, 2014 commitment. On November 10, 2015, EPA published a notice of proposed rulemaking converting the conditional approval to a full approval. 80 FR 69627. Other specific requirements and the rationale for EPA's proposed rulemaking action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. Final Action

In this rulemaking action, EPA is converting to a full approval the conditional approval of the Commonwealth of Pennsylvania SIP revision submitted on November 15, 2013, as supplemented with the September 9, 2015 SIP submittal, which consists of amendments to the ACHD Rules and Regulations, Article XXI, Air Pollution Control for adopting RACT for sources covered by EPA's CTG standards for the following categories; miscellaneous metal and/or plastic parts surface coating processes, automobile and light-duty truck assembly coatings, miscellaneous industrial adhesives, and fiberglass boat manufacturing materials. Pursuant to section 110(k)(4) of the CAA, the conditional approval was based upon a letter from PADEP on behalf of ACHD dated July 16, 2014 committing to submit to EPA an additional SIP revision to address the deficiency in the regulation for fiberglass boat manufacturing materials. On September 9, 2015, PADEP on behalf of ACHD, submitted a supplemental SIP revision containing the table of monomer VOC content limits for fiberglass boat manufacturing materials. EPA has determined that ACHD has satisfied this condition. Therefore, EPA is removing the conditional nature of its approval and replacing it with a full approval of Allegheny County's adoption of CTGs for miscellaneous metal and/or plastic parts surface coating processes, automobile and light-duty truck assembly coatings, miscellaneous industrial adhesives, and fiberglass boat manufacturing materials.

IV. Incorporation by Reference

In this rulemaking, 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 the ACHD regulations regarding control of VOC emissions discussed in section II of this preamble. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and/or may be viewed at the EPA Region III office (see the **ADDRESSES** section of this preamble for more information).

V. Statutory and Executive Order Reviews

A. General Requirements

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

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 March 21, 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 pertaining to ACHD's adoption of CTG standards for miscellaneous metal and/or plastic parts surface coating processes, automobile and light-duty truck assembly coatings, miscellaneous industrial adhesives, and fiberglass boat manufacturing materials 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 30, 2015.

Shawn M. Garvin,

Regional Administrator, Region III.

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 NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (c)(2) is amended by revising the entries for ''2105.83,'' ''2105.84,'' ''2105.85,'' and ''2105.86'' under part E, subpart 7. The revisions read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(2) * * *

Article XX or XXI citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
*	*	*	*	*
Part E—Source Emission and Operating Standards				
*	*	*	*	*
Subpart 7—Miscellaneous VOC Sources				
*	*	*	*	*
2105.83	Control of VOC Emissions from Miscellaneous Metal and/or Plastic Parts Surface Coating Processes.	6/8/13	1/20/16 *[Insert* **Federal Register** *Citation].*	New regulation.
2105.84	Control of VOC Emissions from Automobile and Light-Duty Truck Assembly Coatings.	6/8/13	1/20/16 *[Insert* **Federal Register** *Citation].*	New regulation.
2105.85	Control of VOC Emissions from Miscellaneous Industrial Adhesives.	6/8/13	1/20/16 *[Insert* **Federal Register** *Citation].*	New regulation.
2105.86	Control of VOC Emissions from Fiberglass Boat Manufacturing Materials.	6/19/15	1/20/16 *[Insert* **Federal Register** *Citation].*	New regulation.
*	*	*	*	*

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§ 52.2023 [Amended]

■ 3. Section 52.2023 is amended by removing paragraph (m).

[FR Doc. 2016–00656 Filed 1–19–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R09–OAR–2014–0636; FRL–9940–83–Region 9]

Designation of Areas for Air Quality Planning Purposes; California; San Joaquin Valley; Reclassification as Serious Nonattainment for the 2006 $PM_{2.5}$ NAAQS

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to reclassify the San Joaquin Valley (SJV) Moderate nonattainment area, including areas of Indian country within it, as a Serious nonattainment area for the 2006 $PM_{2.5}$ national ambient air quality standards (NAAQS), based on the EPA's determination that the area cannot practicably attain these NAAQS by the applicable attainment date of December 31, 2015. As a consequence of this reclassification, California must submit, no later than 18 months from the effective date of this reclassification, a Serious area attainment plan including a demonstration that the plan provides for attainment of the 2006 24-hour $PM_{2.5}$ standards in the SJV area as expeditiously as practicable and no later than December 31, 2019. The State must also submit, no later than 12 months after the effective date of this reclassification, nonattainment new source review (NNSR) SIP revisions to implement the 2006 $PM_{2.5}$ NAAQS in the SJV area, to the extent those requirements have not previously been met.

DATES: This rule is effective on February 19, 2016.

ADDRESSES: The EPA has established docket number EPA–R09–OAR–2014–0636 for this action. Generally, documents in the docket for this action are available electronically at *http://www.regulations.gov* or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *http://www.regulations.gov,* some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material, large maps, multi-volume reports), and some may not be publicly available in either location (*e.g.,* confidential business information (CBI)). To inspect the docket materials in person, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Wienke Tax, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region 9, (415) 947–4192, *tax.wienke@epa.gov.*

SUPPLEMENTARY INFORMATION:
Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

Table of Contents

I. Proposed Action
II. Summary of Final Action
III. Public Comments and EPA Responses
IV. Final Action
A. Reclassification as Serious Nonattainment and Applicable Attainment Dates
B. Reclassification of Reservation Areas of Indian Country
C. $PM_{2.5}$ Serious Area SIP Requirements
V. Statutory and Executive Order Reviews

I. Proposed Action

On January 13, 2015 (80 FR 1816), the EPA proposed to approve portions of California's Moderate area plan to address the 2006 primary and secondary 24-hour $PM_{2.5}$ NAAQS in the SJV and to reclassify the SJV nonattainment area, including areas of Indian country within it, from Moderate nonattainment to Serious nonattainment for these standards, based on the EPA's determination that the area cannot practicably attain the NAAQS by the applicable attainment date of December 31, 2015.[1] Under section 188(b)(1) of the CAA, prior to an area's attainment date, the EPA has discretionary authority to reclassify as a Serious nonattainment area ''any area that the Administrator determines cannot practicably attain'' the $PM_{2.5}$ NAAQS by the Moderate area attainment date.[2] On March 4, 2013, the State submitted a Moderate area attainment plan demonstrating that the SJV area cannot practicably attain the 2006 $PM_{2.5}$ standards by the applicable Moderate area attainment date of December 31, 2015. The EPA's proposed reclassification of the SJV area was based upon our evaluation of the State's submission and ambient air quality data for the 2013–2014 period indicating that it is not practicable for certain monitoring sites within the SJV area to show $PM_{2.5}$ design values at or below the level of the 2006 $PM_{2.5}$ NAAQS by December 31, 2015.[3]

In our proposed rule, we explained that, under section 188(c)(2) of the Act, the attainment date for a Serious area ''shall be as expeditiously as practicable but no later than the end of the tenth calendar year beginning after the area's designation as nonattainment . . .'' The SJV was designated nonattainment for the 2006 $PM_{2.5}$ NAAQS effective December 14, 2009.[4] Therefore, as a result of our reclassification of the SJV area as a Serious nonattainment area, the attainment date under section 188(c)(2) of the Act for the 2006 $PM_{2.5}$ NAAQS in this area is as expeditiously as practicable but no later than December 31, 2019.

Our proposed rule also identified the additional Serious area attainment plan elements that California would, upon reclassification, have to submit to satisfy the statutory requirements that apply to Serious areas, including the requirements of subpart 4 of part D, title I of the Act.[5] The EPA explained that, under section 189(b)(2) of the Act, the State must submit the required provisions to implement best available control measures (BACM), including best available control technology (BACT), no later than 18 months after reclassification and must submit the required attainment demonstration no later than 4 years after reclassification. Given the December 31, 2019, Serious area attainment date applicable to this area under CAA section 188(c)(2), however, we noted that we expect the State to adopt and submit a Serious area plan for these NAAQS well before the statutory SIP submittal deadline in CAA section 189(b)(2).[6]

With respect to the nonattainment new source review (NNSR) program revisions to establish appropriate ''major stationary source'' thresholds for direct $PM_{2.5}$ and $PM_{2.5}$ precursors in accordance with CAA section 189(b)(3), the EPA proposed to require the State to submit these NNSR SIP revisions no later than 12 months after the effective date of final reclassification, and requested comment on this proposed 12-month timeframe.

II. Summary of Final Action

Today we are finalizing only our proposal to reclassify the SJV area as a Serious nonattainment area for the 2006 $PM_{2.5}$ NAAQS. We are not taking final action at this time on our proposal to approve elements of California's Moderate area plan for the 2006 $PM_{2.5}$ NAAQS in the SJV and will complete that action at a later time.

As a consequence of our reclassification of the SJV area as Serious nonattainment for the 2006 $PM_{2.5}$ NAAQS, California is required to submit additional SIP revisions to satisfy the statutory requirements that apply to Serious areas, including the requirements of subpart 4 of part D, title I of the Act. For the reasons provided in Section III of this preamble, the EPA is requiring the State to adopt and submit all required components of the Serious Area attainment plan for the SJV no later than 18 months after the effective date of this reclassification.

We are finalizing our proposal to require that California adopt and submit NNSR SIP revisions to implement subpart 4 requirements for the 2006 $PM_{2.5}$ NAAQS in the SJV area no later than 12 months after the effective date of this reclassification, to the extent those requirements have not already been met by the NNSR SIP revisions due May 7, 2016 for purposes of implementing the 1997 $PM_{2.5}$ NAAQS.[7]

The attainment date under section 188(c)(2) of the Act for the 2006 $PM_{2.5}$ NAAQS in this area is as expeditiously as practicable but no later than December 31, 2019.

III. Public Comments and EPA Responses

The EPA received two comment letters on our proposed actions. Comment letters were submitted by the San Joaquin Valley Air Pollution Control District (''SJVAPCD'' or ''District''), and by Earthjustice on behalf of the Central Valley Air Quality Coalition, Greenaction, the Association of Irritated Residents, the Sierra Club—Tehipite Chapter, and Global Community Monitor, (''Earthjustice'') on

[1] *See* proposed rule at 80 FR 1816 (January 13, 2015) for a more detailed discussion of the background for this action, including the history of the $PM_{2.5}$ NAAQS established in 2006, health effects and sources of $PM_{2.5}$, designation of the SJV as nonattainment for the $PM_{2.5}$ standards, and the EPA's actions on the submittals from the state of California to address the nonattainment area planning requirements for the 2006 $PM_{2.5}$ NAAQS in the SJV.

[2] Section 188(b)(1) of the Act is a general expression of delegated rulemaking authority. See ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992) (hereafter ''General Preamble'') at 13537, n. 15. Although subparagraphs (A) and (B) of section 188(b)(1) contain specific timeframes for the EPA to reclassify any areas that it determines cannot practicably attain the $PM_{2.5}$ standards by the applicable attainment date, these subparagraphs do not restrict the general authority to reclassify an area, as appropriate, at any time before the attainment date but simply specify that, at a minimum, the EPA's authority must be exercised at certain times. *See id.*

[3] The $PM_{2.5}$ monitoring data that EPA reviewed indicate that 24-hour $PM_{2.5}$ design values are at 65 ug/m3 in the SJV, which is well above the level of the 2006 $PM_{2.5}$ NAAQS (35 ug/m3). EPA also calculated ''maximum allowed'' 2015 concentrations that would enable the area to attain the 2006 24-hour $PM_{2.5}$ NAAQS by the end of 2015 and found that all monitoring sites examined—Bakersfield-California Ave, Bakersfield-Planz Rd., Fresno-Garland, Fresno-Pacific, and Hanford—would have to record negative $PM_{2.5}$ concentrations in 2015 to show $PM_{2.5}$ design values at or below the level of the 2006 $PM_{2.5}$ NAAQS. *See* 80 FR 1816, 1834 and n. 69 (January 13, 2015).

[4] 74 FR 58688 (November 13, 2009).

[5] *See* proposed rule at 80 FR 1842 (January 13, 2015).

[6] *Id.* at 1843.

[7] *See* 40 CFR 52.245(c) and 80 FR 18528, 18533 (April 7, 2015).

February 27, 2015, prior to the close of the comment period on our proposal.[8]

Because we are finalizing only our proposal to reclassify the SJV area as Serious nonattainment for the 2006 $PM_{2.5}$ NAAQS, we are responding only to comments pertaining to the reclassification and its consequences. We summarize and respond to the relevant comments below. In a separate rulemaking, we will take final action on California's submitted Moderate area plan for the 2006 $PM_{2.5}$ NAAQS in the SJV and will respond to comments pertaining to our proposed action on the submitted plan at that time.

Comment 1: The SJVAPCD supports the EPA's proposal to require the state to submit a revised Nonattainment New Source Review (NNSR) rule within twelve months of the EPA's serious nonattainment reclassification. However, the District asks for the EPA to clarify that this submission will not be required before the EPA can grant an extension of the attainment deadline for the 1997 $PM_{2.5}$ standards under CAA section 188(e). The District comments that the EPA has provided ''no valid justification'' for requiring the revised NNSR rule to be submitted before the EPA can approve the attainment deadline extension, and argues that CAA section 188(e) contains ''no mention of NSR, either directly or by implication, that would lead one to believe that the updated NSR rule is required prior to approval of the attainment deadline extension.'' The District asserts that the EPA is asking it to begin an expedited process to adopt a serious area NSR rule before the area has been reclassified as serious nonattainment and without implementation rules or guidance.

Response 1: We are finalizing our proposal to require that California adopt and submit NNSR SIP revisions to implement subpart 4 requirements for the 2006 $PM_{2.5}$ NAAQS in the SJV area no later than 12 months after the effective date of this reclassification. We note that California is required to submit NNSR SIP revisions addressing the requirements for Serious $PM_{2.5}$ nonattainment areas under subpart 4 by May 7, 2016, as a result of our previous reclassification of the SJV as Serious nonattainment for the 1997 $PM_{2.5}$ NAAQS.[9] Nonattainment NSR SIP revisions that satisfy the Serious Area requirements of CAA sections 189(b)(3) and 189(e) for purposes of the 1997 $PM_{2.5}$ NAAQS may also satisfy these requirements for the 2006 $PM_{2.5}$ NAAQS.

The District's comments about the criteria for an extension of the attainment date for the 1997 $PM_{2.5}$ standards under CAA section 188(e) are not relevant to this action, which pertains only to the SJV area's classification for the 2006 $PM_{2.5}$ NAAQS and related SIP submission deadlines. This reclassification action does not affect the State's obligations with respect to the 1997 $PM_{2.5}$ standards or any other NAAQS. We previously responded to the District's comments concerning the relevance of NNSR SIP revisions to the section 188(e) criteria for an extension of the attainment date for the 1997 $PM_{2.5}$ standards, as part of our final action reclassifying the SJV area as a Serious nonattainment area for the 1997 $PM_{2.5}$ NAAQS (see 80 FR 18528, April 7, 2015).

Comment 2: Earthjustice supports the EPA's proposed reclassification of the SJV to serious nonattainment, but comments that the agency should impose earlier deadlines for the submission of BACM measures and the serious area attainment demonstration. Earthjustice states that CAA section 189(b)(2) requires a state to submit an attainment demonstration for an area within 4 years after the area is reclassified to serious nonattainment and a BACM plan within 18 months after the area is reclassified. Earthjustice argues that, had the EPA applied the requirements of subpart 4 at the time, the EPA would have had to reclassify the SJV area as Serious within 18 months after the required date for the area's Moderate area plan, *i.e.,* by December 14, 2012, and that the SIP submission deadlines should therefore be measured from this date. According to Earthjustice, this would mean that the BACM measures were due June 14, 2014, and that the serious area attainment demonstration is due December 14, 2016. For this reason, Earthjustice asserts that the EPA should declare the BACM submission already overdue (triggering a sanctions clock), and should require the state to submit its attainment demonstration by no later than December 14, 2016. Earthjustice contends that the EPA's failure to apply these deadlines will ''serve to perpetuate EPA's error'' in not initially applying subpart 4 requirements to implementation of the $PM_{2.5}$ NAAQS.

Earthjustice further argues that although the EPA did not interpret the schedules in section 189(b)(2) to apply to $PM_{2.5}$ plans prior to the D.C. Circuit's decision in *Natural Res. Def. Council* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013) (''*NRDC*''), the agency's decision to apply these deadlines would not represent improper retroactive application of the statute. In support, Earthjustice cites the U.S. Supreme Court in *Rivers* v. *Roadway Express, Inc.,* 511 U.S. 298 (1994) for the proposition that judicial construction of a statute interprets the statute's meaning ''continuously since the date when it became law,'' ''before as well as after'' the court's decision. Notwithstanding disagreements about what constitutes retroactive application of subpart 4 deadlines, however, Earthjustice argues that the EPA should exercise its discretion, as it has done for the NSR SIP deadline, to set a December 14, 2016 deadline for submission of the serious area attainment demonstration.

Response 2: We disagree with the commenter's assertion that the deadlines in CAA section 189(b)(2) for submission of the State's BACM plan and Serious Area attainment plan should be measured from December 14, 2012. Section 189(b)(1) of the Act requires that ''each State in which all or part of a Serious Area is located'' submit a Serious Area attainment demonstration and BACM provisions. Section 189(b)(2) requires the State to submit the Serious Area attainment demonstration ''no later than 4 years after reclassification of the area to Serious'' and to submit the BACM provisions ''no later than 18 months after reclassification of the area as a Serious Area.'' These provisions of the Act plainly require that states submit Serious Area SIP elements only for $PM_{2.5}$ nonattainment areas that have been reclassified as Serious under subpart 4.

Prior to this reclassification action, the SJV area was classified as a Moderate Area for the 2006 $PM_{2.5}$ NAAQS and therefore was not subject to the requirements for Serious Area plans in CAA section 189(b) for these NAAQS. Because the EPA did not reclassify the SJV area as a Serious Area effective December 14, 2012, it is not appropriate to establish SIP submission deadlines under section 189(b)(2) based on a December 14, 2012 reclassification date. Moreover, to do so in this instance would mean that the BACM provisions

[8] *See* letter dated February 27, 2015, from Sheraz Gill, Director of Strategies and Incentives at SJVAPCD, to Wienke Tax, EPA Region 9, ''Re: Docket No. EPA–R09–OAR–2014–0636, Comments on Proposed Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; California; San Joaquin Valley Moderate Area Plan and Reclassification as Serious Nonattainment for the 2006 $PM_{2.5}$ NAAQS,'' and letter dated February 27, 2015 from Paul Cort and Adenike Adeyeye, Earthjustice, to Ms. Wienke Tax, Air Planning Office, USEPA Region 9.

[9] See 40 CFR 52.245(c) and 80 FR 18528, 18533 (April 7, 2015). We are making minor clarifications to the regulatory text in 40 CFR 52.245(c) to indicate that the May 7, 2016 deadline therein pertains only to NNSR SIP revisions necessary to implement the 1997 $PM_{2.5}$ NAAQS.

are overdue (as of June 14, 2014) and that the Serious Area attainment demonstration is due December 14, 2016, less than one year after the effective date of this final reclassification action. We do not believe that the *NRDC* court's January 4, 2013 decision should be interpreted so as to retroactively impose on the State subpart 4 requirements and deadlines of which it had no notice.[10]

We also disagree with the commenter's argument that, had the EPA applied subpart 4, the EPA would have had to reclassify the SJV area by December 14, 2012. The commenter contends that the EPA's authority to reclassify a Moderate area as Serious under CAA section 188(b)(1) is available only within the timeframe specified in section 188(b)(1)(B), *i.e.,* within 18 months after the due date for the State's Moderate area SIP. As explained in the 1992 General Preamble, however, ''[u]nder the plain meaning of the terms of section 188(b)(1), EPA has general discretion to reclassify *at any time before the applicable attainment date* any area EPA determines cannot practicably attain the standards by such date'' (emphases added).[11] With respect to the dates specified in subsections (A) and (B) of section 188(b)(1), the EPA specifically explained in the General Preamble that ''[t]hese subparagraphs do not restrict the general authority [in section 188(b)(1)] but simply specify that, at a minimum, it must be exercised at certain times.'' [12] This interpretation of section 188(b)(1) as allowing the EPA to reclassify moderate areas as serious ''at any time EPA determines that an area cannot practicably attain the standards by the applicable attainment date'' facilitates the statutory objective of attaining the PM–10 standards—*e.g.,* by ensuring that additional control measures such as BACM are implemented sooner and by expediting the application of more stringent new source review requirements.[13] The EPA reiterated this interpretation of section 188(b)(1) in the 1994 PM–10 Addendum [14] and in several discretionary reclassification actions subsequent to the 1990 CAA Amendments.[15]

Specifically, with respect to areas designated nonattainment by operation of law upon enactment of the 1990 CAA Amendments (*i.e.,* ''initial'' PM–10 nonattainment areas), the EPA's longstanding interpretation of section 188(b)(1)(A) has been that ''the amended Act specifies certain dates by which EPA must propose to reclassify appropriate moderate areas as serious. . . and take final action,'' where the EPA determines that the area cannot ''practicably'' attain the PM–10 NAAQS by December 31, 1994.[16] The EPA further explained, however, that ''EPA also has discretionary authority under section 188(b)(1) to reclassify any of these areas as serious at any time, if EPA determines they cannot practicably attain the PM–10 NAAQS by December 31, 1994,'' [17] and provided examples of the circumstances that may warrant such discretionary reclassification at a later date—*i.e., after* the December 31, 1991 date specified in section 188(b)(1)(A).[18] In the PM–10 Addendum, the EPA stated that ''[s]ection 188(b)(1)(A) provides an accelerated schedule by which EPA is to reclassify appropriate initial PM–10 nonattainment areas'' but reiterated the Agency's interpretation of section 188(b)(1) as a general grant of authority to also reclassify initial PM–10 areas at later points in time before the attainment date.[19]

Likewise, the EPA has long interpreted section 188(b)(1)(B) as establishing a ''timeframe within which EPA is to reclassify appropriate areas designated nonattainment for PM–10 subsequent to enactment of the 1990 Amendments'' but not as a limitation on EPA's general authority to reclassify such areas at any time before the applicable attainment date.[20] In the PM–10 Addendum, the EPA reiterated its view that the directive in section 188(b)(1)(B) ''does not restrict EPA's general authority, but simply specifies that it is to be exercised, as appropriate, in accordance with certain dates.'' [21] The EPA recently finalized a discretionary reclassification action for the SJV $PM_{2.5}$ nonattainment area shortly before the applicable attainment date, consistent with this interpretation of CAA section 188(b)(1).[22] In light of the EPA's longstanding and consistent interpretation of section 188(b)(1) as a general grant of discretionary authority to reclassify any Moderate area as a Serious area at any time before the applicable attainment date, based on a determination that the area cannot practicably attain the NAAQS by that date, we disagree with the commenter's claim that the EPA should have reclassified the SJV area as Serious by December 14, 2012.

Upon further consideration and in light of the specific circumstances in the SJV $PM_{2.5}$ nonattainment area, however, the EPA is exercising its discretion to establish a deadline of 18 months from the effective date of this final reclassification action for the State to submit all required components of the Serious Area attainment plan for the 2006 $PM_{2.5}$ NAAQS in the SJV. An 18-month deadline for submission of these SIP elements is appropriate in this instance because it both enables the EPA to evaluate the required attainment plan well before the outermost attainment date applicable to the area under CAA section 188(c)(2) and enables the State to develop its strategy

[10] In rulemakings for individual areas subsequent to the NRDC decision, the EPA has explained in detail its view that the requirements of the CAA should not be implemented retroactively based upon the court's decision. See, *e.g.,* 78 FR 41698 (July 11, 2013) (final redesignation of Indianapolis to attainment for 1997 annual $PM_{2.5}$ standard). The U.S. District Court for the District of Colorado recently agreed with the EPA's position that the court's decision in NRDC does not require retroactive application of Subpart 4 requirements. See WildEarth Guardians v. Gina McCarthy, Case No. 13–CV–1275–WJM–KMT (D. Colo., March 11, 2014) (dismissing plaintiff's claim that the EPA missed a non-discretionary deadline based on retroactive application of Subpart 4).

[11] General Preamble, 57 FR 13498, 13537 at n. 15 (April 16, 1992).

[12] *Id.*

[13] General Preamble, 57 FR 13498, 13537.

[14] ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998, 41999 (August 16, 1994) (the ''PM–10 Addendum'').

[15] *See* 58 FR 3334, 3336 (Jan. 8, 1993) (discharging EPA's statutory duty under section 188(b)(1)(A) to ''reclassify appropriate initial moderate PM–10 nonattainment areas as serious by December 31, 1991'' but noting EPA's broad discretion under section 188(b)(1) to reclassify additional areas at a later date); *see also* 80 FR 18528 (April 7, 2015) (final discretionary reclassification of San Joaquin Valley for 1997 $PM_{2.5}$ NAAQS signed March 27, 2015).

[16] General Preamble, 57 FR 13498, 13537. Under section 188(c)(1) of the Act, December 31, 1994 was the latest permissible Moderate area attainment date for an area designated nonattainment for PM–10 by operation of law under the 1990 CAA Amendments.

[17] General Preamble, 57 FR 13498, 13537.

[18] *Id.* (''The EPA may exercise this discretion where, for example, EPA originally believed an area could attain the PM–10 NAAQS by December 31, 1994 but later determines that it cannot attain''); *see also* 56 FR 58656, 58657 (Nov. 21, 1991) (noting that ''EPA also has discretion to reclassify any of these areas as serious after December 31, 1991 (*e.g.,* after reviewing the State's PM–10 SIP), if EPA determines they cannot practicably attain the PM–10 NAAQS by December 31, 1994'') and 58 FR 3334, 3336 (Jan. 8, 1993) (noting that EPA may *in the future* reclassify additional PM–10 nonattainment areas using its discretionary authority in section 188(b)(1)).

[19] PM–10 Addendum, 59 FR 41998, 41999 (August 16, 1994) (''In the future, EPA anticipates that, generally, any decision to reclassify an initial PM–10 nonattainment area before the attainment date will be based on specific facts or circumstances demonstrating that the NAAQS cannot practicably be attained by December 31, 1994* * *'').

[20] General Preamble, 57 FR at 13537 and PM–10 Addendum, 59 FR at 41999.

[21] PM–10 Addendum, 59 FR 41998, 41999 at n. 4 (August 16, 1994).

[22] *See* 80 FR 18528 (April 7, 2015) (final discretionary reclassification of San Joaquin Valley for 1997 $PM_{2.5}$ NAAQS signed March 27, 2015).

for attaining the 2006 $PM_{2.5}$ NAAQS in conjunction with its development of a plan to provide for attainment of the 2012 primary annual $PM_{2.5}$ NAAQS in this same area, which is due October 15, 2016.[23] Although the State's obligations with respect to implementation of a Moderate area plan for the 2012 $PM_{2.5}$ NAAQS are separate and distinct from its obligations with respect to implementation of a Serious area plan for the 2006 $PM_{2.5}$ NAAQS, it is reasonable in this instance to require the State to develop its control strategies for both $PM_{2.5}$ NAAQS in the SJV area in a similar timeframe, considering the benefits of streamlining these planning processes to the extent possible.

In addition, an 18-month deadline for submission of the Serious area plan is consistent with both the timeframe for initial Moderate area plan submissions upon designation of an area as nonattainment and the timeframe for Serious area plan submissions following an EPA determination of failure to attain and reclassification by operation of law under CAA section 188(b)(2).[24] It is reasonable for the EPA to exercise its discretion to establish a similar SIP submission deadline in this instance, given the proximity of this action to the Moderate area attainment date (December 31, 2015) and the likelihood that, should the attainment date pass, the EPA would have to determine under section 188(b)(2) that the SJV area failed to attain the $PM_{2.5}$ NAAQS by that date. Although CAA section 189(b)(2) generally provides for up to 4 years after a discretionary reclassification for the State to submit the required attainment demonstration, we find it appropriate in this case to establish an earlier SIP submission deadline to assure timely implementation of the statutory requirements.[25] Furthermore, the 18-month SIP submission deadline that we are finalizing in this action requires California to submit its Serious Area plan for the SJV area before the statutory SIP submission deadline that would apply upon reclassification by operation of law under section 188(b)(2).[26]

Finally, the EPA is requiring California to submit revised nonattainment NSR program requirements no later than 12 months after final reclassification, to the extent those requirements have not already been met by the NNSR revisions due May 7, 2016 for purposes of implementing the 1997 $PM_{2.5}$ NAAQS in the SJV.[27] The Act does not specify a deadline for the State's submission of SIP revisions to meet NNSR program requirements to lower the ''major stationary source'' threshold from 100 tons per year (tpy) to 70 tpy (CAA section 189(b)(3)) and to address the control requirements for major stationary sources of $PM_{2.5}$ precursors (CAA section 189(e)) [28] following reclassification of a Moderate $PM_{2.5}$ nonattainment area as Serious nonattainment under subpart 4. Pursuant to the EPA's gap-filling authority in CAA section 301(a) and to effectuate the statutory control requirements in section 189 of the Act, the EPA is requiring the State to submit these NNSR SIP revisions, as well as any necessary analysis of and additional control requirements for major stationary sources of $PM_{2.5}$ precursors, no later than 12 months after the effective date of final reclassification of the SJV area as Serious nonattainment for the 2006 $PM_{2.5}$ NAAQS.

IV. Final Action

A. Reclassification as Serious Nonattainment and Applicable Attainment Date

In accordance with section 188(b)(1) of the Act, the EPA is taking final action to reclassify the SJV area from Moderate to Serious nonattainment for the 2006 primary and secondary 24-hour $PM_{2.5}$ standards of 35 $\mu g/m^3$, based on the EPA's determination that the SJV area cannot practicably attain these standards by the applicable attainment date of December 31, 2015.

Under section 188(c)(2) of the Act, the attainment date for a Serious area ''shall be as expeditiously as practicable but no later than the end of the tenth calendar year beginning after the area's designation as nonattainment. . . .'' The SJV area was designated nonattainment for the 2006 $PM_{2.5}$ NAAQS effective December 14, 2009.[29] Therefore, as a result of our reclassification of the SJV area as a Serious nonattainment area, the attainment date under section 188(c)(2) of the Act for the 2006 $PM_{2.5}$ NAAQS in this area is as expeditiously as practicable but no later than December 31, 2019.

B. Reclassification of Reservation Areas of Indian Country

Eight Indian tribes are located within the boundaries of the San Joaquin Valley $PM_{2.5}$ nonattainment area: The Big Sandy Rancheria of Mono Indians of California, the Cold Springs Rancheria of Mono Indians of California, the North Fork Rancheria of Mono Indians of California, the Picayune Rancheria of Chukchansi Indians of California, the Santa Rosa Rancheria of the Tachi Yokut Tribe, the Table Mountain Rancheria of California, the Tejon Indian Tribe, and the Tule River Indian Tribe of the Tule River Reservation.

We have considered the relevance of our final action to reclassify the SJV nonattainment area as Serious nonattainment for the 2006 $PM_{2.5}$ standards to each tribe located within the SJV area. As discussed in more detail in our proposed rule, we believe that the same facts and circumstances that support the reclassification for the non-Indian country lands also support reclassification for reservation areas of Indian country [30] and any other areas of Indian country where the EPA or a tribe has demonstrated that the tribe has jurisdiction located within the SJV nonattainment area.[31] In this final action, the EPA is therefore exercising our authority under CAA section 188(b)(1) to reclassify reservation areas of Indian country and any other areas of Indian country where the EPA or a tribe

[23] The EPA designated and classified the SJV as Moderate nonattainment for the 2012 primary annual $PM_{2.5}$ NAAQS effective April 15, 2015. 80 FR 2206, 2215–16 (January 15, 2015). Under CAA section 189(a)(2)(B), California is required to adopt and submit a plan to provide for attainment of these NAAQS within 18 months after the nonattainment designation, *i.e.,* by October 15, 2016.

[24] CAA sections 189(a)(2)(B) and 189(b)(2).

[25] Section 189(b)(2) establishes outer bounds on the SIP submission deadlines and does not preclude the EPA's establishment of earlier deadlines as necessary or appropriate to assure consistency among the required submissions and to implement the statutory requirements, including the requirement that attainment be as expeditious as practicable.

[26] Under CAA section 188(b)(2), the EPA must determine within 6 months after the applicable attainment date whether the area attained the NAAQS by that date. If the EPA determines that a Moderate Area is not in attainment after the applicable attainment date, the area is reclassified by operation of law as a Serious Area, and the Serious Area attainment plan is due within 18 months after such reclassification. CAA sections 188(b)(2) and 189(b)(2).

[27] See 40 CFR 52.245(c) and 80 FR 18528, 18533 (April 7, 2015).

[28] Section 189(e) requires that the control requirements applicable to major stationary sources of $PM_{2.5}$ also apply to major stationary sources of $PM_{2.5}$ precursors, except where the state demonstrates to the EPA's satisfaction that such sources do not contribute significantly to $PM_{2.5}$ levels that exceed the standard in the area.

[29] See 74 FR 58688 (November 13, 2009).

[30] ''Indian country'' as defined at 18 U.S.C. 1151 refers to: ''(a) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.''

[31] See 80 FR 1816, at 1843, 1844 (January 13, 2015).

has demonstrated that the tribe has jurisdiction geographically located in the SJV nonattainment area. Section 188(b)(1) broadly authorizes the EPA to reclassify a nonattainment area—including any such area of Indian country located within such area—that the EPA determines cannot practicably attain the relevant standards by the applicable attainment date.

In light of the considerations outlined above and in our proposed rulemaking that support retention of a uniformly-classified $PM_{2.5}$ nonattainment area, and our finding that it is impracticable for the area to attain by the applicable attainment date, we are finalizing our reclassification of the reservation areas of Indian country and any other areas of Indian country where the EPA or a tribe has demonstrated that the tribe has jurisdiction within the San Joaquin Valley nonattainment area to Serious for the 2006 $PM_{2.5}$ standards.

The effect of reclassification would be to lower the applicable ''major stationary source'' emissions thresholds for direct $PM_{2.5}$ and $PM_{2.5}$ precursors for purposes of the NNSR program and the Title V operating permit program (CAA sections 189(b)(3) and 501(2)(B)), thus subjecting more new or modified stationary sources to these requirements. The reclassification may also lower the *de minimis* threshold under the CAA's General Conformity requirements (40 CFR part 93, subpart B) from 100 tpy to 70 tpy. Under the General Conformity requirements (40 CFR part 93, subpart B), federal agencies bear the responsibility of determining conformity of actions in nonattainment and maintenance areas that require federal permits, approvals, or funding. Such permits, approvals or funding by federal agencies for projects in these areas of Indian country may be more difficult to obtain because of the lower *de minimis* thresholds.

Given the potential implications of the reclassification, the EPA contacted tribal officials early in the process of developing this action to permit them to have meaningful and timely input into its development. The EPA invited tribal officials to consult during the development of the proposed rule and following signature of the proposed rule.[32] On February 17, 2015, the EPA received a letter dated January 30, 2015 from the Tejon Tribe requesting information about the proposed reclassification. The EPA subsequently invited the Tejon Tribe several times to participate in a conference call but received no response from the Tribe. No other Indian tribe has expressed an interest in discussing this action with the EPA. We continue to invite Indian tribes in the SJV to contact the EPA with any questions about the effects of this reclassification on tribal interests and air quality. We note that although eligible tribes may opt to seek EPA approval of relevant tribal programs under the CAA, none of the affected tribes will be required to submit an implementation plan to address this reclassification.

C. $PM_{2.5}$ Serious Area SIP Requirements

As a consequence of our reclassification of the SJV area as a Serious nonattainment area for the 2006 $PM_{2.5}$ NAAQS, California is required to submit additional SIP revisions to satisfy the statutory requirements that apply to Serious areas, including the requirements of subpart 4 of part D, title I of the Act.

The Serious area SIP elements that California must submit are as follows:

1. Provisions to assure that BACM, including BACT for stationary sources, for the control of direct $PM_{2.5}$ and $PM_{2.5}$ precursors shall be implemented no later than 4 years after the area is reclassified (CAA section 189(b)(1)(B));

2. A demonstration (including air quality modeling) that the plan provides for attainment as expeditiously as practicable but no later than December 31, 2019, or where the State is seeking an extension of the attainment date under section 188(e), a demonstration that attainment by December 31, 2019 is impracticable and that the plan provides for attainment by the most expeditious alternative date practicable (CAA sections 188(c)(2) and 189(b)(1)(A));

3. Plan provisions that require reasonable further progress (RFP) (CAA section 172(c)(2));

4. Quantitative milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate RFP toward attainment by the applicable date (CAA section 189(c));

5. Provisions to assure that control requirements applicable to major stationary sources of direct $PM_{2.5}$ also apply to major stationary sources of $PM_{2.5}$ precursors, except where the State demonstrates to the EPA's satisfaction that such sources do not contribute significantly to $PM_{2.5}$ levels that exceed the standard in the area (CAA section 189(e));

6. A comprehensive, accurate, current inventory of actual emissions from all sources of direct $PM_{2.5}$ and all $PM_{2.5}$ precursors in the area (CAA section 172(c)(3));

7. Contingency measures to be implemented if the area fails to meet RFP or to attain by the applicable attainment date (CAA section 172(c)(9)); and

8. A revision to the NNSR program to establish appropriate ''major stationary source'' [33] thresholds for direct $PM_{2.5}$ and $PM_{2.5}$ precursors (CAA section 189(b)(3)).

Section 189(b)(2) states, in relevant part, that the State must submit the required BACM provisions ''no later than 18 months after reclassification of the area as a Serious Area'' and must submit the required attainment demonstration ''no later than 4 years after reclassification of the area to Serious.'' For the reasons provided in Section III of this preamble (Public Comments and EPA Responses), the EPA is requiring the State to adopt and submit all components of the Serious area attainment plan for the 2006 $PM_{2.5}$ NAAQS in the SJV no later than 18 months after the effective date of reclassification.

Finally, for the reasons provided in our proposed rule [34] and in our response to comments above, we are finalizing our proposal to require the State to submit NNSR SIP revisions to implement subpart 4 Serious Area requirements for the 2006 $PM_{2.5}$ NAAQS in the SJV area no later than 12 months after the effective date of this reclassification, to the extent those requirements have not already been met by the NNSR revisions due May 7, 2016 for purposes of implementing the 1997 $PM_{2.5}$ NAAQS in the SJV.[35] Nonattainment NSR SIP revisions that satisfy the Serious Area requirements of CAA sections 189(b)(3) and 189(e) for purposes of the 1997 $PM_{2.5}$ NAAQS may also satisfy these requirements for the 2006 $PM_{2.5}$ NAAQS.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

[32] As discussed in more detail in our proposed rule, the EPA sent letters to tribal officials inviting government-to-government consultation. The letters can be found in the docket.

[33] For any Serious area, the terms ''major source'' and ''major stationary source'' include any stationary source that emits or has the potential to emit at least 70 tons per year of PM_{10} (CAA section 189(b)(3)).

[34] See 80 FR 1816, at 1843. (January 13, 2015).

[35] See 40 CFR 52.245(c) and 80 FR 18528, 18533 (April 7, 2015).

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

This action is exempt from review by the Office of Management and Budget (OMB) because it relates to a designation of an area for air quality purposes and will reclassify the SJV from its current air quality designation of Moderate nonattainment to Serious nonattainment for the 2006 $PM_{2.5}$ NAAQS.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This action does not contain any information collection activities.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. The final rule requires the state to adopt and submit SIP revisions to satisfy the statutory requirements that apply to Serious areas, and would not itself directly regulate any small entities (*see* section III.C of this final rule).

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of $100 million or more and does not significantly or uniquely affect small governments, as described in UMRA (2 U.S.C. 1531–1538). This action itself imposes no enforceable duty on any state, local, or tribal governments, or the private sector. The final action reclassifies the SJV nonattainment area as Serious nonattainment for the 2006 $PM_{2.5}$ NAAQS, which triggers existing statutory duties for the state to submit SIP revisions. Such a reclassification in and of itself does not impose any federal intergovernmental mandate. The final action does not require any tribes to submit implementation plans.

E. Executive Order 13132: Federalism

This action does not have federalism implications.

F. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This action may have tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. Eight Indian tribes are located within the boundaries of the SJV nonattainment area for the 2006 $PM_{2.5}$ NAAQS: The Big Sandy Rancheria of Mono Indians of California, the Cold Springs Rancheria of Mono Indians of California, the North Fork Rancheria of Mono Indians of California, the Picayune Rancheria of Chukchansi Indians of California, the Santa Rosa Rancheria of the Tachi Yokut Tribe, the Table Mountain Rancheria of California, the Tejon Indian Tribe, and the Tule River Indian Tribe of the Tule River Reservation. We note that none of the tribes located in the SJV nonattainment area has requested eligibility to administer programs under the Clean Air Act. This final action affects the EPA's implementation of the new source review program because of the lower ''major stationary source'' threshold triggered by reclassification (CAA 189(b)(3)). The final action may also affect new or modified stationary sources proposed in these areas that require federal permits, approvals, or funding. Such projects are subject to the requirements of the EPA's General Conformity rule, and federal permits, approvals, or funding for the projects may be more difficult to obtain because of the lower *de minimis* thresholds triggered by reclassification.

Given these potential implications, consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, the EPA contacted tribal officials early in the process of developing this action to permit them to have meaningful and timely input into its development. The EPA invited tribal officials to consult during the development of the proposed rule and following signature of the proposed rule. As discussed in more detail in our proposed action, we sent letters to leaders of the tribes with areas of Indian country in the SJV nonattainment area inviting government-to-government consultation on the rulemaking effort. On February 17, 2015, the EPA received a letter dated January 30, 2015 from the Tejon Tribe requesting information about the proposed reclassification. The EPA subsequently invited the Tejon Tribe several times to participate in a conference call but received no response from the Tribe. No other Indian tribe has expressed an interest in discussing this action with the EPA. We continue to invite Indian tribes in the SJV to contact the EPA with any questions about the effects of this reclassification on tribal interests and air quality.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it reclassifies the SJV nonattainment area as Serious nonattainment for the 2006 $PM_{2.5}$ NAAQS, which triggers additional Serious area planning requirements under the CAA. This action does not establish an environmental standard intended to mitigate health or safety risks.

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

This final action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

This action is not subject to the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because it does not involve technical standards.

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

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. This action reclassifies the SJV nonattainment area as Serious nonattainment for the 2006 $PM_{2.5}$ NAAQS, which triggers additional Serious area planning requirements under the CAA.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal**

Register. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on February 19, 2016.

L. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 21, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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

40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

40 CFR Part 81

Environmental protection, Air pollution control.

Dated: December 22, 2015.

Jared Blumenfeld,

Regional Administrator, EPA Region 9.

Chapter I, title 40 of the Code of Federal Regulations 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 52.245 is amended by revising paragraph (c) and adding paragraph (e) to read as follows:

§ 52.245 New Source Review rules.

* * * * *

(c) By May 7, 2016, the New Source Review rules for $PM_{2.5}$ for the San Joaquin Valley Unified Air Pollution Control District must be revised and submitted as a SIP revision. The rules must satisfy the requirements of sections 189(b)(3) and 189(e) and all other applicable requirements of the Clean Air Act for implementation of the 1997 $PM_{2.5}$ NAAQS.

* * * * *

(e) By February 21, 2017, the New Source Review rules for $PM_{2.5}$ for the San Joaquin Valley Unified Air Pollution Control District must be revised and submitted as a SIP revision. The rules must satisfy the requirements of sections 189(b)(3) and 189(e) and all other applicable requirements of the Clean Air Act for implementation of the 2006 $PM_{2.5}$ NAAQS.

■ 3. Section 52.247 is amended by adding paragraph (e) to read as follows:

§ 52.247 Control Strategy and regulations: Fine Particle Matter.

* * * * *

(e) By August 21, 2017, California must adopt and submit a Serious Area plan to provide for attainment of the 2006 $PM_{2.5}$ NAAQS in the San Joaquin Valley $PM_{2.5}$ nonattainment area. The Serious Area plan must include emissions inventories, an attainment demonstration, best available control measures, a reasonable further progress plan, quantitative milestones, contingency measures, and such other measures as may be necessary or appropriate to provide for attainment of the 2006 $PM_{2.5}$ NAAQS by the applicable attainment date, in accordance with the requirements of subparts 1 and 4 of part D, title I of the Clean Air Act.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 4. The authority citation for part 81 continues to read as follows:

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

■ 5. Section 81.305 is amended in the table titled ''California—2006 24-Hour $PM_{2.5}$ NAAQS [Primary and secondary],'' by revising the entries under ''San Joaquin Valley, CA'' to read as follows:

§ 81.305 California.

* * * * *

CALIFORNIA—2006 24-HOUR $PM_{2.5}$ NAAQS

[Primary and secondary]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date [2]	Type
* * * * * * *				
San Joaquin Valley, CA:				
Fresno County		Nonattainment	February 19, 2016.	Serious.
Kern County (part)		Nonattainment	February 19, 2016.	Serious.

CALIFORNIA—2006 24-HOUR $PM_{2.5}$ NAAQS—Continued

[Primary and secondary]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date [2]	Type
That portion of Kern County which lies west and north of a line described as follows: Beginning at the Kern-Los Angeles County boundary and running north and east along the northwest boundary of the Rancho La Libre Land Grant to the point of intersection with the range line common to R. 16 W. and R. 17 W., San Bernardino Base and Meridian; north along the range line to the point of intersection with the Rancho El Tejon Land Grant boundary; then southeast, northeast, and northwest along the boundary of the Rancho El Tejon Land Grant to the northwest corner of S. 3, T. 11 N., R. 17 W.; then west 1.2 miles; then north to the Rancho El Tejon Land Grant boundary; then northwest along the Rancho El Tejon line to the southeast corner of S. 34, T. 32 S., R. 30 E., Mount Diablo Base and Meridian; then north to the northwest corner of S. 35, T. 31 S., R. 30 E.; then northeast along the boundary of the Rancho El Tejon Land Grant to the southwest corner of S. 18, T. 31 S., R. 31 E.; then east to the southeast corner of S. 13, T. 31 S., R. 31 E.; then north along the range line common to R. 31 E. and R. 32 E., Mount Diablo Base and Meridian, to the northwest corner of S. 6, T. 29 S., R. 32 E.; then east to the southwest corner of S. 31, T. 28 S., R. 32 E.; then north along the range line common to R. 31 E. and R. 32 E. to the northwest corner of S. 6, T. 28 S., R. 32 E., then west to the southeast corner of S. 36, T. 27 S., R. 31 E., then north along the range line common to R. 31 E. and R. 32 E. to the Kern-Tulare County boundary.				
Kings County		Nonattainment	February 19, 2016.	Serious.
Madera County		Nonattainment	February 19, 2016.	Serious.
Merced County		Nonattainment	February 19, 2016.	Serious.
San Joaquin County		Nonattainment	February 19, 2016.	Serious.
Stanislaus County		Nonattainment	February 19, 2016.	Serious.
Tulare County		Nonattainment	February 19, 2016.	Serious.
* * * * * * *				

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[FR Doc. 2016–00739 Filed 1–19–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 174

[EPA–HQ–OPP–2014–0457; FRL–9939–49]

VNT1 Protein in Potato; Amendment to a Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a temporary exemption from the requirement of a tolerance for residues of the VNT1 protein in or on potatoes when used as a plant-incorporated protectant in accordance with the terms of Experimental Use Permit (EUP) (8917–EUP–2). J.R. Simplot Company submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an amendment of the temporary tolerance exemption. This regulation eliminates the need to establish a maximum permissible level for residues of VNT1 protein in potato. The temporary tolerance exemption expires on April 1, 2017, concurrent with the EUP (8917–EUP–2).

DATES: This regulation is effective January 20, 2016. Objections and requests for hearings must be received on or before March 21, 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–2014–0457, 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://www2.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?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–2014–0457 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 March 21, 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–2014–0457, 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://www2.epa.gov/dockets.*

II. Background and Statutory Findings

In the **Federal Register** of October 24, 2014 (79 FR 63594) (FRL–9916–03), 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) 4F8251) by J.R. Simplot Company, 5369 W. Irving St., Boise, ID 83706. Also, in the **Federal Register** of December 17, 2014 (79 FR 75107) (FRL–9918–90), EPA inadvertently re-announced the filing of this same petition. The petition requested that 40 CFR part 174 be amended by establishing a temporary exemption from the requirement of a tolerance for residues of Potato Late Blight Resistance protein VNT1 in or on potato. Those documents referenced a summary of the petition prepared by the petitioner J.R. Simplot Company, which is available in the docket EPA–HQ–OPP–2014–0457, *http://www.regulations.gov.* Upon determining that such exemption meets the FFDCA safety standard, EPA established a temporary exemption from the requirement of a tolerance for residues of Potato Late Blight Resistance protein VNT1 in or on potato when used in accordance with the terms of EUP 8917–EUP–2, with an expiration date of December 31, 2015, in the **Federal Register** of February 23, 2015 (80 FR 9387) (FRL–9922–53).

In the **Federal Register** of September 9, 2015 (80 FR 54257) (FRL–9933–26) 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) 5G8375) by J.R. Simplot Company, 5369 W. Irving St., Boise, ID 83706. The petition requested that 40 CFR 174.534 be amended. That document referenced a summary of the petition prepared by the petitioner J.R. Simplot Company, which is available in the docket EPA–HQ–OPP–2014–0457, *http://www.regulations.gov.* No comments were received on this FR notice.

Because the pesticide petition ((PP) 5G8375) was submitted concurrently with a request to amend the EUP linked to this tolerance exemption, EPA only considered amendments to the tolerance exemption relevant to the pending request to extend the associated EUP. The request to amend the EUP involved increased acreage, locations and extending the expiration date of EUP No. 8917–EUP–2 to April 1, 2017. Because EPA is extending the EUP until April 1, 2017, EPA is revising the expiration date of the existing tolerance exemption to April 1, 2017.

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

information concerning the cumulative effects of a particular pesticide's residues'' and ''other substances that have a common mechanism of toxicity.''

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

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

The Agency previously assessed the toxicological profile of the VNT1 protein and the likely exposure from its use as a plant-incorporated protectant in or on potato in accordance with the terms of EUP No. 8917–EUP–2. Based on the Agency's assessment, the Agency concluded that there is a reasonable certainty that no harm will result from aggregate exposure to VNT1 protein when used as a plant-incorporated protectant in or on potato in accordance with the terms of EUP No. 8917–EUP–2. *See* (80 FR 9387) (February 23, 2015). Because the toxicological profile has not changed, any additional exposure to the VNT1 protein as a result of the extension of the associated EUP will not affect the Agency's previous safety finding. Therefore, the Agency is relying on its previous assessment to support the extension of the expiration date for 40 CFR 174.534. Therefore, based on its previous assessment, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to the residues of VNT1 protein in potato when it is used as a plant-incorporated protectant. Such exposure includes all anticipated dietary exposures and all other exposures for which there is reliable information.

IV. Analytical Enforcement Methodology

The Agency has determined that an analytical method is not required for enforcement purposes since the Agency is establishing a temporary exemption from the requirement of a tolerance without any numerical limitation in association with use under EUP No. 8917–EUP–2.

V. Conclusion

The Agency is extending the expiration date of this temporary tolerance exemption to April 1, 2017. The temporary tolerance exemption will expire on the same date as the concurrent EUP for VNT1 protein (8917–EUP–2).

VI. Statutory and Executive Order Reviews

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

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

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

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

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 174

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

Dated: December 17, 2015.

John E. Leahy, Jr.,

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

Therefore, 40 CFR chapter I is amended as follows:

PART 174—[AMENDED]

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

Authority: 7 U.S.C. 136–136y; 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 174.534 is revised to read as follows:

§ 174.534 VNT1 protein in potato; temporary exemption from the requirement of a tolerance.

Residues of VNT1 protein in potato are exempt from the requirement of a tolerance when the *Rpi-vnt1* gene that expresses the VNT1 protein is used as a plant-incorporated protectant in potato in accordance with the terms of Experimental Use Permit No. 8917–EUP–2. This temporary exemption from the requirement of a tolerance expires on April 1, 2017.

[FR Doc. 2016–00419 Filed 1–19–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Parts 38, 50, 51, 51a, 51b, 51c, 51d, 52, 52a, 52b, 52c, 52d, 52e, 55a, 56, 57, 59, 59a, 62, 63a, 64, 65, 65a, 66, 67, 124, 136, 403, 417, 430, 433, 434, 435, 436, 438, 440, 441, 456, 457, and 1001

45 CFR Parts 16, 63, 75, 87, 95, 98, 261, 262, 263, 265, 286, 287, 301, 302, 303, 304, 309, 400, 1000, 1301, 1304, 1309, 1321, 1326, 1328, 1336, 1355, and 1357

RIN 0991–ZA46

Federal Awarding Agency Regulatory Implementation of Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Technical Amendments

AGENCY: Department of Health and Human Services.

ACTION: Interim final rule; technical amendments.

SUMMARY: This document contains technical amendments to HHS regulations regarding Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The regulatory content is being amended to add information that was erroneously omitted, to include updated cross-references within HHS' regulations, and to make grammatical corrections.

DATES: Effective January 20, 2016. Implementation Date: For all non-Federal entities, there is a two-year grace period for implementation of the procurement standards in 45 CFR 75.326 through 75.335.

FOR FURTHER INFORMATION CONTACT: Audrey E. Clarke, Ph.D., Division of Grants, Office of Grants and Acquisition Policy and Accountability, Office of the Assistant Secretary for Financial Resources, U.S. Department of Health and Human Services, 200 Independence Ave. SW., Room 529G.17, Washington, DC 20201; phone: (202) 720–1908; email: *Audrey.Clarke@hhs.gov*.

SUPPLEMENTARY INFORMATION: HHS is correcting its regulations in line with FR Doc. 2014–28697, published on December 19, 2014 (79 FR 75871), entitled ''Federal Awarding Agency Regulatory Implementation of Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards'', the ''Guidance for Reporting and Use of Information Concerning Recipient Integrity and Performance'' to 2 CFR part 200, published on July 22, 2015 (80 FR 43301), and ''Universal Identifier and System of Award Management; Corrections'', published on September 10, 2015 (80 FR 54407), made by the Office of Management and Budget (OMB). HHS adopts the correcting amendments made by OMB. HHS is also making amendments to address citation or grammatical inconsistencies, to amend incomplete statements in the regulation, and to update existing HHS regulations to incorporate 45 CFR part 75. The correcting amendments will go into effect at the time of publicatio

List of Subjects

42 CFR Part 38

Disaster assistance, Government contracts, Grant programs-health, mental health programs.

42 CFR Part 50

Administrative practice and procedure, Conflicts of interests, Drugs, Family planning, Grant programs-health, Grant programs-science and technology, Health care, Reporting and recordkeeping requirements, Research, Science and technology.

42 CFR Part 51

Administrative practice and procedure, Grant programs-health, Health facilities, Health records, mental health programs, Privacy, Reporting and recordkeeping requirements.

42 CFR Part 51a

Blood diseases, Colleges and Universities, Genetic diseases, Grant programs-Health, Maternal and Child Health, Medical research, and Recordkeeping requirements.

42 CFR Part 51b

Communicable diseases, Grant programs-health, Immunization, Maternal and Child health, Reporting and Recordkeeping requirements, Research, Venereal Diseases.

42 CFR Part 51c

Grant programs-health, Health care, Health facilities, Reporting and recordkeeping requirements.

42 CFR Part 51d

Administrative practice and procedure, Disaster assistance, Drug abuse, Emergency medical services, Grant programs-health, Health facilities, Mental health programs, Privacy, Reporting and recordkeeping requirements.

42 CFR Part 52

Grant programs-health, Medical research, Reporting and recordkeeping requirements.

42 CFR Part 52a

Blood diseases, Grant programs-health, Heart diseases, Lung diseases, Medical research, Reporting and recordkeeping requirements.

42 CFR Part 52b

Grant programs-health, Health facilities, Medical research, Reporting and recordkeeping requirements.

42 CFR Part 52c

Educational study programs, Grant programs-health, Medical research, Reporting and recordkeeping requirements.

42 CFR Part 52d

Cancer, Educational study programs, Grant programs-health, Health professions, Reporting and recordkeeping requirements.

42 CFR Part 52e

Blood diseases, Grant programs-health, Health care, Health diseases, Health professions, Lung diseases, Medical research, Reporting and recordkeeping requirements.

42 CFR Part 55a

Black lung benefits, Grant programs-health, Health care, Health facilities, Miners, Reporting and recordkeeping requirements.

42 CFR Part 56

Grant programs-health, Health care, Health facilities, Migrant labor, Reporting and, recordkeeping requirements.

42 CFR Part 57

Aged, Education of disadvantaged, Educational facilities, Educational study programs, Grant programs-education, Grant programs-health, Health facilities, Health professions, Loan programs-health, Medical and dental schools, Reporting and recordkeeping requirements, Scholarships and fellowships, Student aid.

42 CFR Part 59

Family planning, Grant programs-health, Grant programs-social programs, Health professions, Reporting and recordkeeping requirements, Youth.

42 CFR Part 59a

Grant programs-health, Libraries, Medical research, Reporting and recordkeeping requirements.

42 CFR Part 62

Educational study programs, Grant programs-education, Grant programs-health, Health professions, Loan programs-education, Loan programs-health, Reporting and recordkeeping requirements, Scholarships and fellowships.

42 CFR Part 63a

Grant programs-health, Medical research.

42 CFR Part 64

Educational study programs, Grant programs-education, Grant programs-health, Health professions, Libraries, Manpower training programs, Reporting and recordkeeping requirements.

42 CFR Part 65

Education, Grant programs-education, Grant programs-health, Hazardous waste, Nonprofit organizations, Occupational safety and health, Reporting and recordkeeping requirements.

42 CFR Part 65a

Grant programs-health, Hazardous waste, Medical research.

42 CFR Part 66

Grant programs-health, Health professions, Medical research.

42 CFR Part 67

Grant programs-health, Medical research, Reporting and recordkeeping requirements.

42 CFR Part 124

Grant programs-health, Health facilities, Reporting and recordkeeping requirements.

42 CFR Part 136

Employment, Government procurement, Health care, Health facilities, Indians, Infants and children, Maternal and child health, Penalties, Reporting and recordkeeping requirements.

42 CFR Part 403

Grant programs-health, Health insurance, Hospitals, Intergovernmental relations, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 417

Administrative practice and procedure, Grant programs-health, Health care, Health insurance, Health maintenance organizations (HMO), Loan programs-health, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 430

Administrative practice and procedure, Grant programs-health, Medicaid, Reporting and recordkeeping requirements.

42 CFR Part 433

Administrative practice and procedure, Child support, Claims, Grant programs-health, Medicaid, Reporting and recordkeeping requirements.

42 CFR Part 434

Grant programs-health, Health maintenance organizations (HMO), Medicaid, Reporting and recordkeeping requirements.

42 CFR Part 435

Aid to Families with Dependent Children, Grant programs-health, Medicaid, Reporting and recordkeeping requirements, Supplemental Security Income (SSI), Wages.

42 CFR Part 436

Aid to Families with Dependent Children, Grant programs-health, Guam, Medicaid, Puerto Rico, Supplemental Security Income (SSI), Virgin Islands.

42 CFR Part 438

Grant programs-health, Medicaid, Reporting and recordkeeping requirements.

42 CFR Part 440

Grant programs-health, Medicaid.

42 CFR Part 441

Aged, Family planning, Grant programs-health, Infants and children, Medicaid, Penalties, Reporting and recordkeeping requirements.

42 CFR Part 456

Administrative practice and procedure, Drugs, Grant programs-health, Health facilities, Medicaid, Reporting and recordkeeping requirements.

42 CFR Part 457

Administrative practice and procedure, Grant programs-health, Health insurance, Reporting and recordkeeping requirements.

42 CFR Part 1001

Administrative practice and procedure, Fraud, Grant programs-health, Health facilities, Health professions, Maternal and child health, Medicaid, Medicare, Social Security.

45 CFR Part 16

Administrative practice and procedure, Grant programs-health, Grant programs-social programs.

45 CFR Part 63

Grant programs-communications, Grant programs-education, Grant programs-health, Grant programs-social programs, Research, Telecommunications.

45 CFR Part 75

Accounting Auditing Administrative practice and procedure Colleges and universities Cost principles Grant programs Grant programs-health Grants administration Hospitals Indians Nonprofit organizations reporting and recordkeeping requirements and State and local governments.

45 CFR Part 87

Administrative practice and procedure, Grant programs-social programs, nonprofit organizations, Public assistance programs.

45 CFR Part 95

Claims, Computer technology, Grant programs-health, Grant programs-social programs, Reporting and recordkeeping requirements, Social security.

45 CFR Part 98

Administrative practice and procedure, Day care, Grant programs-Indians, Grant programs-social programs, Indians, Penalties, Religious discrimination, Reporting and recordkeeping, requirements.

45 CFR Parts 261, 262, 263, and 265

Administrative practice and procedure, Day care, Employment, Grant programs-social programs, Loan programs-social programs, Manpower training programs, Penalties, Public assistance, programs, Reporting and recordkeeping requirements.

45 CFR Parts 286

Administrative practice and procedure, Day care, Employment, Grant programs-social programs, Indians, Loan programs-social programs, Manpower training programs, Penalties, Public assistance programs, Reporting and recordkeeping requirements.

45 CFR Parts 287

Administrative practice and procedure, Employment, Grant programs-social programs, Indians, Loan programs-social programs, Manpower training programs, Penalties, Public assistance programs, Reporting and recordkeeping requirements.

45 CFR Parts 301, 303, and 304

Child support, Grant programs-social programs, Reporting and recordkeeping requirements.

45 CFR Part 302

Child support, Grant programs-social programs, Penalties, Reporting and recordkeeping, requirements, Unemployment compensation.

45 CFR Part 309

Child support, Grant programs-social programs, Indians, Reporting and recordkeeping, requirements.

45 CFR Part 400

Employment, Grant programs-social programs, Health care, Public assistance programs, Refugees, Reporting and recordkeeping requirements.

45 CFR Part 1000

Grant programs-social programs, Reporting and recordkeeping requirements.

45 CFR Part 1301

Administrative practice and procedure, Education of disadvantaged, Grant programs-social programs.

45 CFR Part 1304

Dental health, Education of disadvantaged, Grant programs-social programs, Health care, mental health programs, Nutrition, Reporting and recordkeeping requirements.

45 CFR Part 1309

Grant programs-social programs, Rates and Fares.

45 CFR Parts 1321

Administrative practice and procedure, Aged, Grant programs-Indians, Grant programs-social programs, Indians, Legal services, Nutrition, Reporting and recordkeeping requirements.

45 CFR Part 1326

Administrative practice and procedure, Aged, Grant programs-Indians, Grant programs-social programs, Indians, Nutrition, Reporting and recordkeeping requirements.

45 CFR Part 1328

Administrative practice and procedure, Aged, Grant programs-social programs, Hawaiian, Natives, Nutrition, Reporting and recordkeeping requirements.

45 CFR Part 1336

Administrative practice and procedure, American Samoa, Grant programs-Indians, Grant programs-social programs, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

45 CFR Part 1355

Child welfare, Computer technology, Grant programs-social programs, Reporting and recordkeeping requirements.

45 CFR Part 1357

Adoption and foster care, Child welfare, Grant programs-social programs, Indians, Reporting and recordkeeping requirements.

Dated: December 14, 2015.

Ellen Murray,

Assistant Secretary for Financial Resources, Department of Health and Human Services.

Under the authority of (5 U.S.C. 301), the Department of Health and Human Services amends 42 CFR parts 38, 50, 51, 51a, 51b, 51c, 51d, 52, 52a, 52b, 52c, 52d, 52e, 55a, 56, 57, 59, 59a, 62, 63a, 64, 65, 65a, 66, 67, 124, 136, 403, 417, 430, 433, 434, 435, 436, 438, 440, 441, 456, 457, and 1001, and 45 CFR parts 16, 63, 75, 87, 95, 98, 261, 262, 263, 265, 286, 287, 301, 302, 303, 304, 309, 400, 1000, 1301, 1304, 1309, 1321, 1326, 1328, 1336, 1355, and 1357 by making the following correcting amendments:

Title 42—Public Health

PART 38—DISASTER ASSISTANCE FOR CRISIS COUNSELING AND TRAINING

■ 1. The authority citation for part 38 continues to read as follows:

Authority: Sec. 413, Pub. L. 93–288. The Disaster Relief Act of 1974, 88 Stat. 157, 42 U.S.C. 5183, E.O. 11795, 39 FR 25939, as amended by E.O. 11910, 41 FR 15681.

§ 38.5 [Amended]

■ 2. Amend § 38.5:

■ a. In paragraph (d) by removing ''45 CFR part 74—Administration of grants'' and ''45 CFR part 75—Informal grant appeals procedures'';

■ b. In paragraph (d) by adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards''; and

■ c. In paragraph (e) by removing ''subpart Q of 45 CFR part 74'' and adding in its place ''45 CFR part 75, subpart E''.

PART 50—POLICIES OF GENERAL APPLICABILITY

■ 3. The authority citation for part 50 continues to read as follows:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); Sec. 1006, Public Health Service Act, 84 Stat. 1507 (42 U.S.C. 300a–4), unless otherwise noted.

§ 50.309 [Amended]

■ 4. Amend § 50.309, by removing ''45 CFR 74.20 *et seq''* and adding in its place *''*45 CFR 75.361 *et seq''.*

§ 50.504 [Amended]

■ 5. Amend § 50.504(a)(3), by removing ''45 CFR part 74,'' and adding in its place ''45 CFR part 75, subpart E,''.

§ 50.604 [Amended]

■ 6. Amend § 50.604(i), by removing ''45 CFR 74.53(b) and 92.42(b)'' and adding in its place ''45 CFR 75.361''.

§ 50.606 [Amended]

■ 7. Amend § 50.606(b), in the last sentence, by removing ''special award conditions under 45 CFR 74.14 and 92.12, or suspension of funding or other enforcement action under 45 CFR 74.62 and 92.43,'' and adding in its place ''specific award conditions under 45 CFR 75.207, or suspension of funding or other enforcement action under 45 CFR 75.371,''.

§ 50.607 [Amended]

■ 8. Amend § 50.607, by removing ''45 CFR part 74—Uniform administrative requirements for awards and subawards to institutions of higher education, hospitals, other nonprofit organizations, and commercial organizations'' and adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards'' and removing ''45 CFR part 92—Uniform administrative requirements for grants and cooperative agreements to State, local, and tribal governments''.

PART 51—REQUIREMENTS APPLICABLE TO THE PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS PROGRAM

■ 9. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 10801, *et seq.*

§ 51.4 [Amended]

■ 10. Amend § 51.4:

■ a. By removing ''45 CFR part 74—Administration of Grants.'' and ''45 CFR part 75—Informal Grants Appeals Procedures'';

■ b. By adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards.''; and

■ c. By removing ''45 CFR part 92—Uniform administrative requirements for grants and cooperative agreements to State and Local Governments.''

§ 51.10 [Amended]

■ 11. Amend § 51.10 by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75''.

PART 51a—PROJECT GRANTS FOR MATERNAL AND CHILD HEALTH

■ 12. The authority citation for part 51a continues to read as follows:

Authority: Sec. 1102 of the Social Security Act, 49 Stat. 647 (42 U.S.C. 1302); sec. 502(a), 502(b)(1)(A), and 506(a)(3) of the Social Security Act, 95 Stat. 819–20 (42 U.S.C. 702(a), 702(b)(1)(A) and 706(a)(3)).

§ 51a.7 [Amended]

■ 13. Amend § 51a.7, in paragraph (b):
■ a. By removing ''45 CFR part 74—Administration of grants to nonprofit organizations.'' and ''45 CFR part 75—Informal Grants Appeals Procedures'';
■ b. By adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards.''; and
■ c. By removing ''45 CFR part 92—Uniform administrative requirements for grants and cooperative agreements to State and Local Governments.''

PART 51b—PROJECT GRANTS FOR PREVENTIVE HEALTH SERVICES

■ 14. The authority citation for part 51b continues to read as follows:

Authority: Secs. 317 and 318, Public Health Service Act, 92 Stat. 3574 and 3582 (42 U.S.C. 247b, 247c); sec. 1743 Pub. L. 97–35, 95 Stat. 763 (31 U.S.C. 1243 note).

§ 51b.105 [Amended]

■ 15. Amend § 51b.105, by removing ''45 CFR part 74—Administration of grants'' and ''45 CFR part 75—Informal grant appeals procedures'' and adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards''.

§ 51b.106 [Amended]

■ 16. Amend § 51b.106(d), by removing ''subpart Q of 45 CFR part 74'' and adding in its place ''45 CFR part 75, subpart E''.

PART 51c—GRANTS FOR COMMUNITY HEALTH SERVICES

■ 17. The authority citation for part 51c continues to read as follows:

Authority: Sec. 330, Public Health Service Act, 89 Stat. 342, (42 U.S.C. 254c); sec. 215, Public Health Service Act, 58 Stat. 690, (42 U.S.C. 216).

§ 51c.107 [Amended]

■ 18. Amend § 51c.107, in paragraph (a), by removing ''subpart Q of 45 CFR part 74'' and adding in its place ''45 CFR part 75, subpart E'' and in paragraph (b)(7), by removing ''45 CFR part 74;'' and adding in its place ''45 CFR part 75;''.

§ 51c.112 [Amended]

■ 19. Amend § 51c.112(c)(2)(iii) by removing ''subparts F, M, and O of 45 CFR part 74'' and adding in its place ''45 CFR 75.307, 75.371 through 75.385, and 75.316–75.325''.
■ 20. Revise § 51c.113 to read as follows:

§ 51c.113 Applicability of 45 CFR part 75.

The provisions of 45 CFR part 75, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part.

§ 51c.502 [Amended]

■ 21. Amend § 51c.502(a) by removing ''45 CFR 74.132'' and adding in its place ''45 CFR 75.2''.

PART 51d—MENTAL HEALTH AND SUBSTANCE ABUSE EMERGENCY RESPONSE PROCEDURES

■ 22. The authority citation for part 51d continues to read as follows:

Authority: 42 U.S.C. 290aa(m).

§ 51d.8 [Amended]

■ 23. Amend § 51d.8:
■ a. By removing ''45 CFR part 74—Administration of grants'' and ''45 CFR part 75—Informal grants appeals procedures'';
■ b. By adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards''; and
■ c. By removing ''45 CFR part 92—Uniform administrative requirements for grants and cooperative agreements to state and local governments''.

§ 51d.10 [Amended]

■ 24. Amend § 51d.10(a)(2) and (b)(2) by removing ''45 CFR 92.41(b),'' and adding in its place ''45 CFR 75.341,''.
■ 25. Amend § 51d.10(a)(3) and (b)(1), (b)(3), and (b)(4) by removing ''45 CFR 92.50(b)'' and adding in its place ''CFR 75.342''.

PART 52—GRANTS FOR RESEARCH PROJECTS

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

Authority: 42 U.S.C. 216.

§ 52.6 [Amended]

■ 27. Amend § 52.6(a), in the last sentence, by removing ''subpart Q of 45 CFR part 74'' and adding in its place ''45 CFR part 75, subpart E''.

§ 52.8 [Amended]

■ 28. Amend § 52.8:
■ a. By removing ''45 CFR part 74—Administration of grants.'' and ''45 CFR part 75—Informal grants appeals procedures'';
■ b. By adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards''; and
■ c. By removing ''45 CFR part 92—Uniform administrative requirements for grants and cooperative agreements to state and local governments''.

PART 52a—NATIONAL INSTITUTES OF HEALTH CENTER GRANTS

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

Authority: 42 U.S.C. 216, 284g, 285a–6(c)(1)(E), 285a–7(c)(1)(G), 285b–4, 285c–5, 285c–8, 285d–6, 285e–2, 285e–3, 285e–10a, 285f–1, 285g–5, 285g–7, 285g–9, 285m–3, 285o–2, 286a–7(c)(1)(G), 287c–32(c), 300cc-16.

§ 52a.4 [Amended]

■ 30. Amend § 52a.4(i) by removing ''45 CFR 74.40 through 74.47 and 45 CFR 92.25'' and adding in its place ''45 CFR 75.307''.

§ 52a.7 [Amended]

■ 31. Amend § 52a.7 by removing ''45 CFR 74.27.'' and adding in its place ''45 CFR part 75, subpart E.''.

§ 52a.8 [Amended]

■ 32. Amend § 52a.8:
■ a. By removing ''45 CFR part 74—Uniform administrative requirements for awards and subawards to institutions of higher education, hospitals, other nonprofit organizations, and commercial organizations; and certain grants and agreements with states, local governments and Indian tribal governments'' and ''45 CFR part 75—Informal grant appeals procedures'';
■ b. By adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards''; and
■ c. By removing ''45 CFR part 92—Uniform administrative requirements for grants and cooperative agreements to State and local governments''.

PART 52b—NATIONAL INSTITUTES OF HEALTH CONSTRUCTION GRANTS

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

Authority: 42 U.S.C. 216, 285a–2, 285a–3, 285b–3, 285b–4, 285d–6, 285i, 285m–3, 285o–4, 287a–2, 287a–3, 300cc–41.

§ 52b.7 [Amended]

■ 34. Amend § 52b.7(c), in the last sentence, by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75''.

§ 52b.14 [Amended]

■ 35. Amend § 52b.14(b):

■ a. By removing ''45 CFR part 74—Uniform administrative requirements for awards and subawards to institutions of higher education, hospitals, other nonprofit organizations, and commercial organizations; and certain grants and agreements with states, local governments and Indian tribal governments.'';

■ b. By adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards.''; and

■ c. By removing ''45 CFR part 92—Uniform administrative requirements for grants and cooperative agreements to State and local governments.''.

PART 52c—MINORITY BIOMEDICAL RESEARCH SUPPORT PROGRAM

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

Authority: 42 U.S.C. 216, 241(a)(3).

§ 52c.6 [Amended]

■ 37. Amend § 52c.6(a) by removing ''subpart Q of 45 CFR part 74'' and adding in its place ''45 CFR part 75, subpart E''.

§ 52c.7 [Amended]

■ 38. Amend § 52c.7:

■ a. By removing ''45 CFR part 74—Administration of grants'' and ''45 CFR part 75—Informal grants appeals procedures'';

■ b. By adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards''; and

■ c. By removing ''45 CFR part 92—Uniform administrative requirements for grants and cooperative agreements to state and local governments.''.

PART 52d—NATIONAL CANCER INSTITUTE CLINICAL CANCER EDUCATION PROGRAM

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

Authority: Sec. 215, 58 Stat. 690, as amended, 63 Stat. 835 (42 U.S.C. 216); sec. 404(a)(4), 92 Stat. 3426 (42 U.S.C. 285).

§ 52d.7 [Amended]

■ 40. Amend § 52d.7 by removing ''subpart Q of 45 CFR part 74'' and adding in its place ''45 CFR part 75, subpart E''.

§ 52d.8 [Amended]

■ 41. Amend § 52d.8 by removing ''45 CFR part 74—Administration of grants'' and ''45 CFR part 75—Informal grant appeals procedures'' and adding in its place ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards''.

PART 52e—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE GRANTS FOR PREVENTION AND CONTROL PROJECTS

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

Authority: 42 U.S.C. 216, 285b–1.

§ 52e.6 [Amended]

■ 43. Amend § 52e.6(e) by removing ''subpart Q of 45 CFR part 74'' and adding in its place ''45 CFR part 75, subpart E''.

§ 52e.7 [Amended]

■ 44. Amend § 52e.7(a) by removing ''subpart Q of 45 CFR part 74'' and adding in its place ''45 CFR part 75, subpart E''.

§ 52e.8 [Amended]

■ 45. Amend § 52e.8:

■ a. By removing ''45 CFR part 74—Administration of grants'' and ''45 CFR part 75—Informal grants appeals procedures'';

■ b. By adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards''; and

■ c. By removing ''45 CFR part 92—Uniform administrative requirements for grants and cooperative agreements to state and local governments''.

PART 55a—PROGRAM GRANTS FOR BLACK LUNG CLINICS

■ 46. The authority citation for part 55a continues to read as follows:

Authority: Sec. 427(a), Federal Mine Safety and Health Act of 1977, 92 Stat. 100 (30 U.S.C. 937(a)).

§ 55a.107 [Amended]

■ 47. Amend § 55a.107 by removing ''45 CFR part 74—Administration of grants;'' and ''45 CFR part 75—Informal grant appeals procedures;'' and adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards;''.

§ 55a.201 [Amended]

■ 48. Amend § 55a.201(g) by removing ''Attachment P, Audit Requirements, of Office of Management and Budget Circular A–102, Uniform Requirements for Assistance to State and Local Governments, as adopted for the Department of Health and Human Services by 45 CFR part 74'' and adding in its place ''subpart F of 45 CFR part 75''.

PART 56—GRANTS FOR MIGRANT HEALTH SERVICES

■ 49. The authority citation for part 56 continues to read as follows:

Authority: Secs. 215, 319, Public Health Service Act (42 U.S.C. 216, 247d).

§ 56.108 [Amended]

■ 50. Amend § 56.108 in paragraph (a) by removing ''subpart Q of 45 CFR part 74'' and adding in its place ''45 CFR part 75, subpart E'' and in paragraph (b)(7) by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75''.

§ 56.113 [Amended]

■ 51. In § 56.113(c)(2)(iii), remove ''subparts F, M, and O of 45 CFR part 74'' and add in its place ''45 CFR 75.307, 75.371 through 75.385, and 75.316 through 75.325''.

■ 52. Revise § 56.114 to read as follows:

§ 56.114 Applicability of 45 CFR part 75.

The provisions of 45 CFR part 75, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part.

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS AND STUDENT LOANS

■ 53. The authority citation for part 57 continues to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); secs. 740–747 of the Public Health Service Act, 77 Stat. 170–173, as amended by 90 Stat. 2266–2268, 91 Stat. 390–391, 95 Stat. 920, 99 Stat. 532–536, and 102 Stat. 3125 (42 U.S.C. 294m–q); renumbered as secs. 721–735, as amended by Pub. L. 102–408, 106 Stat. 2011–2022 (42 U.S.C. 292q–292y).

§ 57.215 [Amended]

■ 54. Amend § 57.215(a)(3) by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75''.

§ 57.315 [Amended]

■ 55. Amend § 57.315(b)(2) by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75''.

PART 59—GRANTS FOR FAMILY PLANNING SERVICES

■ 56. The authority citation for part 59 continues to read as follows:

Authority: 42 U.S.C. 300a–4.

§ 59.9 [Amended]

■ 57. Amend § 59.9 by removing ''45 CFR part 74 or Part 92, as applicable'' and adding in its place ''45 CFR part 75, subpart E''.

§ 59.10 [Amended]

■ 58. Amend § 59.10:

■ a. By removing ''45 CFR part 74—Uniform administrative requirements for awards and subawards to institutions of higher education, hospitals, other nonprofit organizations, and commercial organizations; and certain grants and agreements with states, local governments and Indian tribal governments'';

■ b. By adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards''; and

■ c. By removing ''45 CFR part 92—Uniform administrative requirements for grants and cooperative agreements to state and local governments''.

§ 59.206 [Amended]

■ 59. Amend § 59.206(c) by removing ''subpart Q of 35 CFR part 74'' and adding in its place ''45 CFR part 75, subpart E''.

§ 59.208 [Amended]

■ 60. Amend § 59.208(a) by removing ''subpart Q of 45 CFR part 74'' and adding in its place ''45 CFR part 75, subpart E''.

§ 59.212 [Amended]

■ 61. Amend § 59.212(d)(2)(iii) by removing ''subparts F, M, and O of 45 CFR part 74.'' and adding in its place ''45 CFR 75.307, 75.371 through 75.385, and 75.316–75.325.''.

■ 62. Revise § 59.215 to read as follows:

§ 59.215 Applicability of 45 CFR part 75.

The provisions of 45 CFR part 75, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part.

PART 59a—NATIONAL LIBRARY OF MEDICINE GRANTS

■ 63. The authority citation for part 59a continues to read as follows:

Authority: 42 U.S.C. 286b–2, 286b–5.

§ 59a.6 [Amended]

■ 64. Amend § 59a.6 by removing ''subpart Q of 45 CFR part 74'' and adding in its place ''45 CFR part 75, subpart E''.

§ 59a.7 [Amended]

■ 65. Amend § 59a.7:

■ a. By removing ''45 CFR part 74—Administration of grants'' and ''45 CFR part 75—Informal grants appeals procedures'';

■ b. By adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards''; and

■ c. By removing ''45 CFR part 92—Uniform administrative requirements for grants and cooperative agreements to state and local governments''.

§ 59a.16 [Amended]

■ 66. Amend § 59a.16(a) by removing ''subpart Q of 45 CFR part 74'' and adding in its place ''45 CFR part 75, subpart E''.

§ 59a.17 [Amended]

■ 67. Amend § 59a.17:

■ a. By removing ''45 CFR part 74—Administration of grants'' and ''45 CFR part 75—Informal grants appeals procedures.'';

■ b. By adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards''; and

■ c. By removing ''45 CFR part 92—Uniform administrative requirements for grants and cooperative agreements to state and local governments''.

PART 62—NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS

■ 68. The authority citation for part 62 continues to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 751 of the Public Health Service Act, 90 Stat. 2281 (42 U.S.C. 294t), unless otherwise noted.

§ 62.58 [Amended]

■ 69. Amend § 62.58:

■ a. By removing ''45 CFR part 74—Administration of grants'', ''45 CFR part 75—Informal grant appeals procedures'' and ''45 CFR part 92—Administrative Requirements for grants and cooperative agreements to State and local governments (effective October 1, 1988)'';

■ b. By adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards''; and

■ c. By arranging existing entries in alphanumeric order.

PART 63a—NATIONAL INSTITUTES OF HEALTH TRAINING GRANTS

■ 70. The authority citation for part 63a continues to read as follows:

Authority: 42 U.S.C. 216, 2421(b)(3), 284(b)(1)(C), 285g–10, 287c(b), 300cc–15(a)(1), 300cc–41(a)(3)(C), 7403(h)(2).

§ 63a.10 [Amended]

■ 71. Amend § 63a.10(a) by removing ''45 CFR 74.27'' and adding in its place ''45 CFR part 75, subpart E''.

§ 63a.11 [Amended]

■ 72. Amend § 63a.11:

■ a. By removing ''45 CFR part 74—Administration of grants'' and ''45 CFR part 75—Informal grant appeals procedures'';

■ b. By adding in alphanumeric order ''45 CFR part 75—Uniform administrative requirements, cost principles, and audit requirements for HHS awards''; and

■ c. By removing ''45 CFR part 92—Administrative Requirements for grants and cooperative agreements to State and local governments''.

PART 64—NATIONAL LIBRARY OF MEDICINE TRAINING GRANTS

■ 73. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 216, 286b–3.

§ 64.8 [Amended]

■ 74. Amend § 64.8 by removing ''subpart Q of 45 CFR part 74'' and adding in its place ''45 CFR part 75, subpart E''.

§ 64.9 [Amended]

■ 75. Amend § 64.9:

■ a. By removing ''45 CFR part 74—Administration of grants.'' and ''45 CFR part 75—Informal grant appeals procedures.'';

■ b. By adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards.''; and

■ c. By removing ''45 CFR part 92—Administrative Requirements for grants and cooperative agreements to State and local governments.''.

PART 65—NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES HAZARDOUS WASTE WORKER TRAINING

■ 76. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 9660a; 49 U.S.C. App. 1816.

§ 65.8 [Amended]

■ 77. Amend § 65.8:

■ a. By removing ''45 CFR part 74—Administration of grants'' and ''45 CFR part 75—Informal grant appeals procedures'';

■ b. By adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards''; and
■ c. By removing ''45 CFR part 92—Administrative Requirements for Grants and Cooperative Agreements to State and local Governments''.

PART 65a—NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES HAZARDOUS SUBSTANCES BASIC RESEARCH AND TRAINING GRANTS

■ 78. The authority citation for part 65a continues to read as follows:

Authority: 42 U.S.C. 216, 9660(a).

§ 65a.9 [Amended]

■ 79. Amend § 65a.9(a) by removing ''45 CFR 74.25'' and adding in its place ''45 CFR 75.308''.

§ 65a.10 [Amended]

■ 80. Amend § 65a.10 by removing ''45 CFR 74.27'' and adding in its place ''45 CFR part 75, subpart E''.

§ 65a.11 [Amended]

■ 81. Amend § 65a.11:
■ a. By removing ''45 CFR part 74—Uniform administrative requirements for awards and subawards to institutions of higher education, hospitals, other nonprofit organizations, and commercial organizations; and certain grants and agreements with states, local governments and Indian tribal governments'' and ''45 CFR part 75—Informal grant appeals procedures'';
■ b. By adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards''; and
■ c. By removing ''45 CFR part 92—Uniform administrative requirements for grants and cooperative agreements to state and local governments''.

PART 66—NATIONAL RESEARCH SERVICE AWARDS

■ 82. The authority citation for part 66 continues to read as follows:

Authority: 42 U.S.C. 216, 288.

§ 66.207 [Amended]

■ 83. Amend § 66.207:
■ a. By removing ''45 CFR part 74—Uniform administrative requirements for awards and subawards to institutions of higher education, hospitals, other nonprofit organizations, and commercial organizations; and certain grants and agreements with states, local governments and Indian tribal governments'' and ''45 CFR part 75—Informal grant appeals procedures''; and
■ b. By adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards''.

PART 67—AGENCY FOR HEALTH CARE POLICY AND RESEARCH GRANTS AND CONTRACTS

■ 84. The authority citation for part 67 continues to read as follows:

Authority: Pub. L. 103–43, 107 Stat. 214–215, Pub. L. 102–410, 106 Stat. 2094–2101 and sec. 6103, Pub. L. 101–239, 103 Stat. 2189–2208, Title IX of the Public Health Service Act (42 U.S.C. 299–299c-6); and sec. 1142, Social Security Act (42 U.S.C. 1320b-12).

§ 67.11 [Amended]

■ 85. Amend § 67.11 in the definition of ''Grant,'' by removing ''45 CFR parts 74 and 92'' and adding in its place ''45 CFR part 75''.

§ 67.18 [Amended]

■ 86. Amend § 67.18 by removing ''45 CFR part 74, or part 92 for State and local government grantees'' and adding in its place ''45 CFR part 75''.

§ 67.19 [Amended]

■ 87. Amend § 67.19:
■ a. By removing ''45 CFR part 74—Administration of grants'';
■ b. By adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards''; and
■ c. By removing ''45 CFR part 92—Uniform administrative requirements for grants and cooperative agreements with State and local governments''.

PART 124—MEDICAL FACILITY CONSTRUCTION AND MODERNIZATION

■ 88. The authority citation for part 124 continues to read as follows:

Authority: Secs. 215, 1602, 1625, Public Health Service Act (42 U.S.C. 216, 300o–1, 300r), unless otherwise noted.

§ 124.6 [Amended]

■ 89. Amend § 124.6 by removing ''subpart K of 45 CFR part 74.'' and adding in its place ''45 CFR 75.305''.

§ 124.7 [Amended]

■ 90. Amend § 124.7 by removing ''subpart Q of 45 CFR part 74.'' and adding in its place ''45 CFR part 75, subpart E.''.
■ 91. Revise § 124.11 to read as follows:

§ 124.11 Applicability of 45 CFR part 75.

The provisions of 45 CFR part 75, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part.''.

PART 136—INDIAN HEALTH

■ 92. The authority citation for part 136 continues to read as follows:

Authority: 25 U.S.C. 13; sec. 3, 68 Stat. 674 (42 U.S.C., 2001, 2003); Sec. 1, 42 Stat. 208 (25 U.S.C. 13); 42 U.S.C. 2001, unless otherwise noted.

§ 136.56 [Amended]

■ 93. Amend § 136.56 by removing ''45 CFR part 74, subpart C'' and adding in its place ''45 CFR 75.361''.

§ 136.104 [Amended]

■ 94. Amend § 136.104(a) by removing ''45 CFR part 74, subpart N'' and adding in its place ''45 CFR 75.206''.

§ 136.105 [Amended]

■ 95. Amend § 136.105(e) Note by removing ''45 CFR 74.15'' and adding in its place ''45 CFR 75.304''.

§ 136.107 [Amended]

■ 96. Amend § 136.107 in paragraph (a) by removing ''subpart Q of 45 CFR part 74'' and adding in its place ''45 CFR part 75, subpart E'' and in paragraph (b) Note by removing ''45 CFR 74.53'' and adding in its place ''45 CFR 75.306''.

§ 136.110 [Amended]

■ 97. Amend § 136.110(b)(3) by removing ''subpart P of 45 CFR part 74'' and adding in its place ''45 CFR 75.326 through 75.340''.

§ 136.111 [Amended]

■ 98. Amend § 136.111 in the Note by removing ''45 CFR 74.47(a)'' and adding in its place ''45 CFR 75.305(b)(9)''.

§ 136.114 [Amended]

■ 99. Amend § 136.114 by removing ''45 CFR part 74—Administration of grants'' and ''45 CFR part 75—Informal grant appeals procedures'' and adding in alphanumeric order ''45 CFR 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards''.

§ 136.115 [Amended]

■ 100. Amend § 136.115 in the Note by removing ''45 CFR part 74, subpart M'' and adding in its place ''45 CFR 75.371 through 75.385''.

§ 136.116 [Amended]

■ 101. Amend § 136.116 by removing ''subpart J of 45 CFR part 74'' and adding in its place ''45 CFR 75.341 through 75.360'' and in the Note by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75''.

§ 136.120 [Amended]

■ 102. Amend § 136.120 in the Note by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75''.

§ 136.302 [Amended]

■ 103. Amend § 136.302(r) by removing ''45 CFR 74.3'' and adding in its place ''45 CFR 75.2''.

§ 136.312 [Amended]

■ 104. Amend § 136.312(a) by removing ''45 CFR part 74, subpart N'' and adding in its place ''45 CFR 75.206''.

§ 136.314 [Amended]

■ 105. Amend § 136.314 by removing ''subpart Q of 45 CFR part 74'' and adding in its place ''45 CFR part 75, subpart E''.

§ 136.316 [Amended]

■ 106. Amend § 136.316 by removing ''45 CFR part 74, Administration of grants'' and ''45 CFR part 75, Informal grant appeals procedures'' and adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards''.

PART 403—SPECIAL PROGRAMS AND PROJECTS

■ 107. The authority citation for part 403 continues to read as follows:

Authority: 42 U.S.C. 1395b–3 and Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 403.512 [Amended]

■ 108. Amend § 403.512(a):

■ a. By removing from the first sentence ''45 CFR part 92 (''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments''), 45 CFR 74.4'' and adding in its place ''45 CFR part 75''; and

■ b. By removing from the second sentence ''45 CFR 74.4 or in part 92'' and adding in its place ''45 CFR part 75''.

PART 417—HEALTH MAINTENANCE ORGANIZATIONS, COMPETITIVE MEDICAL PLANS, AND HEALTH CARE PREPAYMENT PLANS

■ 109. The authority citation for part 417 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh), secs. 1301, 1306, and 1310 of the Public Health Service Act (42 U.S.C. 300e, 300e–5, and 300e–9), and 31 U.S.C. 9701.

§ 417.911 [Amended]

■ 110. Amend § 417.911 Small Capital Expenditure (1) by removing ''45 CFR 74.132'' and adding in its place ''45 CFR 75.2''.

PART 430—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

■ 111. The authority citation for part 430 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

§ 430.2 [Amended]

■ 112. Amend § 430.2(b) by removing ''Part 74—Administration of Grants.'' and adding in alphanumeric order ''Part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards.''.

■ 113. Revise § 430.30(e) to read as follows:

§ 430.30 [Amended]

* * * * *

(e) General administrative requirements. With the following exceptions, the provisions of 45 CFR 75, which establish uniform administrative requirements and cost principles, apply to all grants made to States under this subpart:

(1) Cost sharing or matching, 45 CFR 75.306; and

(2) Financial reporting, 45 CFR 75.341.

PART 433—STATE FISCAL ADMINISTRATION

■ 114. The authority citation for part 433 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act, (42 U.S.C. 1302).

§ 433.112 [Amended]

■ 115. Amend § 433.112(b)(7) by removing ''45 CFR 74.27(a)'' and adding in its place 45 CFR part 75, subpart E''.

§ 433.322 [Amended]

■ 116. Amend § 433.322 by removing ''45 CFR 92.42'' and adding in its place 45 CFR 75.361 through 75.370''.

PART 434—CONTRACTS

■ 117. The authority citation for part 434 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

§ 434.6 [Amended]

■ 118. Amend § 434.6(a)(1) by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75''.

§ 434.70 [Amended]

■ 119. Amend § 434.70(a)(2) by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75''.

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

■ 120. The authority citation for part 434 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

§ 435.407 [Amended]

■ 121. Amend § 435.407(j) by removing ''45 CFR 74.53'' and adding in its place ''45 CFR 75.361''.

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

■ 122. The authority citation for part 436 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

§ 436.407 [Amended]

■ 123. Amend § 436.407(j) by removing ''45 CFR 74.53'' and adding in its place ''45 CFR 75.361''.

PART 438—MANAGED CARE

■ 124. The authority citation for part 438 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

§ 438.356 [Amended]

■ 125. Amend § 438.356(e) by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75''.

PART 440—SERVICES: GENERAL PROVISIONS

■ 126. The authority citation for part 440 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

§ 440.170 [Amended]

■ 127. Amend § 440.170(a)(4)(i)(A) by removing ''45 CFR 92.36(b) through (i)'' and adding in its place ''45 CFR 75.326 through 75.340''.

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

■ 128. The authority citation for part 441 continues to read as follows:

Authority: Secs. 1102, 1902, and 1928 of the Social Security Act (42 U.S.C. 1302).

§ 441.208 [Amended]

■ 129. Amend § 441.208 by removing ''45 CFR 74.20'' and adding in its place ''45 CFR 75.361''.

§ 441.353 [Amended]

■ 130. Amend § 441.353(c)(3) by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75''.

§ 441.484 [Amended]

■ 131. Amend § 441.484(a)(2) by removing ''45 CFR 74.40 through 74.48'' and adding in its place ''45 CFR 75.326 through 75.340''.

PART 456—UTILIZATION CONTROL

■ 132. The authority citation for part 456 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

§ 456.722 [Amended]

■ 133. Amend § 456.722(c)(1) by removing ''45 CFR part 74, subpart P, and appendix G–O of OMB circular A–102'' and adding in its place ''45 CFR 75.326 through 75.340''.

PART 457—ALLOTMENTS AND GRANTS TO STATES

■ 134. The authority citation for part 457 continues to read as follows:

Authority: Section 1102 of the Social Security Act (42 U.S.C. 1302).

§ 457.230 [Amended]

■ 135. Amend § 457.230 by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75''.

§ 457.628 [Amended]

■ 136. Amend § 457.628(b) by removing ''Part 74—Administration of Grants (except as specifically excepted).'' and adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards (except as specifically excepted).''.

■ 137. Amend § 457.630 in paragraph (f) introductory text by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75'' and revising paragraphs (f)(1) and (2).

The revisions read as follows:

§ 457.630 Grants procedures.

* * * * *

(f) * * *

(1) Cost sharing or matching, 45 CFR 75.306; and

(2) Financial reporting, 45 CFR 75.341.

§ 457.940 [Amended]

■ 138. Amend § 457.940 in paragraph (b)(1) by removing ''45 CFR 74.43 or 45 CFR 92.36, as applicable'' and adding in its place ''45 CFR 75.326 through 75.340'' and in paragraph (d) by removing ''45 CFR part 74 or 45 CFR part 92, as applicable'' and adding in its place ''45 CFR part 75''.

PART 1001—PROGRAM INTEGRITY—MEDICARE AND STATE HEALTH CARE PROGRAMS

■ 139. The authority citation for part 1001 continues to read as follows:

Authority: 42 U.S.C. 1302, 1320a-7, 1320a-7b, 1395u(j), 1395u(k), 1395w-104(e)(6), 1395y(d), 1395y(e), 1395cc(b)(2)(D), (E) and (F), and 1395hh; and sec. 2455, Public Law 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note).

§ 1001.952 [Amended]

■ 140. Amend § 1001.952(w)(7) by removing ''45 CFR 74.40 through 74.48'' and adding in its place ''45 CFR 75.326 through 75.340'' and designating the undesignated paragraph following paragraph (w)(9) as Note to paragraph (w).

Title 45—Public Welfare

PART 16—PROCEDURES OF THE DEPARTMENTAL GRANT APPEALS BOARD

■ 141. The authority citation for part 16 continues to read as follows:

Authority: 5 U.S.C. 301 and secs. 1, 5, 6, and 7 of Reorganization Plan No. 1 of 1953, 18 FR 2053, 67 Stat. 631 and authorities cited in the Appendix.

§ 16.1 [Amended]

■ 142. Amend § 16.1 by removing ''part 74 of this title'' and adding in its place ''part 75 of this title''.

§ 16.2 [Amended]

■ 143. Amend § 16.2(b) by removing ''part 74 of this title'' and adding in its place ''part 75 of this title''.

§ 16.3 [Amended]

■ 144. Amend § 16.3(b) by removing ''45 CFR 74.304'' and adding in its place ''45 CFR 75.374''.

§ 16.7 [Amended]

■ 145. Amend § 16.7(a) by removing ''45 CFR 74.304'' and adding in its place ''45 CFR 75.374''.

■ 146. Amend § 16.20 by revising paragraph (a) to read as follows:

§ 16.20 How to submit material to the Board.

(a) Submissions should be addressed to the Board's current mailing address: Department of Health and Human Services, Departmental Appeals Board, Appellate Division—MS 6127, 330 Independence Ave. SW., Cohen Building—Rm. G–644, Washington, DC 20201; however, submissions to the Board in certain types of cases may be made by electronic filing using DAB E-File at *https://dab.efile.hhs.gov.* Changes to the mailing address will be made available on the Board's Web site at *www.hhs.gov/dab/divisions/appellate.*

* * * * *

§ 16.22 [Amended]

■ 147. Amend § 16.22(b)(1) by removing ''see § 74.114 of this title'' and adding in its place ''see § 75.371 of this title''.

PART 63—GRANT PROGRAMS ADMINISTERED BY THE OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION

■ 148. The authority citation for part 63 continues to read as follows:

Authority: Sec. 602, Community Services Act (42 U.S.C. 2942); sec. 1110, Social Security Act (42 U.S.C. 1310).

§ 63.8 [Amended]

■ 149. Amend § 63.8(c)(1) by removing ''Part 74 of this title, establishing uniform administrative requirements and cost principles for grants'' and adding in its place ''Part 75 of this title, establishing uniform administrative requirements, cost principles and audit requirements for grants''.

§ 63.34 [Amended]

■ 150. Amend § 63.34 by removing ''§ 74.114'' and adding in its place ''§ 75.372''.

PART 75—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR HHS AWARDS

■ 151. The authority citation for part 75 continues to read as follows:

Authority: 5 U.S.C. 301.

§ 75.1 Acronyms [Amended]

■ 152. Amend § 75.1 by removing ''COG Councils of Governments'' and adding in its place ''COG Councils Of Governments''; adding in alphabetical order ''FAPIIS Federal Awardee Performance and Integrity Information System''; and removing ''SAM System for Award Management'' and adding in its place ''SAM System for Award Management (accessible at *https://www.sam.gov*)''

■ 153. Amend § 75.2:

■ a. By revising paragraph (2) in the definition of ''Cognizant agency for indirect costs;''

■ b. In the definition of ''Federal Audit Clearinghouse FAC'' by removing ''FAC'' and adding ''(FAC)'' in its place;

■ c. In the definition of ''Federal financial assistance'':

■ i. By revising paragraphs (1) introductory text and (2) introductory text; and

■ ii. By redesignating paragraph (c) as paragraph (3).

■ d. By revising the terms ''GAAP'' and ''GAGAS'' to read *''Generally Accepted Accounting Principles (GAAP)''and ''Generally Accepted Government Auditing Standards (GAGAS),'' respectively, and redesignating them in proper alphabetical order;*

■ e. By revising the definitions of ''Improper payment,'' ''Obligations,'' and ''Simplified acquisition threshold;'' and

■ f. Adding a definition of ''Working capital advance.''

The revisions and additions read as follows:

§ 75.2 Definitions.

* * * * *

Cognizant agency for indirect costs

* * *

(2) For nonprofit organizations, Appendix IV to Part 75 C.2.a.

* * * * *

Federal financial assistance means

(1) *A*ssistance that non-Federal entities receive or administer in the form of:

* * * * *

(2) For § 75.202 and Subpart F of this part, *Federal financial assistance* also includes assistance that non-Federal entities receive or administer in the form of:

* * * * *

Improper payment:

(1) Means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(2) Includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

* * * * *

Obligations, when used in connection with a non-Federal entity's utilization of funds under a Federal award, *obligations* means orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period.

* * * * *

Simplified acquisition threshold means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR subpart 2.1 and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is $150,000, but this threshold is periodically adjusted for inflation. See also Micro-purchase.

* * * * *

Working capital advance means a procedure whereby funds are advanced to the recipient to cover its estimated disbursement needs for a given initial period.

■ 154. In § 75.101:

■ a. Revise the table in paragraph (b)(1);

■ b. Revise paragraph (b)(2);

■ c. In paragraph (c), remove the reference ''§ 75.215: and add ''§ 75.217'' in its place; and

■ d. Revise paragraphs (d)(1) and (e)(1) introductory text.

The revisions read as follows:

§ 75.101 Applicability

* * * * *

(b) * * *

(1) * * *

The following portions of the part:	Are applicable to the following types of Federal awards and fixed-price contracts and subcontracts (except as noted in paragraphs (d) and (e) below):	Are NOT applicable to the following types of Federal awards and fixed-price contracts and subcontracts:
This table must be read along with the other provisions in this section		
Subpart A—Acronyms and Definitions	—All.	
Subpart B—General Provisions, except for §§ 75.111, 75.112. and 75.113.	—All.	
Sections 75.111, 75.112, and 75.113	—Grant agreements and cooperative agreements.	—Agreements for loans, loan guarantees, interest subsidies and insurance. —Procurement contracts awarded by Federal Agencies under the Federal Acquisition Regulations and subcontracts under these contracts.
Subparts C–D, except for §§ 75.202, 75.303, 75.351–.353.	—Grant agreements and cooperative agreements.	—Agreements for loans, loan guarantees, interest subsidies and insurance. —Procurement contracts awarded under the Federal Acquisition Regulations and cost-reimbursement and subcontracts under these contracts.
§ 75.202	—Grant Agreements and cooperative agreements. —Agreements for loans, loan guarantees, interest subsidies and insurance.	—Procurement contracts awarded under the Federal Acquisition Regulations and cost-reimbursement and subcontracts under these contracts.
§§ 75.303, 75.351–.353	—All.	
Subpart E—Cost Principles	—Grant agreements and cooperative agreements, except those providing food commodities. —All procurement contracts under the Federal Acquisition Regulations except those that are not negotiated.	—Grant agreements and cooperative agreements providing food commodities. —Fixed amount awards. —Agreements for loans, loan guarantees, interest subsidies and insurance. —Federal awards to hospitals (See Appendix IX).

The following portions of the part:	Are applicable to the following types of Federal awards and fixed-price contracts and subcontracts (except as noted in paragraphs (d) and (e) below):	Are NOT applicable to the following types of Federal awards and fixed-price contracts and subcontracts:
Subpart F—Audit Requirements	—Grant agreements and cooperative agreements. —Contracts and subcontracts, except for fixed price contract and subcontracts, awarded under the Federal Acquisition Regulation. —Agreements for loans, loan guarantees, interest subsidies and insurance and other forms of Federal Financial Assistance as defined by the Single Audit Act Amendment of 1996.	—Fixed-price contracts and subcontracts awarded under the Federal Acquisition Regulation.

(2) *Federal award of cost-reimbursement contract under the FAR to a non-Federal entity.* When a non-Federal entity is awarded a cost-reimbursement contract, only subpart D of this part §§ 75.351 through 75.353 (in addition to any FAR related requirements for subaward monitoring), Subpart E of this part and Subpart F of this part are incorporated by reference into the contract. However, when the Cost Accounting Standards (CAS) are applicable to the contract, they take precedence over the requirements of this part except for subpart F of this part when they are in conflict. In addition, costs that are made unallowable under 10 U.S.C. 2324(e) and 41 U.S.C. 4304(a) as described in the FAR subpart 31.2 and subpart 31.603 are always unallowable. For requirements other than those covered in subpart D of this part, §§ 75.351 through 75.353, subpart E of this part and subpart F of this part, the terms of the contract and the FAR apply.

* * * * *

(d) * * *

(1) The block grant awards authorized by the Omnibus Budget Reconciliation Act of 1981 (including Community Services), except to the extent that Subpart E of this Part apply to subrecipients of Community Services Block Grant funds pursuant to 42 U.S.C. 9916(a)(1)(B);

* * * * *

(e) * * *

(1) Entitlement Federal awards to carry out the following programs of the Social Security Act:

* * * * *

§ 75.102 [Amended]

■ 155. Amend § 75.102(b) by adding a comma after ''indirect costs'' and removing the second sentence.

§ 75.103 [Amended]

■ 156. In § 75.103, amend paragraphs (a) and (b) by adding ''Prescribing the Duties of the Office of Management and Budget and the Domestic Policy Council in the Executive Office of the President'' after ''Executive Order 11541'' in each paragraph.

§ 75.104 [Amended]

■ 157. Amend § 75.104(a)(7) by adding closing quotation marks after the word Organizations.

■ 158. In § 75.110, revise paragraph (a) to read as follows:

§ 75.110 Effective/Applicability date

(a) The standards set forth in this part which affect administration of Federal awards issued by HHS agencies become effective December 26, 2014 unless different provisions are required by statute or approved by OMB. For the procurement standards in 45 CFR 75.326 through 75.355, non-Federal entities may continue to comply with the procurement standards in previous OMB guidance (superseded by this part as described in 45 CFR 75.104) for two additional fiscal years after this part goes into effect. If a non-Federal entity chooses to use the previous procurement standards for an additional two fiscal years before adopting the procurement standards in this part, the non-Federal entity must document this decision in their internal procurement policies.

* * * * *

■ 159. Amend § 75.113 by adding a new second sentence to read as follows:

§ 75.113 Mandatory disclosures.

* * * Non-Federal entities that have received a Federal award including the term and condition outlined in Appendix XII are required to report certain civil, criminal, or administrative proceedings to SAM. * * *

§ 75.203 [Amended]

■ 160. Amend § 75.203(c)(5) by removing the last sentence.

■ 161. Amend § 75.205 by revising paragraph (a) to read as follows:

§ 75.205 [Amended]

(a) *Review of OMB-designated repositories of governmentwide data.* (1) Prior to making a Federal award, the HHS awarding agency is required by 31 U.S.C. 3321 and 41 U.S.C. 2313 note to review information available through any OMB-designated repositories of governmentwide eligibility qualification or financial integrity information as appropriate. See also suspension and debarment requirements at 2 CFR parts 180 and 376.

(2) In accordance 41 U.S.C. 2313, the HHS awarding agency is required to review the publicly available information in the OMB-designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) prior to making a Federal award where the Federal share is expected to exceed the simplified acquisition threshold, defined in 41 U.S.C. 134, over the period of performance. At a minimum, the information in the system for a prior Federal award recipient must demonstrate a satisfactory record of executing programs or activities under Federal grants, cooperative agreements, or procurement awards; and integrity

and business ethics. The HHS awarding agency may make a Federal award to a recipient who does not fully meet these standards, if it is determined that the information is not relevant to the current Federal award under consideration or there are specific conditions that can appropriately mitigate the effects of the non-Federal entity's risk in accordance with § 75.207.

* * * * *

§ 75.206 [Amended]

■ 162. Amend § 75.206(a) by adding '', Controlling Paperwork Burdens on the Public'' after ''5 CFR part 1320''.

§ 75.207 [Amended]

■ 163. Amend § 75.207(a)(4) by removing ''the'' and adding in its place ''an''.

■ 164. Amend § 75.210:

■ a. In paragraph (a)(1) by removing ''their'' and adding in its place ''its'';

■ b. By adding paragraph (b)(1)(iii); and

■ c. By adding ''Preparation, Submission and Execution of the Budget'' after ''A–11'' in the last sentence of paragraph (d).

The addition reads as follows:

§ 75.210 Information contained in a Federal award.

* * * * *

(b) * * *

(1) * * *

(iii) Recipient integrity and performance matters. If the total Federal share of the Federal award may include more than $500,000 over the period of performance, the HHS awarding agency must include the term and condition available in Appendix XII. See also § 75.113.

* * * * *

■ 165. In § 75.211, revise paragraph (b) and add paragraph (c) to read as follows:

§ 75.211 Public access to Federal award information.

* * * * *

(b) All information posted in the designated integrity and performance system accessible through SAM (currently FAPIIS) on or after April 15, 2011 will be publicly available after a waiting period of 14 calendar days, except for:

(1) Past performance reviews required by Federal Government contractors in accordance with the Federal Acquisition Regulation (FAR) 42.15;

(2) Information that was entered prior to April 15, 2011; or

(3) Information that is withdrawn during the 14-calendar day waiting period by the Federal Government official.

(c) Nothing in this section may be construed as requiring the publication of information otherwise exempt under the Freedom of Information Act (5 U.S.C. 552), or controlled unclassified information pursuant to Executive Order 13556.

§§ 75.212 through 75.217 [Redesignated as §§ 75.213 through 75.218]

■ 166. Redesignate §§ 75.212 through 75.217 as §§ 75.213 through 75.218, respectively.

■ 167. Add a new § 75.212 to read as follows:

§ 75.212 Reporting a determination that a recipient is not qualified for a Federal award.

(a) If an HHS awarding agency does not make a Federal award to a non-Federal entity because the official determines that the non-Federal entity does not meet either or both of the minimum qualification standards as described in § 75.205(a)(2), the HHS awarding agency must report that determination to the designated integrity and performance system accessible through SAM (currently FAPIIS), only if all of the following apply:

(1) The only basis for the determination described in paragraph (a) of this section is the non-Federal entity's prior record of executing programs or activities under Federal awards or its record of integrity and business ethics, as described in § 75.205(a)(2), (*i.e.*, the entity was determined to be qualified based on all factors other than those two standards), and

(2) The total Federal share of the Federal award that otherwise would be made to the non-Federal entity is expected to exceed the simplified acquisition threshold over the period of performance.

(b) The HHS awarding agency is not required to report a determination that a non-Federal entity is not qualified for a Federal award if it makes the Federal award to the non-Federal entity and includes specific award terms and conditions, as described in § 75.207.

(c) If an HHS awarding agency reports a determination that a non-Federal entity is not qualified for a Federal award, as described in paragraph (a) of this section, the HHS awarding agency also must notify the non-Federal entity that—

(1) The determination was made and reported to the designated integrity and performance system accessible through SAM, and include with the notification an explanation of the basis for the determination;

(2) The information will be kept in the system for a period of five years from the date of the determination, as required by section 872 of Public Law 110–417, as amended (41 U.S.C. 2313), then archived;

(3) Each HHS awarding agency that considers making a Federal award to the non-Federal entity during that five year period must consider that information in judging whether the non-Federal entity is qualified to receive the Federal award when the total Federal share of the Federal award is expected to include an amount of Federal funding in excess of the simplified acquisition threshold over the period of performance;

(4) The non-Federal entity may go to the awardee integrity and performance portal accessible through SAM (currently the Contractor Performance Assessment Reporting System (CPARS)) and comment on any information the system contains about the non-Federal entity itself; and

(5) HHS awarding agencies will consider that non-Federal entity's comments in determining whether the non-Federal entity is qualified for the future Federal award.

(d) If an HHS awarding agency enters information into the designated integrity and performance system accessible through SAM about a determination that a non-Federal entity is not qualified for a Federal award and subsequently:

(1) Learns that any of that information is erroneous, the HHS awarding agency must correct the information in the system within three business days;

(2) Obtains an update to that information that could be helpful to other Federal awarding agencies, the HHS awarding agency is strongly encouraged to amend the information in the system to incorporate the update in a timely way.

(e) HHS awarding agencies shall not post any information that will be made publicly available in the non-public segment of the designated integrity and performance system that is covered by a disclosure exemption under the Freedom of Information Act. If the recipient asserts within seven calendar days to the HHS awarding agency that posted the information that some or all of the information made publicly available is covered by a disclosure exemption under the Freedom of Information Act, the HHS awarding agency that posted the information must remove the posting within seven calendar days of receiving the assertion. Prior to reposting the releasable information, the HHS awarding agency must resolve the issue in accordance with the agency's Freedom of Information Act procedures.

§ 75.213 [Amended]

■ 168. In newly redesignated § 75.213, remove ''and contractors'' after ''entities'' in the first sentence.

■ 169. In § 75.305, revise the last sentence in paragraph (b) introductory text and revise paragraphs (b)(6)(ii) and (b)(9) introductory text to read as follows:

§ 75.305 Payment.

(b) * * * Except as noted elsewhere in this part, HHS awarding agencies must require recipients to use only OMB-approved standard governmentwide information collection requests to request payment.

* * * * *

(6) * * *

(ii) The non-Federal entity is delinquent in a debt to the United States as defined in OMB Guidance A–129 ''Policies for Federal Credit Programs and Non-Tax Receivables.''

* * * * *

(9) Interest earned amounts up to $500 per year may be retained by the non-Federal entity for administrative expense. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment. Remittances must include pertinent information of the payee and nature of the payment in the memo area (often referred to as ''addenda records'' by Financial Institutions) as that will assist in the timely posting of interest earned on federal funds. Pertinent details include the Payee Account Number (PAN) if the payment originated from PMS, or Agency information, if the payment originated from ASAP, NSF or another federal agency payment system. The remittance must be submitted as follows:

* * * * *

§ 75.306 [Amended]

■ 170. Amend § 75.306(c) by adding ''only with prior approval of the HHS awarding agency'' at the end of the first sentence.

§ 75.307 [Amended]

■ 171. Amend § 75.307(e) by removing ''75.215'' and adding in its place ''75.216''.

■ 172. In § 75.308, revise paragraph (c) to read as follows:

§ 75.308 Revision of budget and program plans.

* * * * *

(c)(1) For non-construction Federal awards, recipients must request prior approvals from HHS awarding agencies for one or more of the following program or budget-related reasons:

(i) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(ii) Change in a key person specified in the application or the Federal award.

(iii) The disengagement from the project for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(iv) The inclusion, unless waived by the HHS awarding agency, of costs that require prior approval in accordance with subpart E of this part, or Appendix IX of this part, or 48 CFR part 31, as applicable.

(v) The transfer of funds budgeted for participant support costs as defined in § 75.2 to other categories of expense.

(vi) Unless described in the application and funded in the approved Federal awards, the subawarding, transferring or contracting out of any work under a Federal award, including fixed amount subawards as described in § 75.353. This provision does not apply to the acquisition of supplies, material, equipment or general support services.

(vii) Changes in the approved cost-sharing or matching provided by the non-Federal entity.

(viii) The need arises for additional Federal funds to complete the project.

(ix) The inclusion of research patient care costs in research awards made for the performance of research work.

(x) The provision of subawards by a pass-through entity on fixed amounts up to the Simplified Acquisition Threshold, provided that the subawards meet the requirements for fixed amount awards in § 75.201. See § 75.353.

(xi) The recipient wishes to dispose of, replace, or encumber title to real property, equipment, or intangible property that are acquired or improved with a Federal award. See §§ 75.318, 75.320, 75.322, and 75.323.

(2) No other prior approval requirements for specific items may be imposed unless an exception has been approved by OMB. See also §§ 75.102 and 75.407.

* * * * *

§ 75.322 [Amended]

■ 173. Amend § 75.322(d)(2) by adding ''for Federal purposes'' at the end.

§ 75.327 [Amended]

■ 174. Amend § 75.327(h) by removing the third sentence and the parenthetical reference and adding a new last sentence.

The addition reads as follows:

§ 75.327 General procurement standards.

* * * * *

(h) * * * See also § 75.213.

* * * * *

§ 75.329 [Amended]

■ 175. In § 75.329, paragraph (c)(2)(i) and (iii), remove ''state'' and remove ''publically'' and add in its place ''publicly''.

■ 176. In § 75.351, revise the last sentence of paragraph (b) introductory text to read as follows:

§ 75.351 Subrecipient and contractor determinations.

* * * * *

(b) * * * Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the contractor:

* * * * *

■ 177. In § 75.352, revise paragraphs (a)(1)(i), (iv), (vi), (vii), (viii), and (x) and (a)(2) and (4) to read as follows:

§ 75.352 Requirement for pass-through entities.

* * * * *

(a) * * *

(1) * * *

(i) Subrecipient name (which must match the name associated with its unique entity identifier;

* * * * *

(iv) Federal Award Date (see § 75.2 *Federal award date*) of award to the recipient by the HHS awarding agency;

* * * * *

(vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;

(vii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation;

(viii) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;

* * * * *

(x) Name of HHS awarding agency, pass-through entity, and contract information for awarding official of the pass-through entity;

* * * * *

(2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award;

* * * * *

(4) An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government or, if no such rate exists,

either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined in § 75.414(f);

* * * * *

■ 178. Revise § 75.363 to read as follows:

§ 75.363 Methods for collection, transmission and storage of information.

In accordance with the May 2013 Executive Order on Making Open and Machine readable the New Default for Government Information, the HHS awarding agency and the non-Federal entity should, whenever practicable, collect, transmit, and store Federal award-related information in open and machine readable formats rather than in closed formats or on paper.

■ 179. In § 75.372, revise paragraphs (a)(1) and (b) and add paragraph (c) to read as follows:

§ 75.372 Termination.

* * * * *

(a) * * *

(1) By the HHS awarding agency or pass-through entity, if the non-Federal entity fails to comply with the terms and conditions of the award;

* * * * *

(b) When an HHS awarding agency terminates a Federal award prior to the end of the period of performance due to the non-Federal entity's material failure to comply with the Federal award terms and conditions, the HHS awarding agency must report the termination to the OMB-designated integrity and performance system accessible through SAM (currently FAPIIS).

(1) The information required under this paragraph (b) is not to be reported to the designated integrity and performance system until after the non-Federal entity either—

(i) Has exhausted its opportunities to object or challenge the decision, see § 75.374; or

(ii) Has not, within 30 calendar days after being notified of the termination, informed the HHS awarding agency that it intends to appeal the HHS awarding agency's decision to terminate.

(2) If an HHS awarding agency, after entering information into the designated integrity and performance system about a termination, subsequently:

(i) Learns that any of the information is erroneous, the HHS awarding agency must correct the information in the system within three business days;

(ii) Obtains an update to that information that could be helpful to other Federal awarding agencies, the HHS awarding agency is strongly encouraged to amend the information in the system to incorporate the update in a timely way;

(3) HHS awarding agencies shall not post any information that will be made publicly available in the non-public segment of the designated integrity and performance system that is covered by a disclosure exemption under the Freedom of Information Act. If the non-Federal entity asserts within seven calendar days to the HHS awarding agency who posted the information, that some of the information made publicly available is covered by a disclosure exemption under the Freedom of Information Act, the HHS awarding agency who posted the information must remove the posting within seven calendar days of receiving the assertion. Prior to reposting the releasable information, the HHS agency must resolve the issue in accordance with the agency's Freedom of Information Act procedures.

(c) When a Federal award is terminated or partially terminated, both the HHS awarding agency or pass-through agency and the non-Federal entity remain responsible for compliance with the requirements of §§ 75.381 through 75.390.

■ 180. In § 75.373, revise paragraph (b) to read as follows:

§ 75.373 Notification of termination requirement.

* * * * *

(b) If the Federal award is terminated for the non-Federal entity's material failure to comply with the Federal statutes, regulations, or terms and conditions of the Federal award, the notification must state that—

(1) The termination decision will be reported to the OMB-designated integrity and performance system accessible through SAM (currently FAPIIS);

(2) The information will be available in the OMB-designated integrity and performance system for a period of five years from the date of the termination, then archived;

(3) HHS awarding agencies that consider making a Federal award to the non-Federal entity during that five year period must consider that information in judging whether the non-Federal entity is qualified to receive the Federal award, when the Federal share of the Federal award is expected to exceed the simplified acquisition threshold over the period of performance;

(4) The non-Federal entity may comment on any information the OMB-designated integrity and performance system contains about the non-Federal entity for future consideration by HHS awarding agencies. The non-Federal entity may submit comments to the awardee integrity and performance portal accessible through SAM (currently CPARS).

(5) Federal awarding agencies will consider non-Federal entity comments when determining whether the non-Federal entity is qualified for a future Federal award.

* * * * *

§ 75.409 [Amended]

■ 181. Amend § 75.409 introductory text by removing ''subpart, certain sections in this subpart'' and adding in its place ''subtitle, other subtitles in this part''.

■ 182. In § 75.414, revise paragraph (e)(3) to read as follows:

§ 75.414 Indirect (F&A) costs.

* * * * *

(e) * * *

(3) Appendix V to Part 75—State/Local Governmentwide Central Service Cost Allocation Plans;

* * * * *

§ 75.419 [Amended]

■ 183. In § 75.419, amend paragraph (b) introductory text by removing ''its'' and adding in its place ''their'' before ''cost accounting practices''.

■ 184. In § 75.431, amend paragraph (h)(3) by removing ''Federal Government's'' and adding in its place ''non-Federal entity'' and revise paragraphs (i)(1) and (j).

The revisions read as follows:

§ 75.431 Compensation—fringe benefits.

* * * * *

(i) *Severance pay.* (1) Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by non-Federal entities to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that in each case, it is required by:

(i) Law;

(ii) Employer-employee agreement;

(iii) Established policy that constitutes, in effect, an implied agreement on the non-Federal entity's part; or

(iv) Circumstances of the particular employment.

* * * * *

(j) *For IHEs only.* (1) Fringe benefits in the form of undergraduate and graduate tuition or remission of tuition for individual employees are allowable, provided such benefits are granted in accordance with established non-federal entity policies, and are distributed to all non-Federal entity activities on an equitable basis. Tuition benefits for

family members other than the employee are unallowable.

(2) Fringe benefits in the form of tuition or remission of tuition for individual employees not employed by IHEs are limited to the tax-free amount allowed per section 127 of the Internal Revenue Code as amended.

(3) IHEs may offer employees tuition waivers or tuition reductions, provided that the benefit does not discriminate in favor of highly compensated employees. Employees can exercise these benefits at other institutions according to institutional policy. See § 75.466 for treatment of tuition remission provided to students.

* * * * *

■ 185. Amend § 75.439, by adding paragraph (b)(7) to read as follows:

§ 75.439 Equipment and other capital expenditures.

* * * * *

(b) * * *

(7) Equipment and other capital expenditures are unallowable as indirect costs. See § 75.436.

§ 75.448 [Amended]

■ 186. Amend § 75.448(b)(3) by removing ''there'' and adding in its place ''thereto''.

§ 75.449 [Amended]

■ 187. In § 75.449, amend paragraph (b)(1) by removing ''are defined in'' and adding in its place ''is defined as noted in'', and in paragraph (e) by removing ''September 23'' and adding in its place ''July 1''.

§ 75.450 [Amended]

■ 188. Amend § 75.450(c)(2)(iv) by removing ''IRC secs.'' and adding in its place ''I.R.C. sections''.

■ 189. Revise § 75.456 to read as follows:

§ 75.456 Participant support costs.

Participant support costs as defined in § 75.2 are allowable with the prior approval of the HHS awarding agency.

§ 75.459 [Amended]

■ 190. In § 75.459, amend the section heading by removing ''services'' and adding in its place ''service''.

■ 191. In § 75.461, add paragraph (b)(3) to read as follows:

§ 75.461 Publication and printing costs.

* * * * *

(b) * * *

(3) The non-Federal entity may charge the Federal award before closeout for the costs of publication or sharing of research results if the costs are not incurred during the period of performance of the Federal award.

* * * * *

§ 75.465 [Amended]

■ 192. Amend § 75.465(c) introductory text by removing the parentheses around ''as explained in paragraph (b) of this section''.

§ 75.474 [Amended]

■ 193. Amend § 75.474(d) by adding ''(''Travel and Subsistence Expenses: Mileage Allowance'')'' after ''5 U.S.C. 5701–11''.

§ 75.501 [Amended]

■ 194. Amend § 75.501(k) by removing ''§ 75.215'' and adding in its place ''§ 75.216''.

§ 75.515 [Amended]

■ 195. Amend § 75.515(b) by removing ''or'' and adding in its place ''and'' before ''award agreements'' in the first sentence.

■ 196. In Appendix I to Part 75:

■ a. In section E:

■ i. Redesignate paragraph 3 as paragraph 4 and revise it; and

■ ii. Add a new paragraph 3;

■ b. In section F, revise paragraph 3.

The addition and revisions read as follows:

Appendix I to Part 75—Full Text of Notice of Funding Opportunity

* * * * *

E. * * *

3. For any Federal award under a notice of funding opportunity, if the HHS awarding agency anticipates that the total Federal share will be greater than the simplified acquisition threshold on any Federal award under a notice of funding opportunity may include, over the period of performance (see § 75.2 *Simplified Acquisition Threshold*), this section must also inform applicants:

i. That the HHS awarding agency, prior to making a Federal award with a total amount of Federal share greater than the simplified acquisition threshold, is required to review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently FAPIIS) (see 41 U.S.C. 2313);

ii. That an applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that the HHS awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM;

iii. That the HHS awarding agency will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in § 75.205.

4. Anticipated Announcement and Federal Award Dates—Optional. This section is intended to provide applicants with information they can use for planning purposes. If there is a single application deadline followed by the simultaneous review of all applications, the HHS awarding agency can include in this section information about the anticipated dates for announcing or notifying successful and unsuccessful applicants and for having Federal awards in place. If applications are received and evaluated on a ''rolling'' basis at different times during an extended period, it may be appropriate to give applicants an estimate of the time needed to process an application and notify the applicant of the HHS awarding agency's decision.

F. * * *

3. *Reporting—Required.* This section must include general information about the type (*e.g.*, financial or performance), frequency, and means of submission (paper or electronic) of post-Federal award reporting requirements. Highlight any special reporting requirements for Federal awards under this funding opportunity that differ (*e.g.*, by report type, frequency, form/format, or circumstances for use) from what the HHS awarding agency's Federal awards usually require. HHS agencies must also describe in this section all relevant requirements such as those at 2 CFR 180.335 and 2 CFR 180.350. If the Federal share of any Federal award may include more than $500,000 over the period of performance, this section must inform potential applicants about the post award reporting requirements in Appendix XII.

* * * * *

■ 197. Amend Appendix III to Part 75 as follows:

■ a. Add ''(IHEs)'' at the end of the appendix heading;

■ b. Redesignate paragraph A.1.b.(3) as paragraph A.1.a.(3);

■ c. In section C, by adding '' ''Equal Employment Opportunity (30 FR 12319, 12935, 3 CFR 1964–1965 Comp., p. 339)'' after ''Executive Order 11246''; and adding '' ''Amending Executive Order 11246 Relating to Equal Employment Opportunity,'' '' after ''Executive Order 11375''; and

■ d. In Section C.7, redesignate first paragraph as ''a.'' and revise the first sentence.

The revision reads as follows:

Appendix III to Part 75—Indirect (F&A) Costs, Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs)

* * * * *

C. * * *

7. a. Except as provided in paragraph (c)(1) of § 75.414, HHS agencies must use the negotiated rates in effect at the time of the initial award throughout the life of the Federal award. * * *

* * * * *

■ 198. Amend Appendix IV to Part 75 as follows:

■ a. In Section A., designate the second paragraph as Section A.2. and revise it;

■ b. In Section B.2.c, remove ''contracts or'' and add in its place ''as'';

■ c. In Section B.2.e. amend the first sentence by removing ''Federal Funding of direct costs'' and add in its place ''direct Federal funding'' and remove ''section A.3. of this Appendix'' and add in its place ''§ 75.414(a)'';

■ d. In Section B.3.g. amend the last sentence by removing ''section A.3 of this Appendix'' and adding in its place ''§ 75.414(a)'';

■ e. In Section C.2.b. amend the first sentence by removing ''(e)'' and add in its place ''(f)'';

■ f. In Section C.2.c. amend the first sentence by removing ''(f)'' and add in its place ''(g)'';

■ g. In Section D.1. amend the first sentence by removing ''subsection b'' and add, in its place with ''subsection 2''; and

■ h. In Section D.2. introductory text, remove the subject heading''Certificate.''

The revision reads as follows:

Appendix IV to Part 75—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations

* * * * *

2. ''Major nonprofit organizations'' are defined in § 75.414(a). See indirect cost rate reporting requirements in sections B.2.e and B.3.g. of this appendix

* * * * *

■ 199. Amend Appendix V to Part 75 as follows:

■ a. In Section A.2. by adding ''or at their Web site at'' after ''Cost Allocation Services''; and

■ b. Revise Section E.2.

The revision reads as follows:

Appendix V to Part 75—State/Local Governmentwide Central Service Cost Allocation Plans

* * * * *

2. Allocated Central Services. For each allocated central service*, the plan must also include the following: a brief description of the service, an identification of the unit rendering the service and the operating agencies receiving the service, the items of expense included in the cost of the service, the method used to distribute the cost of the service to benefitted agencies, and a summary schedule showing the allocation of each service to the specific benefitted agencies. If any self-insurance funds or fringe benefits costs are treated as allocated (rather than billed) central services, documentation discussed in subsections 3.b. and c. must also be included.

* * * * *

Appendix VII to Part 75—[Amended]

■ 200. Amend Appendix VII to Part 75, Section A.3. by adding ''or at their Web site'' after ''Cost Allocation Services'' in the last sentence.

Appendix VIII to Part 75—[Amended]

■ 201. Amend Appendix VIII by designating each of the listed organizations as numbers 1 through 33.

Appendix X to Part 75—[Amended]

■ 202. Amend Appendix X by removing ''*https://harvester.census.gov/facweb/Default.aspx*''.

Appendix XI to Part 75—[Amended]

■ 203. Amend Appendix XI by adding ''*e.g.,* for 2013 here:'' in the parentheses before http''.

■ 204. Add Appendix XII to Part 75 to read as follows:

Appendix XII—Award Term and Conditions for Recipient Integrity and Performance Matters

A. Reporting of Matters Related to Recipient Integrity and Performance

1. General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110–417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111–212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;

b. Reached its final disposition during the most recent five year period; and

c. If one of the following:

(1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;

(2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of $5,000 or more;

(3) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of $5,000 or more or reimbursement, restitution, or damages in excess of $100,000; or

(4) Any other criminal, civil, or administrative proceeding if:

(i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;

(ii) It had a different disposition arrived at by consent or compromise with an acknowledgement of fault on your part; and

(iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

4. Reporting Frequency

During any period of time when you are subject to this requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than $10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions

For purposes of this award term and condition:

a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.*, Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—

(1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and

(2) The value of all expected funding increments under a Federal award and options, even if not yet exercised

B. [Reserved]

PART 87—EQUAL TREATMENT FOR FAITH-BASED ORGANIZATIONS

■ 205. The authority citation for part 87 continues to read as follows:

Authority: 5 U.S.C. 301.

§ 87.1 [Amended]

■ 206. Amend § 87.1(b) in the last sentence by removing ''45 CFR parts 74, 92, and 96'' and adding in its place ''45 CFR parts 75 and 96''.

§ 87.2 [Amended]

■ 207. Amend § 87.2(b) in the last sentence by removing ''45 CFR parts 74, 92, and 96'' and adding in its place ''45 CFR parts 75 and 96''.

PART 95—GENERAL ADMINISTRATION—GRANT PROGRAMS (PUBLIC ASSISTANCE, MEDICAL ASSISTANCE AND STATE CHILDREN'S HEALTH INSURANCE PROGRAMS)

■ 208. The authority citation for part 95 continues to read as follows:

Authority: 5 U.S.C. 301, 42 U.S.C. 622(b), 629b(a), 652(a), 652(d), 654A, 671(a), 1302, and 1396a(a).

§ 95.613 [Amended]

■ 209. Amend § 95.613(a) in the first sentence by removing ''part 92'' and adding in its place ''part 75'' and in the second sentence by removing ''§ 92.36(c)'' and adding in its place ''§ 75.328''.

§ 95.621 [Amended]

■ 210. Amend § 95.621(d) by removing ''part 92'' and adding in its place ''part 75''.

§ 95.705 [Amended]

■ 211. Amend § 95.705(a) in the last sentence by removing ''part 92'' and adding in its place ''part 75''.

§ 95.707 [Amended]

■ 212. Amend § 95.707(a) by removing ''§ 92.32, Equipment'' and adding in its place ''§ 75.320''.

PART 98—CHILD CARE AND DEVELOPMENT FUND

■ 213. The authority citation for part 98 continues to read as follows:

Authority: 42 U.S.C. 618, 9858.

§ 98.60 [Amended]

■ 214. Amend § 98.60(d)(4)(ii) by removing ''45 CFR 92.3, Obligations and Outlays (expenditures)'' and adding in its place ''45 CFR 75.2''.

§ 98.84 [Amended]

■ 215. Amend § 98.84:

■ a. In paragraph (d)(1) by removing ''45 CFR 92.31'' and adding in its place ''45 CFR 75.318'';

■ b. In paragraph (d)(2) by removing ''45 CFR 92.31(c)'' and adding in its place 45 CFR 75.318(c)'';

■ c. In paragraph (d)(3) by removing ''45 CFR 92.31(a)'' and adding in its place 45 CFR 75.318(a)'';

■ d. in paragraph (d)(4) by removing ''45 CFR 92.22'' and adding in its place ''45 CFR part 75, subpart E'';

■ e. In paragraph (d)(5) by removing ''45 CFR 92.25'' and adding in its place ''45 CFR 75.307''; and

■ f. In paragraph (d)(6) by removing ''45 CFR 92.36'' and adding in its place ''45 CFR 75.326 through 75.340''.

PART 261—ENSURING THAT RECIPIENTS WORK

■ 216. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 601, 602, 607, and 609; P.L. 109–171.

■ 217. Amend § 261.64(c) by removing ''the single audit under OMB Circular A–133'' and adding in its place ''45 CFR part 75, subpart F''.

PART 262—ACCOUNTABILITY PROVISIONS—GENERAL

■ 218. The authority citation for part 262 continues to read as follows:

Authority: 31 U.S.C. 7501 *et seq.;* 42 U.S.C. 606, 609, and 610; Pub. L. 109–171.

■ 219. Amend § 262.3 in paragraph (a) by removing ''OMB Circular A–133'' and adding in its place ''45 CFR part 75, subpart F'' and in paragraph (f) by removing ''§ 92.42 of this title'' and adding in its place ''45 CFR 75.361 through 75.370''.

PART 263—EXPENDITURES OF STATE AND FEDERAL TANF FUNDS

■ 220. The authority citation for part 263 continues to read as follows:

Authority: 42 U.S.C. 604, 607, 609, and 862a; Pub. L. 109–171.

§ 263.2 [Amended]

■ 221. Amend § 263.2(e)(1) by removing ''45 CFR 92.3 and 92.24'' and adding in its place ''45 CFR 75.2 and 75.306''.

§ 263.11 [Amended]

■ 222. Amend § 263.11(b) by removing ''the provisions of part 92 of this title, or OMB Circular A–87'' and adding in its place ''or part 75 of this title''.

■ 223. Amend § 263.14 by removing ''OMB Circular A–87 (2 CFR part 225)'' and adding in its place ''subpart E of part 75 of this title''.

PART 265—DATA COLLECTION AND REPORTING REQUIREMENTS

■ 224. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 603, 605, 607, 609, 611, and 613; Pub. L. 109–171.

§ 265.7 [Amended]

■ 225. Amend § 265.7 in paragraph (d)(4) by removing ''§ 92.20(a) of this title'' and adding in its place ''§ 75.302(a) of this title'' and in paragraph (f) by removing ''§ 92.42 of this title'' and adding in its place ''§§ 75.361 through 75.370 of this title''.

PART 286—TRIBAL TANF PROVISIONS

■ 226. The authority citation for part 286 continues to read as follows:

Authority: 42 U.S.C. 601, 604, and 612; Public Law 111–5.

§ 286.30 [Amended]

■ 227. Amend § 286.30 in paragraph (c) by removing ''45 CFR part 92'' and adding in its place ''45 CFR part 75'' and in paragraph (f)(2) by removing ''45 CFR part 92 and OMB Circulars A–87 and A–133'' and adding in its place ''45 CFR part 75''.

§ 286.45 [Amended]

■ 228. Amend § 286.45 in paragraph (c) by removing ''OMB Circular A–87'' and adding in its place ''45 CFR part 75, subpart E'' and in paragraph (d) by removing ''OMB Circular A–133 and in 45 CFR part 92'' and adding in its place ''45 CFR part 75''.

§ 286.200 [Amended]

■ 229. Amend § 286.200(b) by removing ''45 CFR part 92, OMB Circulars A–87 and A–133'' and adding in its place ''45 CFR part 75''.

§ 286.205 [Amended]

■ 230. Amend § 286.205 in paragraph (b)(3)(iv) by removing ''45 CFR part 92 and all relevant OMB circulars'' and adding in its place ''45 CFR part 75'' and in paragraph (c) by removing ''45 CFR part 92 and all relevant OMB circulars'' and adding in its place ''45 CFR part 75''.

§ 286.270 [Amended]

■ 231. Amend § 286.270(b) by removing ''45 CFR part 92, OMB Circulars A–87 and A–133'' and adding in its place ''45 CFR part 75''.

PART 287—THE NATIVE EMPLOYMENT WORKS (NEW) PROGRAM

■ 232. The authority citation for part 287 continues to read as follows:

Authority: 42 U.S.C. 612.

§ 287.60 [Amended]

■ 233. Amend § 287.60 in paragraph (a) by removing ''45 CFR 92.41'' and adding in its place 45 CFR 75.341'' and in paragraph (b) by removing 45 CFR 92.26'' and adding in its place ''45 CFR part 75, subpart F''.

PART 301—STATE PLAN APPROVAL AND GRANT PROCEDURES

■ 234. The authority citation for part 301 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 659a, 660, 664, 666, 667, 1301, and 1302.

§ 301.15 [Amended]

■ 235. Amend § 301.15 by revising paragraph (e) to read as follows:

§ 301.15 Grants.

* * * * *

(e) *General administrative requirements.* With the following exceptions, the provisions of part 75 of this title, establishing uniform administrative requirements and cost principles, shall apply to all grants made to States under this part:

45 CFR Part 75

45 CFR 75.306 Cost sharing or matching.

45 CFR 75.341 Financial reporting.

* * * * *

PART 302—STATE PLAN REQUIREMENTS

■ 236. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 659a, 660, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

§ 302.14 [Amended]

■ 237. Amend § 302.14 by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75''.

§ 302.15 [Amended]

■ 238. Amend § 302.15(a)(7) by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75''.

PART 303—STANDARDS FOR PROGRAM OPERATIONS

■ 239. The authority citation for part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 659a, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

§ 303.11 [Amended]

■ 240. Amend § 303.11(d) by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75''.

PART 304—FEDERAL FINANCIAL PARTICIPATION

■ 241. The authority citation for part 304 continues to read as follows:

Authority: 42 U.S.C. 651 through 655, 657, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

§ 304.10 [Amended]

■ 242. Amend § 304.10 by removing ''part 74 of this title (with the exception of 45 CFR 74.23, Cost Sharing or Matching and 45 CFR 74.52, Financial Reporting)'' and adding in its place ''part 75 of this title (with the exception of 45 CFR 75.306 and 75.341)''.

§ 304.20 [Amended]

■ 243. Amend § 304.20(b)(1)(iii) by removing ''45 CFR 74.40 *et seq.''* and adding in its place ''45 CFR 75.326 through 75.340''.

§ 304.25 [Amended]

■ 244. Amend § 304.25(a) in the first sentence by removing ''part 74 of this title'' and adding in its place ''part 75 of this title''.

PART 309—TRIBAL CHILD SUPPORT ENFORCEMENT (IV–D) PROGRAM

■ 245. The authority citation for part 309 continues to read as follows:

Authority: 42 U.S.C. 655(f), 1302.

§ 309.85 [Amended]

■ 246. Amend § 309.85(b) by removing ''45 CFR 74.53'' and adding in its place ''45 CFR 75.361 through 75.370''.

§ 309.130 [Amended]

■ 247. Amend § 309.130 in paragraph (d)(3) by removing ''45 CFR 74.23'' and adding in its place ''45 CFR 75.306'' and in paragraph (h) by removing ''part 74'' and adding in its place ''part 75''.

§ 309.145 [Amended]

■ 248. Amend § 309.145 in paragraph (a)(3) introductory text by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75'' and in paragraph (o) introductory text by removing ''OMB Circular A–87'' and adding in its place ''45 CFR part 75, subpart E''.

§ 309.150 [Amended]

■ 249. Amend § 309.150(d) by removing ''OMB Circular A–87'' and adding in its place ''45 CFR part 75, subpart E''.

§ 309.160 [Amended]

■ 250. Amend § 309.160 by removing ''OMB Circular A–133,'Audits of States, Local Governments, and Non-Profit Organizations' and 45 CFR part 74' '' and adding in its place ''45 CFR part 75''.

PART 400—REFUGEE RESETTLEMENT PROGRAM

■ 251. The authority citation for part 400 continues to read as follows:

Authority: Section 412(a)(9), Immigration and Nationality Act (8 U.S.C. 1522(a)(9)).

§ 400.11 [Amended]

■ 252. Amend § 400.11(c) by removing ''§ 74.73(a)'' and adding in its place ''§ 75.341''.

§ 400.28 [Amended]

■ 253. Amend § 400.28 in paragraph (a) introductory text by removing ''part 74, Subpart D of this title'' and adding in its place ''45 CFR 75.361 through 75.370''.

PART 1000—INDIVIDUAL DEVELOPMENT ACCOUNT RESERVE FUNDS ESTABLISHED PURSUANT TO GRANTS FOR ASSETS FOR INDEPENDENCE

■ 254. The authority citation for part 1000 continues to read as follows:

Authority: 42 U.S.C. 604 nt.

§ 1000.3 [Amended]

■ 255. Amend § 1000.3 in paragraph (a) by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75'' and in paragraph (b) by removing ''45 CFR part 92'' and adding in its place ''45 CFR part 75''.

PART 1301—HEAD START GRANTS ADMINISTRATION

■ 256. The authority citation for part 1301 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

§ 1301.10 [Amended]

■ 257. Amend § 1301.10:

■ a. In paragraph (a) by removing ''45 CFR part 74 Administration of grants'' and ''45 CFR part 75 Informal grant appeals procedures (indirect cost rates and other cost allocations)'' and adding in alphanumeric order ''45 CFR part 75 Uniform Administrative Requirements, Cost Principles and Audit Requirements for HHS Awards''; and

■ b. In paragraph (b):

■ i. In the introductory text by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75'';

■ ii. In paragraph (b)(1), by removing ''§ 74.15 of part 74'' and adding in its place ''§ 75.334 of part 75''; and

■ iii. In paragraph (b)(2) by removing ''§ 74.61 of part 74'' and adding in its place ''subpart F of part 75''.

PART 1304—PROGRAM PERFORMANCE STANDARDS FOR THE OPERATION OF HEAD START PROGRAMS BY GRANTEE AND DELEGATE AGENCIES

■ 258. The authority citation for part 1304 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

§ 1304.60 [Amended]

■ 259. Amend § 1304.60(f) by removing ''45 CFR part 74 or part 92'' and adding in its place ''45 CFR part 75'', and removing ''45 CFR 74.61(a)(1), 45 CFR 74.62 and 45 CFR 92.43(a)'' and adding in its place ''45 CFR 75.371 through 75.372''.

PART 1309—HEAD START FACILITIES PURCHASE, MAJOR RENOVATION AND CONSTRUCTION

■ 260–261. The authority citation for part 1309 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

§ 1309.21 [Amended]

■ 262. Amend § 1309.21(e) by removing ''45 CFR parts 74 or 92'' and adding in its place ''45 CFR part 75''.

§ 1309.22 [Amended]

■ 263. Amend § 1309.22(c) by removing ''45 CFR 74.2, or, if part 92 is applicable, to ACF's share as defined in 45 CFR 92.3'' and adding in its place ''45 CFR 75.2''.

§ 1309.31 [Amended]

■ 264. Amend § 1309.31(b) by removing ''45 CFR part 74 and 45 CFR part 92'' and adding in its place ''45 CFR part 75''.

§ 1309.32 [Amended]

■ 265. Amend § 1309.32(b) by removing ''45 CFR parts 74 and 92'' and adding in its place ''45 CFR part 75''.

§ 1309.34 [Amended]

■ 266. Amend § 1309.34 by removing ''45 CFR part 74 and 45 CFR part 92'' and adding in its place ''45 CFR part 75''.

§ 1309.43 [Amended]

■ 267. Amend § 1309.43 by removing ''45 CFR part 74 and 45 CFR part 92'' and adding in its place ''45 CFR part 75''.

§ 1309.52 [Amended]

■ 268. Amend § 1309.52(a) by removing ''45 CFR parts 74 or 92'' and adding in its place ''45 CFR part 75''.

PART 1321—GRANTS TO STATE AND COMMUNITY PROGRAMS ON AGING

■ 269. The authority citation for part 1321 continues to read as follows:

Authority: 42 U.S.C. 3001 *et seq.;* title III of the Older Americans Act, as amended.

■ 270. Amend § 1321.5 by revising paragraph (b) and removing and reserving paragraph (g).

The revision reads as follows:

§ 1321.5 Applicability of other regulations.

* * * * *

(b) 45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards, except § 75.206

* * * * *

§ 1321.67 [Amended]

■ 271. Amend § 1321.67(b)(1) by removing ''45 CFR 92.25(g) (2) and (3)'' and adding in its place ''45 CFR 75.307(e)(2) and (3)''.

§ 1321.73 [Amended]

■ 272. Amend § 1321.73 by removing ''45 CFR 92.25(g)(2)'' and adding in its place ''§ 75.307(e)(3)'', removing ''§ 92.25(g)(3)'' and adding in its place ''§ 75.307(e)(2), and removing ''§ 92.25(g)(1)'' and adding in its place ''§ 75.307(e)(1)''.

PART 1326—GRANTS TO INDIAN TRIBES FOR SUPPORT AND NUTRITION SERVICES

■ 273. The authority citation for part 1326 continues to read as follows:

Authority: 42 U.S.C. 3001; Title VI, Part A of the Older Americans Act.

■ 274. In § 1326.5, remove and reserve paragraph (b) and revise paragraph (c).

The revision reads as follows:

§ 1326.5 Applicability of other regulations.

* * * * *

(c) 45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards.

* * * * *

PART 1328—GRANTS FOR SUPPORTIVE AND NUTRITIONAL SERVICES TO OLDER HAWAIIAN NATIVES

■ 275. The authority citation for part 1328 continues to read as follows:

Authority: 42 U.S.C. 3001; Title VI Part B of the Older Americans Act.

■ 276. In § 1328.5, remove and reserve paragraph (b) and revise paragraph (c).

The revision reads as follows:

§ 1328.5 Applicability of other regulations.

* * * * *

(c) 45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards.

* * * * *

PART 1336—NATIVE AMERICAN PROGRAMS

■ 277. The authority citation for part 1336 continues to read as follows:

Authority: 42 U.S.C. 2991 *et seq.*

§ 1336.50 [Amended]

■ 278. In § 1336.50, amend paragraph (a) by removing ''45 CFR part 74—Administration of grants'' and ''45 CFR part 75—Informal grant appeals procedures (indirect cost rates and other cost allocations)'' and adding in alphanumeric order ''45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards'' and amend paragraph (f) by removing ''§ 74.3 of this title'' and adding in its place ''§ 75.2 of this title''

§ 1336.52 [Amended]

■ 279. Amend § 1336.52(b) by removing ''45 CFR 74.110–74.116'' and adding in its place ''45 CFR 75.371 through 75.380''.

§ 1336.77 [Amended]

■ 280. Amend § 1336.77 in paragraph (a)(1) by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75, subpart E'' and in paragraph (b) by removing ''45 CFR part 74'' and adding in its place ''45 CFR part 75''.

PART 1355—GENERAL

■ 281. The authority citation for part 1355 continues to read as follows:

Authority: 42 U.S.C. 620 *et seq.,* 42 U.S.C. 670 *et seq.;* 42 U.S.C. 1302.

■ 282. Amend § 1355.30 by revising paragraph (i) to read as follows:

§ 1355.30 Other applicable regulations.

* * * * *

(i) 45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards. Part 75 of this title is applicable to title IV–B programs and the John H. Chafee Foster Care Independence Program under Section 477 of the Act that are operated by States and/or Tribes. Part 75 of this title is applicable to title IV–E foster care and adoption assistance programs operated by a State title IV–E agency, except that section 75.306 Cost sharing or matching and section 75.341 Financial reporting do not apply. Part 75 of this title is applicable to title IV–E foster care and adoption assistance programs operated by a Tribal title IV–E agency pursuant to section 479B, except that section 75.341 and the sections specified in § 1356.68 do not apply to a Tribal title IV–E agency.

* * * * *

PART 1357—REQUIREMENTS APPLICABLE TO TITLE IV–B

■ 283. The authority citation for part 1357 continues to read as follows:

Authority: 42 U.S.C. 620 *et seq.,* 42 U.S.C. 670 *et seq.;* 42 U.S.C. 1302.

§ 1357.30 [Amended]

■ 284. Amend § 1357.30 in paragraph (d) by removing ''45 CFR 92.43 and 92.44'' and adding in its place ''45 CFR 75.371 through 75.372'' and in paragraph (e) introductory text by removing ''45 CFR part 92'' and adding in its place ''45 CFR part 75''.

§ 1357.40 [Amended]

■ 285. In § 1357.40, amend paragraph (d)(5)(i) by removing ''45 CFR 92.43 and 92.44'' and adding in its place ''45 CFR 75.371 through 75.372'' and amend paragraph (d)(5)(ii) introductory text by removing ''45 CFR part 92'' and adding in its place ''45 CFR part 75''.

[FR Doc. 2015–32101 Filed 1–19–16; 8:45 am]

BILLING CODE 4150–24–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 151120999–5999–01]

RIN 0648–XE328

Endangered and Threatened Wildlife and Plants; Final Listing Determinations on Proposal To List the Banggai Cardinalfish and Harrisson's Dogfish Under the Endangered Species Act

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

ACTION: Final rule.

SUMMARY: In response to a petition, we, NMFS, issue a final rule to list the Banggai cardinalfish (*Pterapogon kauderni*) as a threatened species under the Endangered Species Act (ESA). We have also determined that the proposed listing of Harrisson's dogfish shark (*Centrophorus harrissoni*) as a threatened species is not warranted at this time. We will not designate critical habitat for Banggai cardinalfish because the geographical areas occupied by this species are entirely outside U.S. jurisdiction, and we have not identified any unoccupied areas within U.S. jurisdiction that are currently essential to the conservation of this species.

DATES: This final rule is effective February 19, 2016.

ADDRESSES: Chief, Endangered Species Division, NMFS Office of Protected Resources (F/PR3), 1315 East West Highway, Silver Spring, MD 20910, USA.

FOR FURTHER INFORMATION CONTACT: Therese Conant or Maggie Miller, NMFS, Office of Protected Resources, (301) 427–8403.

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2013, we received a petition from WildEarth Guardians to list 81 marine species as threatened or endangered under the Endangered Species Act (ESA). We found that the petitioned actions may be warranted for 27 of the 81 species and announced the initiation of status reviews for each of the 27 species (78 FR 63941, October 25, 2013; 78 FR 66675, November 6, 2013; 78 FR 69376, November 19, 2013; 79 FR 9880, February 21, 2014; and 79 FR 10104, February 24, 2014). On December 16, 2014, we published a proposed rule to list the dusky sea snake (*Aipysurus fuscus*) and three foreign corals (*Cantharellus noumeae, Siderastrea glynni,* and *Tubastraea floreana*) as endangered species, and we proposed to list the Banggai cardinalfish (*Pterapogon kauderni*) and Harrisson's dogfish (*Centrophorus harrissoni*) as threatened species (79 FR74953). We requested public comment on information in the status reviews and proposed rule through February 17, 2015. This final rule provides a discussion of the information we received during the public comment period and our final determination on the petition to list the Banggai cardinalfish (*Pterapogon kauderni*) and Harrisson's dogfish (*Centrophorus harrissoni*) under the ESA. Our final determinations for the other species proposed for listing in the December 16, 2014, proposed rule (dusky sea snake and three foreign corals) were made in a prior rule (80 FR 60560). The status of the findings and relevant **Federal Register** notices for those and the other 21 species can be found on our Web site at *http://www.nmfs.noaa.gov/pr/species/petition81.htm.*

We are responsible for determining whether species are threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*). To make this determination, we consider first whether a group of organisms constitutes a ''species'' under the ESA, then whether the status of the species qualifies it for listing as either threatened or endangered. Section 3 of the ESA defines a ''species'' to include ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.''

Section 3 of the ESA defines an endangered species as ''any species which is in danger of extinction throughout all or a significant portion of its range'' and a threatened species as one ''which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' We interpret an ''endangered species'' to be one that is presently in danger of extinction. A ''threatened species,'' on the other hand, is not presently in danger of extinction, but is likely to become so in the foreseeable future (that is, at a later time). In other words, the primary statutory difference between a threatened and an endangered species is the timing of when a species may be in danger of extinction, either presently (endangered) or in the foreseeable future (threatened).

When we consider whether a species might qualify as threatened under the ESA, we must consider the meaning of the term ''foreseeable future.'' It is appropriate to interpret ''foreseeable future'' as the horizon over which predictions about the conservation status of the species can be reasonably relied upon. The foreseeable future considers the life history of the species, habitat characteristics, availability of data, particular threats, ability to predict threats, and the reliability to forecast the effects of these threats and future events on the status of the species under consideration. Because a species may be susceptible to a variety of threats for which different data are available, or which operate across different time scales, the foreseeable future is not necessarily reducible to a particular number of years.

Section 4(a)(1) of the ESA requires us to determine whether any species is endangered or threatened due to any one or a combination of the following five threat factors: The present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence. We are also required to make listing determinations based solely on the best scientific and commercial data available, after conducting a review of the species' status and after taking into

account efforts being made by any state or foreign nation to protect the species.

In making a listing determination, we first determine whether a petitioned species meets the ESA definition of a ''species.'' Next, using the best available information gathered during the status review for the species, we complete a status and extinction risk assessment. In assessing extinction risk for these two species, we consider the demographic viability factors developed by McElhany *et al.* (2000) and the risk matrix approach developed by Wainwright and Kope (1999) to organize and summarize extinction risk considerations. The approach of considering demographic risk factors to help frame the consideration of extinction risk has been used in many of our status reviews, including for Pacific salmonids, Pacific hake, walleye pollock, Pacific cod, Puget Sound rockfishes, Pacific herring, scalloped hammerhead sharks, and black abalone (see *http://www.nmfs.noaa.gov/pr/species/* for links to these reviews). In this approach, the collective condition of individual populations is considered at the species level according to four demographic viability factors: Abundance, growth rate/productivity, spatial structure/connectivity, and diversity. These viability factors reflect concepts that are well-founded in conservation biology and that individually and collectively provide strong indicators of extinction risk.

We then assess efforts being made to protect the species, to determine if these conservation efforts are adequate to mitigate the existing threats. Section 4(b)(1)(A) of the ESA requires the Secretary, when making a listing determination for a species, to take into consideration those efforts, if any, being made by any State or foreign nation to protect the species.

Summary of Comments

In the solicitation for information from the public on the proposed rule, we received information and/or comments on the Banggai cardinalfish and Harrisson's dogfish proposals from 13 parties. These comments are broken out by species and summarized below.

Banggai Cardinalfish

Twelve commenters submitted information and/or commented on the proposed listing of the Banggai cardinalfish.

Comment 1: One commenter felt that instead of listing under the ESA, the Banggai cardinalfish would derive a greater benefit if we would engage in direct talks and support for Indonesia's internal efforts to conserve the species. The commenter also felt that continued efforts to list the species under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) should be undertaken.

Response: We were petitioned to list the Banggai cardinalfish and found that the petitioned action may be warranted for the species (see Background). Thus, we are required to review the best available scientific and commercial data to determine whether the species is threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*). We agree that Indonesia's efforts to conserve and protect the Banggai cardinalfish are essential to the long-term viability of the species and should be supported. The ESA recognizes the international instruments, including CITES, to conserve and protect various species. Further, the ESA calls for a suite of engagements to enhance international cooperation with foreign nations where listed species occur. Through the ESA, we are encouraged to work with foreign countries to enter into bilateral or multilateral agreements to provide for conservation of species. Regarding CITES, in 2007, due to overharvest concerns, the Banggai cardinalfish was proposed to be listed under CITES Appendix II. Appendix II includes species that are vulnerable to overexploitation, but not at risk of extinction under CITES criteria; trade must be regulated to avoid exploitation rates that are incompatible with species survival. Indonesia did not support the proposal and it was withdrawn. The next Conference of the Parties (COP) will be held in 2016. The United States has not determined which species it will propose for listing at the next COP. The United States has a public process to determine which species it will propose.

Comment 2: One commenter stated that requiring the aquarium trade to only buy captive-bred or maricultured specimens through a section 4(d) protective regulation would not control commercial trade in wild-caught fish because there is no way to discern a captive-bred or maricultured specimen from a wild-harvested one.

Response: We agree that identifying a captive-bred from a wild-harvested fish would be difficult. We have not decided which, if any, of the section 9 prohibitions to apply to the Banggai cardinalfish. We intend to announce an advance notice of proposed rulemaking to solicit public comment and information on any section 4(d) protective regulation, if proposed, for the Banggai cardinalfish.

Comment 3: Many commenters felt that the data do not support a listing under the ESA. Rather, they stated that the Banggai cardinalfish should be listed as a species of concern. They recommended continued data collection on population trends and structure, stratified by habitat in both the historical and introduced ranges, establishment of a sampling regime to quantify habitat trends in abundance and quality, studies of the Banggai cardinalfish's use of alternative microhabitats, and consultations with the Republic of Indonesia on current and future management plans for wild harvest and captive propagation. One commenter felt the population abundance transect surveys need to be standardized, given the species' patchy distribution and variable density. They felt this was necessary for future evaluations on the species' population status and trends. However, they agreed with the overall conclusion that abundance has declined due to unsustainable harvest in the early years. One commenter recommended we extend the period to make a final determination, citing a lack of data to support the proposed listing and the need to solicit additional data.

Response: We disagree that the data are insufficient to make a listing determination. Data exist on the Banggai cardinalfish's biology, population structure, abundance, trends, habitat use and threats that were reported in the proposed rule and the status review. We agree that standardized surveys across years would be ideal. However, the existing data indicate an overall population decline, and decreases in population density are also evidenced by significant declines in the catch per unit effort. Prior to 2003, collectors from Bone Baru typically required one day to capture approximately 2,000 specimens. In 2007, they reported requiring one week to capture the same number. For Banggai Island, reported mean catch declined from about 1,000 fish/hour in 2000 to 25–330 fish/hour in 2004. Extirpations of populations within the Banggai cardinalfish's natural range have occurred. In particular, extirpation of local populations has been documented in areas with increased harvest of microhabitat, such as *Diadema* sea urchins and sea anemones, combined with fishing pressure on Banggai cardinalfish. Further fragmentation of an already small endemic population, which exhibits high genetic population substructuring, increases the extinction risk for the Banggai cardinalfish.

Comment 4: One commenter felt that the species' life history represents an adaptation of a small-bodied fish to its physical environment (*i.e.,* shallow

waters separated by deep channels with swift currents). They contend that its early maturity, low fecundity, and extended parental care are manifestations of a reproductive strategy in a physically limited environment. They state that situational cannibalism is further evidence of a behavior adapted to maintain abundance within the carrying capacity of its microhabitat-oriented habitat. Therefore, they do not concur with the assertion that these characteristics lower Banggai cardinalfish resilience.

Response: While we agree the Banggai cardinalfish life history characteristics are likely adaptive, we disagree that these traits do not render the species less resilient and vulnerable to threats. The Banggai cardinalfish lacks dispersal ability and exhibits high site fidelity, and new recruits stay within parental habitat. Thus, population discreteness is high and recolonization is unlikely once a local population is extirpated. Local populations off Liang Island, Peleng Island, and Masoni Island are reported extirpated, and interviews with local fishermen indicate extirpation of local populations throughout the Banggai Archipelago.

Comment 5: Several commenters provided information on their shift from purchasing wild-harvest to mariculture specimens, including from domestic facilities. Many commenters felt that directed harvest for the live marine ornamental reef fish trade no longer poses a significant threat to the Banggai cardinalfish.

Response: We appreciate the information submitted, as it supports the proposed rule's statement that Banggai cardinalfish exports for the ornamental live reef fish trade may be decreasing, although systematic data are lacking. We reported that the large-scale aquaculture facility based in Thailand and efforts to captive-breed the species in the United States may alleviate some of the pressure to collect fish from wild populations, but the degree to which aquaculture would affect harvest of wild populations is unknown. As we explain in more detail in the response to the next comment, the evidence shows that directed harvest for the live marine ornamental reef fish trade and harvest of microhabitat remain concerns.

Comment 6: One commenter felt that the improved harvest practices, development of significant aquaculture production, and Indonesian management initiatives undertaken since 2007 were not fully considered in the proposed rule.

Response: We disagree. All section 4(a)(1) factors that are found to pose an extinction risk to the Banggai cardinalfish, as well as ongoing conservation efforts and other mitigating factors, were considered in the proposed rule. In the proposed rule, we considered the improved harvest practices, the increasing aquaculture facilities, and the local management initiatives under these factors. If the species is endangered or threatened with extinction because of any one of the 4(a)(1) factors, then we must determine that listing is warranted. In our synthesis of the extinction risk to the Banggai cardinalfish, we stated that overutilization from direct harvest for the ornamental live reef fish trade has significantly impacted the Banggai cardinalfish and remains a concern. We further stated an increase in compliance with the Fish Quarantine regulations and improved trade practices have occurred in recent years, and we anticipated compliance and trade practices will likely continue to improve in the future, which may mitigate impacts through sustainable trade. However, since the proposed rule, interviews were held in March 2015 with Indonesian government officials and Banggai cardinalfish collectors. The interviews were conducted by Dr. Vagelli, New Jersey Academy for Aquatic Sciences, who served as a peer reviewer (Information Quality Act, Pub. L. 106–554) for the Banggai cardinalfish status review. The March 2015 report (Vagelli unpublished report 2015) is available upon request (see **FOR FURTHER INFORMATION CONTACT**). Indonesian officials and collectors reported that compliance with the Fish Quarantine regulations was largely voluntary and that improved trade practices had not been implemented (Vagelli unpublished report 2015). Thus, reports are conflicting on whether compliance and trade practices have improved and are likely to improve in the future. Participation in collection of Banggai cardinalfish for the live ornamental reef trade has dropped in recent years. Captive-bred facilities have recently started in the United States and Thailand and are anticipated to decrease the threat of directed harvest of the wild populations in the future, but the degree to which aquaculture would affect harvest of wild populations is unknown. Data also indicate that by 2007, harvest of microhabitat (sea urchins and sea anemones) had negatively impacted cardinalfish populations, and the harvest had increased by 2011, and will continue in the future, which negatively impacts Banggai cardinalfish and their ability to avoid predators. Overutilization from direct harvest for the ornamental live reef fish trade has significantly impacted the Banggai cardinalfish and remains a concern. Data from several sources reported an increase in compliance with the Fish Quarantine regulations and improved trade practices, but an updated survey in 2015 reported voluntary compliance and a lack of improved trade practices. For these reasons, we conclude that directed harvest for the live marine ornamental reef fish trade harvest and harvest of microhabitat remain concerns.

Comment 7: One commenter stated that the introduced populations in Palu Bay and Luwuk Harbor must be considered in the listing process.

Response: We considered these introduced populations. The introduced populations are an artifact of the commercial ornamental live reef trade and are not part of any conservation program to benefit the native populations. The introduced populations were introduced through the practice of high-grading (*i.e.,* discarding live specimens determined to be of low quality/non saleable) or escapement near trade centers for the ornamental live reef market. The introduced population at Lembeh Strait is considered invasive and may be impacting local diversity through interspecific competition for resources in the area, but specific data on ecological impacts are lacking. Because one of the purposes of the ESA is to provide a means whereby the ecosystems upon which endangered and threatened species depend may be conserved (16 U.S.C. 1531(b)), we consider a species' natural range to be biologically and ecologically important to the species' viability to persist in the face of threats. The introduced populations are outside of the Banggai cardinalfish's natural range and may not contribute to the species' ability to persist and therefore were not included in the analysis of the overall extinction risk to the species.

Comment 8: One commenter disagreed with the statement in the proposed rule that designation of critical habitat was not proposed for any of the species, including the Banggai cardinalfish, because critical habitat shall not be designated in foreign countries or other areas outside U.S. jurisdiction (50 CFR 424.12(h)). The commenter argued that we should construe areas under U.S. ''jurisdiction,'' as used in § 424.12(h), to include Taiwan and areas under U.S. military protection. The commenter cited multiple sections in U.S. Code Title 22, Foreign Relations and Intercourse, and referenced ''U.S. Navy

Okinawan Dugong litigation'' without citation.

Response: We found one line of cases involving the Department of Defense and the Okinawa dugong (*Ctr. for Biological Diversity* v. *Hagel,* 80 F. Supp. 3d 991 (N.D. Cal. 2015); *Okinawa Dugong* v. *Gates,* 543 F.Supp.2d 1082 (N.D. Cal. 2008); *Okinawa Dugong* v. *Rumsfeld,* No. 03–4350, 2005 WL 522106 (N.D. Cal. Mar. 2, 2005) (unpublished)). These cases interpret specific provisions of the National Historic Preservation Act, not the ESA, and have no bearing on interpretation or application of 50 CFR 424.12(h). We also note that the Banggai cardinalfish's natural historical and present range does not occur within the area mentioned by the commenter, and therefore, the question of critical habitat designation is irrelevant.

Harrisson's Dogfish

We received a single submission on the proposal to list Harrisson's dogfish from the Australian Government Department of the Environment. We briefly summarize their comments below and respond with references to our prior documents where relevant.

Comment 9: The proposal to list Harrisson's dogfish suggests that lower catches in recent years reflect a decreasing population. This conclusion appears not to have taken into account restrictive catch limits for Harrisson's dogfish in the last five years in the Southern and Eastern Scalefish and Shark Fishery (SESSF). Since 2010, a limit of 15 kg per day of Harrisson's dogfish has been implemented, which has contributed to reductions in catch rates by stopping targeted fishing and encouraging active avoidance of dogfish.

Response: The text in the proposed rule, to which this comment refers, states ''However, even before the prohibition, reported catch rates of Harrisson's dogfish in the SESSF have been minimal in recent years, likely due to the low abundance of the species on the continental margin where the fisheries operate.'' While we agree that the 2010 catch limit does, in part, contribute to the observed low catches of the species, we would like to point out that even before the 2010 catch limit, *C. harrissoni* catches were rare. According to Walker *et al.* (2009), annual catches of Harrisson's dogfish in the SESSF from 2000–2006 were <1 t. Catches of all gulper sharks (*C. harrissoni, C. moluccensis, C. zeehaani*) have also been decreasing since the mid-1990s (Georgeson *et al.* 2014). Given that Harrisson's dogfish's relative abundance on the upper-slope is estimated to have declined by over 99 percent between 1976–77 and 1996–97 (Graham *et al.* 2001), we find that the minimal catches of the species, even prior to 2010, are more likely a reflection of the low abundance and rarity of the species on the continental margin.

Comment 10: The proposal to list Harrisson's dogfish notes that there is potentially high at-vessel mortality of Harrisson's dogfish in auto-longline (ALL) gear and cites to Williams *et al.* (2013a). However, the proposal does not appear to have considered tagging studies, which indicate post-capture survival rates on ALL gear to be between 65 and 95 percent, potentially downgrading capture on longline to a lower risk method (Williams *et al.* 2013a).

Response: The Status Review Report (Miller 2014), upon which the proposed rule for Harrisson's dogfish was based, discusses the potential for high at-vessel mortality in ALL gear. Citing the Williams *et al.* (2013a) paper, Miller (2014) notes that mortality of Harrisson's dogfish after capture on ALL gear ranged from 4 percent (if estimates included only confirmed dead sharks immediately after capture) to as high as 73 percent (if estimates included sharks that swam away slowly after capture, indicating stress or shock, as potential mortalities). The comment above appears to refer to the estimates of post capture survival on ALL gear from tagging studies on a different gulper species, the Southern dogfish (*C. zeehaani*), as reported in Williams *et al.* (2013a) which further cited Williams *et al.* (2012). Based on detections from 70 tagged Southern dogfish, post-capture mortality rate was estimated to be low, around 3 to 16 percent (Williams *et al.* 2013a). However, as part of this tagging study, steps were taken to maximize survivorship (such as restricting soak times to 2–4 hours and careful de-hooking and handling of the sharks) that may not be followed during commercial fishing operations (Williams *et al.* 2012). In fact, Williams *et al.* (2012) notes that soak times of up to 13.45 hours are more common during normal commercial fishing operations. Given the methods taken to maximize survivorship, as well as the fact that the study focused on Southern dogfish, we find that the estimates reported in Williams *et al.* (2012; 2013a) and referred to by the commenters may not be an accurate representation of post-capture survivorship for Harrisson's dogfish on ALL gear. As such, we find no reason to change our initial characterization of risk from incidental capture on ALL gear.

Comment 11: Since the publication of the proposed rule, there has been a reduction in ALL effort in the SESSF, with one boat leaving the fishery. There are now only two dedicated longline boats remaining in the fishery, as opposed to the three vessels considered in the proposed listing. Both of the remaining vessels have now been fitted with electronic monitoring systems which are required to monitor all fishing operations. This allows assessment of dogfish handling practices, as well as evaluation of the effectiveness of the industry code of conduct.

Response: We appreciate the new information and have updated the status review accordingly. After review, we do not find that the removal of this single vessel from the fishery would significantly change the overall conclusions of the extinction risk analysis.

Status Reviews

Status reviews for the petitioned species addressed in this finding were conducted by NMFS staff. Separate draft status reviews were completed for the Banggai cardinalfish (Conant 2014) and Harrisson's dogfish (Miller 2014). In order to complete the status reviews, we compiled information on the species' biology, ecology, life history, threats, and conservation status from information contained in the petition, our files, a comprehensive literature search, and consultation with experts. We also considered information submitted by the public and peer reviewers. Prior to publication of the proposed rule, all status reviews were subjected to peer review. Peer reviewer comments are available at *http://www.cio.noaa.gov/services_programs/prplans/PRsummaries.html.*

The status review reports provide a thorough discussion of life history, demographic risks and threats to the particular species. We considered all identified threats, both individually and cumulatively, to determine whether the species responds in a way that causes actual impacts at the species level. The collective condition of individual populations was also considered at the species level, according to the four demographic viability factors discussed above.

The proposed rule (79 FR 74953, December 16, 2014) summarizes general background information on the natural history, range, reproduction, population structure, distribution and abundance of the Banggai cardinalfish and Harrisson's dogfish. All of that information is incorporated herein by reference. In addition, an update on the Banggai

cardinalfish population abundance and conservation efforts (Vagelli unpublished report 2015) is available upon request (see **FOR FURTHER INFORMATION CONTACT**).

Species Determinations

Based on the best available scientific and commercial information described above and in the status review reports, we have determined that the Banggai cardinalfish (*Pterapogon kauderni*) and Harrisson's dogfish (*Centrophorus harrissoni*) are taxonomically-distinct species and therefore meet the definition of ''species'' pursuant to section 3 of the ESA and are eligible for listing under the ESA.

Summary of Threat Factors Affecting the Two Species

Next we considered whether any one or a combination of the five threat factors specified in section 4(a)(1) of the ESA contribute to the extinction risk of these species. For Harrisson's dogfish, none of the information we received from public comment on the proposed rule affected our discussion or conclusions regarding any of the section 4(a)(1) factors or their interactions, so we incorporate the discussion of these factors from the proposed rule (79 FR 74953, December 16, 2014) by reference herein. For the Banggai cardinalfish, the report received from the peer review on the Banggai cardinalfish status review indicated that compliance with the Fish Quarantine regulations was largely voluntary and that improved trade practices had not been implemented (Vagelli unpublished report 2015). Thus, we are less certain that compliance and trade practices will improve in the future under the ''inadequacy of existing regulatory mechanisms'' threat factor.

Extinction Risk

None of the information we received from public comment on the proposed rule affected our extinction risk evaluation of Harrisson's dogfish. As such, our evaluation remains the same as in the original status review report and the discussion in the proposed rule (79 FR 74953, December 16, 2014), and that discussion is incorporated herein by reference. For the Banggai cardinalfish, as stated above, the report received from the peer review on the Banggai cardinalfish status review indicated that compliance with the Fish Quarantine regulations was largely voluntary and that improved trade practices had not been implemented (Vagelli unpublished report 2015). Thus, we are less certain that compliance and trade practices will improve in the future. However, the updated information on the inadequacy of existing regulatory mechanisms did not result in a higher risk of extinction because we previously had considered that enforcement was weak, and illegal, unregulated, and unreported capture and trade were still a major problem in the extinction risk assessment (Conant 2014).

Conservation Efforts

Finally, we considered conservation efforts to protect each species and evaluated whether these conservation efforts are adequate to mitigate the existing threats to the point where extinction risk is significantly lowered and the species' status is improved. None of the information we received from public comment on the proposed rule affected any of our discussion or conclusions regarding conservation efforts to protect Banggai cardinalfish, so we incorporate the discussion of these efforts from the proposed rule (79 FR 74953, December 16, 2014) by reference herein.

For Harrisson's dogfish, we specifically requested information during the public comment process on the conservation efforts that were identified in the proposed rule (79 FR 74953; December 16, 2014) and their certainty of implementation and effectiveness. We received no comments or information on our conclusions regarding the effectiveness of the conservation efforts. As such, our discussion and conclusion from the proposed rule remains the same (and is incorporated herein by reference); namely, that the implemented conservation efforts are likely to improve the present status of the species by effectively decreasing the threat of overutilization by fisheries in the near term to the point where the species is no longer presently in danger of extinction.

We did receive information on the other aspect of our evaluation of conservation efforts, namely, the certainty of implementation of these conservation efforts. Specifically, we received information from the Australian Government, the organization in charge of implementing the conservation efforts. This information, as well as additional information collected during the comment period and our analysis of this new information, is discussed below.

Certainty of Implementation of Conservation Efforts to Protect Harrisson's Dogfish

In the proposed rule (79 FR 74954), we concluded that the regulatory measures from the Upper-Slope Dogfish Management Strategy (the ''Strategy''; see AFMA, 2012), which the Australian Fisheries Management Authority (AFMA) implemented for the conservation of the species, were likely to be effective in improving the present status of the species. However, we also noted in the proposed rule that the certainty of the conservation efforts remaining in place after 5 years could not be predicted at this time. As such, we concluded that the time frame over which the conservation efforts would certainly be in place was insufficient to increase the species' chances of survival or prevent its extinction through the foreseeable future.

Our conclusion was primarily based on our understanding that the legal instrument (*i.e.,* the ''SESSF Fishery Closures Direction No. 1 2013'') used to implement the conservation efforts within the Strategy expires in 5 years, with no certainty of implementation of conservation efforts past this point in time. Additionally, we interpreted the listing of the species as ''conservation dependent'' under Australia's Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) to mean that it is not afforded protection by the EPBC Act because it is not considered to be a ''matter of national significance.'' However, upon review of the information received from the Australian Government, as well as information we collected during the comment period, briefly discussed below, we now have a high degree of certainty that conservation efforts will continue to be implemented beyond a 5-year period.

In Australia, Commonwealth fisheries are managed by AFMA, which is governed by the legislative objectives in Australia's Fisheries Management Act 1991 (FM Act). One of AFMA's main legislative objectives under the FM Act is ''Ensuring that the exploitation of fisheries resources and the carrying on of any related activities are conducted in a manner consistent with the principles of ecologically sustainable development (which include the exercise of the precautionary principle), in particular the need to have regard to the impact of fishing activities on non-target species and the long-term sustainability of the marine environment'' (FM Act subsection 3(1)(b)). In addition, AFMA also has the objective of ''Ensuring, through proper conservation and management measures, that the living resources of the AFZ [Australian Fishing Zone] are not endangered by over-exploitation'' (FM Act subsection 3(2)(a)).

In 1999, the EPBC Act was passed and is considered to be the key legislation for conserving the biodiversity of Australian ecosystems and protecting the natural environments that support these ecosystems. Broadly, the EPBC Act requires that fishing actions do not have a significant impact on the Commonwealth marine environment, including protected species or ecological communities. Objectives of the EPBC Act include providing for the protection of the environment, especially matters of national environmental significance (which includes Commonwealth marine areas), conserving Australian biodiversity, and promoting ecologically sustainable development through the conservation and ecologically sustainable use of natural resources.

Part of AFMA's obligations under the EPBC Act is the requirement to prepare strategic assessment reports for all Commonwealth fisheries, particularly those with an export component. These reports are prepared to address the Australian Government's *Guidelines for the Ecologically Sustainable Management of Fisheries*—2nd Edition, which specifies principles and objectives designed to ensure a strategic and transparent way of evaluating the ecological sustainability of fishery management measures. These reports also provide updates on the implementation of conditions and recommendations from the previous assessments of the fishery. These reports are then submitted to and assessed by Australia's Department of Environment for accreditation. The Department of the Environment ultimately evaluates the environmental performance of fisheries, including: The strategic assessment of fisheries under Part 10 of the EPBC Act; assessments relating to impacts on protected marine species under Part 13 of the EPBC Act; and assessments for the purpose of export approval under Part 13A of the EPBC Act.

This accreditation process is extremely important for the SESSF. As noted in the proposed rule, Harrisson's dogfish are primarily caught as bycatch by the SESSF, which operates over an extensive area of the AFZ around eastern, southern, and southwestern Australia. In fact, the management area covers almost half of the AFZ (Georgeson *et al.* 2014). In 2012–2013, the SESSF was the largest commonwealth fishery in terms of production value, and also the most valuable, with a gross value of production (GVP) of $91.8 million (28 percent of the total GVP for Commonwealth fisheries) (Georgeson *et al.* 2014). As such, ensuring that the SESSF is managed in an ecologically sustainable way so that commercial export of Australian native wildlife from this fishery may continue appears to be a priority for the Australian Government.

The most recent assessment of the SESSF occurred in 2013, before the EPBC Act listing of Harrisson's dogfish. However, in recognition of the decline in Harrisson's dogfish and the potential impacts that continued SESSF operations may have on the shark, the Department of Environment recommended that the accreditation be subject to a number of conditions that must be addressed by AFMA within the period of the approved wildlife trade operation declaration for the fishery. For Harrisson's dogfish, these conditions were: (1) Implement long-term management measures, including fisheries closures and other actions, that are clearly directed towards stopping the decline and supporting the recovery of Harrisson's dogfish and southern dogfish, and (2) continue, in consultation with relevant experts, to monitor and review the adequacy of management measures designed to stop the decline and support the recovery of Harrisson's dogfish and southern dogfish (Department of Environment 2013). On February 25, 2013, Australia's Minister for the Environment officially declared the harvest operations of the SESSF an approved wildlife trade operation but subject to a number of conditions, including the ones concerning Harrisson's dogfish stated above (Commonwealth of Australia Gazette S 30; 25 February 2013). This approval is valid until February 25, 2016, at which point the SESSF will have to be re-assessed to ensure the sustainability of the fishery, including AFMA's progress on meeting the conditions from the approval declaration.

The state-managed New South Wales Ocean, Trap, and Line Fishery (OTLF) and Ocean Trawl Fishery (OTF) also potentially bycatch Harrisson's dogfish and were assessed in March and May 2014, respectively, after Harrisson's dogfish was listed as conservation dependent under the EPBC Act. Similar to the conditions set forth for the SESSF accreditation, the OTLF and OTF are also subject to conditions for protecting Harrisson's dogfish. Specifically, the New South Wales Department of Primary Industries, in consultation with AFMA, must: (1) Maintain long-term management measures that are clearly directed towards stopping the decline and supporting the recovery of Harrisson's dogfish and southern dogfish, and (2) continue, in consultation with relevant experts, to monitor and review the adequacy of management measures designed to stop the decline and support the recovery of Harrisson's dogfish and southern dogfish (Commonwealth of Australia Gazette C2014G00735; 8 May 2014 (OTLF); C2014G01029; 20 June 2014 (OTF)). These approvals are valid for 3 years, after which, again, the fisheries must be re-assessed to ensure ecological sustainability. If any of these fisheries fail to follow the conditions set forth in the wildlife trade operation declaration, then they would be prohibited from exporting products derived from the fishery, essentially shutting down the fishery operations.

To meet the approval conditions and satisfy the management requirements for a conservation dependent listing under the EPBC Act (TSSC 2013), AFMA identified and implemented fishery management measures in the Strategy that were deemed necessary to stop the decline of, and support the recovery of, the species so that its chances of long term survival in nature are maximized. In the proposed rule, we determined that these conservation efforts would be effective at preventing the extinction of Harrisson's dogfish (see 79 FR 74954, discussion of Harrisson's Dogfish Protective Efforts). These measures have ultimately been given legal effect through legislative instruments under the FM Act, including the Fishery Closure Direction (''SESSF Fishery Closures Direction No. 1 2013''). Although the current closure direction will expire in 5 years (which is the longest time period that closure directions are in effect; G. Day, AFMA, personal communication 2014), the objectives of and requirements under the FM Act and the EPBC Act (as stated above) compel ongoing management measures to be implemented to protect Harrisson's dogfish from extinction through the foreseeable future.

To assist with these ongoing conservation efforts, AFMA published the ''Upper-Slope Dogfish Management Strategy Research and Monitoring Workplan,'' (''Workplan''; AFMA 2014) which uses the principles of adaptive management to assess the effectiveness of the Strategy in stopping the decline of and promoting the rebuilding of Harrisson's dogfish. According to the Workplan, the scheduled periodic reviews of its outcomes ''provides for a feedback loop whereby arrangements in the Strategy can be adapted as necessary to meet developments in the fishery and the improved understanding of Harrisson's dogfish biology and stock structure'' (AFMA 2014). The Workplan also outlines explicit incremental

objectives for the conservation effort, steps needed to achieve the objectives, timeframes associated with the steps, as well as performance indicators, monitoring mechanisms and progress reporting on the implementation and evaluation of the success of the objectives.

Given the implementation of current conservation efforts, with a published Workplan that allows for the continued monitoring and reporting on the implementation and effectiveness of these conservation efforts, as well as legislative obligations that compel these efforts, we find there to be a high likelihood that management measures for the protection of Harrisson's dogfish will continue to be implemented through the foreseeable future. As noted by the Australian Government in their public submission, ''following the expiration of the current Closure Direction, management measures will be reviewed and subsequent spatial closure decisions or other conservation efforts will be implemented for the protection of Harrisson's Dogfish in light of the performance of the Strategy against its objectives and the objectives of the FM Act and EPBC Act.'' Based on the above, we have determined that the conservation efforts protecting Harrisson's dogfish from risk of extinction through the foreseeable future have a high certainty of being implemented.

In the proposed rule we also noted that the protection of the species is not required under the EPBC Act due to its conservation dependent status. However, as noted above, there are a number of legislative protections for Harrisson's dogfish. In addition, although the species is not directly characterized as a matter of national significance due to its conservation dependent status under the EPBC Act, the species is indirectly protected by the EPBC Act through the designation of Commonwealth Marine Areas as matters of national significance. Under this designation, an action that is likely to have a substantial adverse effect on a population of a marine species (such as Harrisson's dogfish), including its life cycle (for example, breeding, feeding, migration behavior, life expectancy) and spatial distribution, is considered to have a significant impact on the environment in a Commonwealth Marine Area and must be referred to Australia's Minister of the Environment and undergo an environmental assessment and approval process. This is an additional protection afforded to Harrisson's dogfish under the Australian Government's legal framework that was not considered in the proposed rule.

In light of the new information received and collected during the public comment period regarding Australia's legislative objectives, requirements, and actions, especially as they pertain to Harrisson's dogfish, we no longer find that the timeframe over which conservation efforts will certainly be in place is insufficient to increase the species' chances of survival or prevent its extinction through the foreseeable future. Rather, we now have a high degree of certainty that conservation efforts to protect the species from further decline (and with the primary objective of rebuilding) will continue to be implemented after 5 years and through the foreseeable future, effectively mitigating existing threats to the species and improving the status of the species to the point where extinction is unlikely now or in the foreseeable future.

Final Determination

We have reviewed the best available scientific and commercial information, including the petition, the information in the status review reports, public comments, and the comments of peer reviewers. Based on the information presented, we find that the Banggai cardinalfish (*Pterapogon kauderni*) is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. We assessed the ESA section 4(a)(1) factors and demographic risk factors and conclude that habitat destruction and overutilization affect Banggai cardinalfish. After considering efforts being made to protect Banggai cardinalfish, we could not conclude that the proposed conservation efforts would alter the extinction risk for the species. Therefore, we are listing the Banggai cardinalfish as threatened under the ESA.

Based on the information presented, we find that Harrisson's dogfish is not in danger of extinction, or likely to become so in the foreseeable future, throughout all or a significant portion of its range. We assessed the ESA section 4(a)(1) factors and demographic risk factors and conclude that Harrisson's dogfish faces threats from overutilization, with the species' natural biological vulnerability to overexploitation and demographic risks exacerbating the severity of the threats. However, we also conclude that ongoing conservation efforts implemented by the Australian Government are currently effective in decreasing this main threat of overutilization to the point where the species is not presently in danger of extinction. In addition, we conclude that these conservation efforts are sufficiently certain to be implemented and effective over a timeframe necessary to stop the decline of, and support recovery of, the species so that its chances of long term survival in nature are maximized, thereby making it unlikely that the species will become in danger of extinction in the foreseeable future. Therefore, we find that listing Harrisson's dogfish as an endangered or threatened species under the ESA is not warranted at this time.

We will continue to monitor the status of Harrisson's dogfish and if, at any time, data indicate that protective status under the ESA may be necessary and should be considered again, including information that the implementation of necessary conservation efforts has ceased, or if we become aware of noncompliance issues with the conservation measures, or if there are new or increasing threats, we can initiate listing procedures, including, if appropriate, emergency listing pursuant to section 4(b)(7) of the ESA.

Effects of Listing

Conservation measures provided for species listed as endangered or threatened under the ESA include recovery actions (16 U.S.C. 1533(f)); concurrent designation of critical habitat, if prudent and determinable (16 U.S.C. 1533(a)(3)(A)); Federal agency requirements to consult with NMFS under section 7 of the ESA to ensure their actions do not jeopardize the species or result in adverse modification or destruction of critical habitat should it be designated (16 U.S.C. 1536); and prohibitions on taking (16 U.S.C. 1538). Recognition of the species' plight through listing promotes conservation actions by Federal and state agencies, foreign entities, private groups, and individuals.

Identifying Section 7 Consultation Requirements

Section 7(a)(2) (16 U.S.C. 1536(a)(2)) of the ESA and NMFS/USFWS regulations require Federal agencies to consult with us to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species or destroy or adversely modify critical habitat. It is unlikely that the listing of the Banggai cardinalfish under the ESA will increase the number of section 7 consultations, because this species occurs outside of the United States and is unlikely to be affected by Federal actions.

Critical Habitat

Critical habitat is defined in section 3 of the ESA (16 U.S.C. 1532(5)) as: (1)

The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the ESA, on which are found those physical or biological features (a) essential to the conservation of the species and (b) that may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by a species at the time it is listed upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the ESA is no longer necessary (16 U.S.C. 1532(3)). Section 4(a)(3)(A) of the ESA (16 U.S.C. 1533(a)(3)(A)) requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. However, critical habitat shall not be designated in foreign countries or other areas outside U.S. jurisdiction (50 CFR 424.12 (h)).

The best available scientific and commercial data as discussed above identify the geographical areas occupied by *Pterapogon kauderni* as being entirely outside U.S. jurisdiction, so we cannot designate critical habitat for this species. We can designate critical habitat in areas in the United States currently unoccupied by the species, if the area(s) are determined by the Secretary to be essential for the conservation of the species. Based on the best available information, we have not identified unoccupied area(s) in U.S. waters that are currently essential to the conservation of the Banggai cardinalfish. Therefore, based on the available information, we will not designate critical habitat for *Pterapogon kauderni*.

Protective Regulations Under Section 4(d) of the ESA

Section 9 of the ESA prohibits the take of endangered species. The term ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1532(19)). In the case of threatened species, ESA section 4(d) leaves it to the Secretary's discretion whether, and to what extent, to extend the section 9(a) ''take'' prohibitions to the species, and authorizes us to issue regulations necessary and advisable for the conservation of the species. Thus, we have flexibility under section 4(d) to tailor protective regulations, taking into account the effectiveness of available conservation measures. The 4(d) protective regulations may prohibit, with respect to threatened species, some or all of the acts which section 9(a) of the ESA prohibits with respect to endangered species. These section 9(a) prohibitions apply to all individuals, organizations, and agencies subject to U.S. jurisdiction. We will consider potential protective regulations pursuant to section 4(d) for the Banggai cardinalfish in a future rulemaking.

References

Vagelli, A.A. 2015. Update on populations' condition of the Banggai cardinalfish *Pterapogon kauderni.* Unpublished report. 17 pages.

A complete list of the references used in this proposed rule is available upon request (see **ADDRESSES**).

Classification

National Environmental Policy Act

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus,* 675 F. 2d 825 (6th Cir. 1981), NMFS has concluded that ESA listing actions are not subject to the environmental assessment requirements of the National Environmental Policy Act (NEPA) (See NOAA Administrative Order 216–6).

Executive Order 12866, Regulatory Flexibility Act, and Paperwork Reduction Act

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of a species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act are not applicable to the listing process. In addition, this final rule is exempt from review under Executive Order 12866. This final rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

Executive Order 13132, Federalism

In accordance with E.O. 13132, we determined that this final rule does not have significant Federalism effects and therefore a Federalism assessment is not required.

List of Subjects in 50 CFR Part 223

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: January 7, 2016.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 223 is amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.;* 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 2. In § 223.102, amend the table in paragraph (e) by adding the entry ''Cardinalfish, Banggai'' in alphabetical order under the subheading ''Fishes'' to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(e) * * *

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
*	*	*	*	*	*
Fishes					

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
*	*	*	*	*	*
Cardinalfish, Banggai	*Pterapogon kauderni*	Entire species	January 20, 2016 [Insert **Federal Register** citation].	NA	NA.
*	*	*	*	*	*

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

* * * * *

[FR Doc. 2016–00943 Filed 1–19–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100812345–2142–03]

RIN 0648–XE397

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2015 Commercial Accountability Measure and Closure for South Atlantic Greater Amberjack

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for commercial greater amberjack in the exclusive economic zone (EEZ) of the South Atlantic. NMFS projects commercial landings of greater amberjack will reach the commercial annual catch limit (ACL) (equivalent to the commercial quota) by January 21, 2016. Therefore, NMFS closes the commercial sector for greater amberjack in the South Atlantic EEZ on January 21, 2016, and it will remain closed until the start of the next fishing year on March 1, 2016. This closure is necessary to protect the greater amberjack resource.

DATES: This rule is effective 12:01 a.m., local time, January 21, 2016, until 12:01 a.m., local time, March 1, 2016.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes greater amberjack and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial quota (equivalent to the commercial ACL) for greater amberjack in the South Atlantic is 769,388 lb (348,989 kg), gutted weight, as specified in 50 CFR 622.190(a)(3).

Under 50 CFR 622.193(k)(1), NMFS is required to close the commercial sector for greater amberjack when the commercial quota (commercial ACL) is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS projects that commercial landings of South Atlantic greater amberjack will reach the commercial ACL by January 21, 2016. Accordingly, the commercial sector for South Atlantic greater amberjack is closed effective 12:01 a.m., local time, January 21, 2016, until 12:01 a.m., local time, March 1, 2016.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper with greater amberjack on board must have landed and bartered, traded, or sold such greater amberjack prior to 12:01 a.m., local time, January 21, 2016. During the commercial closure, harvest and possession of greater amberjack in or from the South Atlantic EEZ is limited to the bag and possession limits, as specified in § 622.187(b)(1) and (c)(1). Also during the commercial closure, the sale or purchase of greater amberjack taken from the South Atlantic EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of greater amberjack that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, January 21, 2016, and were held in cold storage by a dealer or processor, as specified in § 622.190(c)(1)(i).

For a person on board a vessel for which a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the bag and possession limits and the sale and purchase provisions of the commercial closure for greater amberjack would apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.190(c)(1)(ii).

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of greater amberjack and the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(k)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act, because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this action to close the commercial sector for greater amberjack constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect greater amberjack since the capacity of the fishing fleet allows for rapid harvest of the commercial ACL (commercial quota). Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL (commercial quota).

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: January 13, 2016.

Emily H. Menashes,

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

[FR Doc. 2016–00907 Filed 1–15–16; 11:15 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 12
Wednesday, January 20, 2016

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2015–0073]

RIN 0579–AE18

Importation of Fresh Apple and Pear Fruit Into the Continental United States From Certain Countries in the European Union

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations to allow the importation of fresh apple and pear fruit from certain countries in the European Union into the continental United States, provided that the fruit is produced in accordance with a systems approach, as an alternative to importation under the current preclearance program. The proposed systems approach for fresh apple and pear fruit consists of production site and packinghouse registration, inspection of registered production sites twice a season, production site pest control and sanitation, post-harvest safeguards, fruit culling, traceback, sampling, cold treatment against Mediterranean fruit fly in countries where the pest is known to occur, a phytosanitary certificate, port of entry inspection, and importation as commercial consignments only. Fresh apple and pear fruit that does not meet the requirements in the systems approach would continue to be allowed to be imported into the United States subject to the conditions of the preclearance program. This action would provide an alternative for the importation of fresh apple and pear fruit from certain countries in the European Union while continuing to provide protection against the introduction of plant pests into the continental United States.

DATES: We will consider all comments that we receive on or before March 21, 2016.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0073.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2015–0073, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0073* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. David B. Lamb, Senior Regulatory Policy Specialist, USDA/APHIS/PPQ, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 851–2103; *David.B.Lamb@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–74, referred to below as the regulations or the fruits and vegetables regulations), the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

Currently, § 319.56–22 provides conditions for importation of fresh apple fruit (*Malus domestica* Borkh.) from Belgium, Denmark, France, Germany, Great Britain, Italy, the Netherlands, Northern Ireland, Norway, Portugal, the Republic of Ireland, Spain, Sweden, and Switzerland, and fresh pear fruit (*Pyrus communis* L.) from Belgium, France, Great Britain, Italy, the Netherlands, Portugal, and Spain, into the United States under a preclearance program. Conditions for importation of fresh apple and pear fruit from the above countries include a trust fund agreement between the national plant protection organization (NPPO) of the exporting country and APHIS; orchard and packinghouse inspections for *Leucoptera malifoliella* and other quarantine plant pests; approved mitigations for infested orchards; cold treatment of fruit against Mediterranean fruit fly (*Ceratitis capitata,* or Medfly) in countries where the pest is known to occur; identification of orchards and packinghouses for traceback of each consignment; packinghouse handling and safeguarding requirements for fruit intended for shipment to the United States; and preclearance inspection.

As an alternative to the preclearance program, the European Commission, the executive body of the European Union (EU), has requested that APHIS amend the regulations to allow the importation into the continental United States from certain EU countries of fresh apple and pear fruit that has been produced in accordance with an approved systems approach. Any alternative approach to the preclearance program for importing these articles requires that the current regulations be amended.

As part of our evaluation of the EU's request, we prepared a pest list [1] of quarantine pests that could follow the pathway of commercial shipments of fresh apple and pear fruit into the continental United States from the EU member countries included in the request. A quarantine pest is defined in § 319.56–2 as ''a pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled.'' The pest list reported 32 quarantine pests (26 arthropods, 1 bacterium, 4 fungi and 1 viroid) that may follow the pathway of commercial shipments of apples and pears into the continental United States. They are:

Arthropods:
Adoxophyes orana (Fischer von Röeslerstamm) (Lepidoptera: Tortricidae)
Aphanostigma piri (Cholodkovsky) (Hemiptera: Phylloxeridae)

[1] ''Pest List for Importation of Fresh Fruit of Apple, *Malus domestica,* and Pear, *Pyrus communis,* into the Continental United States from eight countries in the European Union (Belgium, Germany, France, Italy, Poland, Portugal, Spain, the Netherlands)'' (USDA, 2014).

Archips podana (Scopoli) (Lepidoptera: Tortricidae)
Argyrotaenia pulchellana (Haworth) (Lepidoptera: Tortricidae)
Ceratitis capitata (Wiedemann) (Diptera: Tephritidae)
Ceroplastes japonicus Green (Hemiptera: Coccidae)
Choristoneura hebenstreitella (Muller) (Lepidoptera: Tortricidae)
Cryptoblabes gnidiella (Milliere) (Lepidoptera: Pyralidae)
Cydia pyrivora (Danilevsky) (Lepidoptera: Tortricidae)
Diloba caeruleocephala (L.) (Lepidoptera: Noctuidae)
Eutetranychus orientalis (Klein) (Acari: Tetranychidae)
Euzophera bigella (Zeller) (Lepidoptera: Pyralidae)
Grapholita funebrana Treitschke (Lepidoptera: Tortricidae)
Grapholita lobarzewskii (Nowicki) (Lepidoptera: Tortricidae)
Hedya pruniana (Hubner) (Lepidoptera: Tortricidae)
Lacanobia oleracea L. (Lepidoptera: Noctuidae)
Leucoptera malifoliella (Costa) (Lepidoptera: Lyonetiidae)
Lobesia botrana Dennis & Schiffermuller (Lepidoptera: Tortricidae)
Mamestra brassicae L. (Lepidoptera: Noctuidae)
Pammene rhediella (Clerck) (Lepidoptera: Tortricidae)
Pandemis cerasana (Hubner) (Lepidoptera: Tortricidae)
Pandemis heparana (Denis & Schiffermuller) (Lepidoptera: Tortricidae)
Rhynchites aequatus (L.) (Coleoptera: Curculionidae)
Rhynchites auratus (Scopoli) (Coleoptera: Curculionidae)
Rhynchites bacchus (L.) (Coleoptera: Curculionidae)
Syndemis musculana (Hubner) (Lepidoptera: Tortricidae)
Bacteria:
Erwinia pyrifoliae Kim et al.
Fungi:
Alternaria gaisen Nagano (Ascomycetes: Pleosporales)
Ascochyta pyricola Sacc. (Ascomycetes: Pleosporales)
Monilinia fructigena Honey ex Whetzel (Ascomycetes: Helotiales)
Monilinia polystroma (G.C.M. Leeuwen) Kohn (Ascomycetes: Helotiales)
Viroid:
Pear blister canker viroid (PBCVd) [2]

We prepared a risk management document (RMD) to determine what phytosanitary measures should be applied to mitigate the pest risk associated with the importation of fresh apple and pear fruit from certain EU member countries into the continental United States. Copies of the pest list and RMD may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site (see **ADDRESSES** above for a link to Regulations.gov and information on the location and hours of the reading room).

In the RMD, entitled, ''Importation of Fresh Fruit of Apple, *Malus domestica,* and Pear, *Pyrus communis,* into the Continental United States from eight countries in the European Union (Belgium, Germany, France, Italy, Poland, Portugal, Spain, the Netherlands),'' (July 2015), we determined that phytosanitary measures could be applied as a systems approach to mitigate the risks of introducing or disseminating the quarantine pests in the pest list into the continental United States. Therefore, we are proposing to allow the importation of fresh apple and pear fruit from the EU countries of Belgium, Germany, France, Italy, Poland, Portugal, Spain, and the Netherlands into the continental United States if the fruit is produced under the systems approach described below. Fresh apple and pear fruit that does not meet the conditions of the systems approach would still be allowed to be imported into the continental United States if it is produced in accordance with the requirements of § 319.56–22. Fruit imported under § 319.56–22 would still be required to be in commercial consignments and accompanied by documentation to validate foreign site preclearance inspection after the required treatment is completed.

We have determined that the specific mitigation measures proposed for the quarantine pests identified in the pest list, along with the general requirements for the importation of fruits and vegetables in the regulations, will be sufficient to prevent the introduction of quarantine pests into the continental United States via importation of fresh apple and pear fruit from the EU countries listed above. Therefore, we are proposing to add the systems approach to the regulations in a new § 319.56–75.

General Requirements

Paragraph (a) of proposed § 319.56–75 would set out general requirements for the NPPO of the exporting country and for growers and packers producing fresh apple and pear fruit for export to the continental United States.

Paragraph (a)(1) of proposed § 319.56–75 would require the NPPO of the exporting country to develop an operational workplan, subject to APHIS approval, that details the activities that the NPPO would carry out to meet the requirements of proposed § 319.56–75. An operational workplan is an agreement developed between APHIS' Plant Protection and Quarantine program, officials of the NPPO of a foreign government, and, when necessary, foreign commercial entities, that specifies in detail the phytosanitary measures that will be carried out to comply with our regulations governing the importation of a specific commodity. Operational workplans apply only to the signatory parties and establish detailed procedures and guidance for the day-to-day operations of specific import/export programs. Operational workplans also establish how specific phytosanitary issues are dealt with in the exporting country and make clear who is responsible for dealing with those issues. The implementation of a systems approach typically requires an operational workplan to be developed. The operational workplan may include, but is not limited to, details of the orchard monitoring, pest action thresholds, orchard phytosanitary measures including removing fallen fruit, packinghouse inspection procedures, and traceback requirements.

Paragraph (a)(2) of proposed § 319.56–75 would state that only commercial consignments of fresh apple and pear fruit from certain EU countries would be allowed to be imported into the continental United States. Commercial consignments, as defined in § 319.56–2, are consignments that an inspector identifies as having been imported for sale and distribution. Such identification is based on a variety of indicators, including, but not limited to: Quantity of produce, type of packaging, identification of grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer. Commercial consignments are less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestations because the commodity is often ripe to overripe, may be of a variety with unknown susceptibility to pests, and is often grown with little or no pest control.

Production Site Requirements

Under proposed § 319.56–75(b)(1), production sites where fresh apple or pear fruit is grown would be required to be registered with the NPPO of the exporting country. Such registration would facilitate traceback of a

[2] Apples and pears infected with the plant pathogenic pear blister canker viroid (PBCVd) are not a pathway. The pathogen is not insect or seed transmitted, and cannot be transmitted from the vascular tissue of fruit (Hadidi et al., 2011). This systemic pathogen could be present in the fruit, but it will not establish in the United States because the pathogen is neither seed transmitted nor insect vectored (Flores et al., 2003). Since there is no evidence that apples or pears are pathways for PBCVd (USDA, 2014) we would not require any mitigation measures for the disease.

consignment of fresh apple or pear fruit to the production site in the event that quarantine pests were discovered in the consignment at the port of first arrival into the continental United States. APHIS would reserve the right to conduct oversight visits at the production site in the event of pest interceptions or other problems.

Under proposed paragraph (b)(2), the registered grower of the production site would be responsible for following the phytosanitary measures agreed upon by APHIS and the NPPO of the exporting country, including removal of fallen fruit and other control measures that are authorized for use in the EU and the United States to reduce pest populations. The NPPO of the exporting country or officials authorized by the NPPO would be responsible for monitoring pest populations at production sites in order to determine the need and timing of such control measures and ensure effective control of pests. The NPPO would also be required to ensure that registered production sites are inspected twice every season, with special emphasis on quarantine pests listed in the operational workplan.

Details of production site traceback and pest monitoring requirements, pest action thresholds, field sanitation, and other phytosanitary measures would be included in the operational workplan approved by the NPPO of the exporting country and APHIS.

Paragraph 319.56–75(b)(3) would require that apple and pear propagative material introduced into registered production sites be certified free of quarantine pests by the NPPO of the exporting country.

Packinghouse Requirements

Paragraph (c) of proposed § 319.56–75 would set forth requirements for pest mitigation, fruit sampling, inspection, and other measures that would have to take place at registered packinghouses under the operational workplan.

Under proposed § 319.75(c)(1), all fresh apple and pear fruit for export to the United States would be required to be packed in packinghouses that are registered and approved by the NPPO of the exporting country. Packinghouses would have to be able to exclude plant pests and have a tracking system to identify individual production sites. Requirements for packinghouse specifications and procedures would be detailed in the operational workplan.

Under proposed § 319.75(c)(2), packinghouses would not be permitted to pack apple or pear fruit for other countries while packing for the continental United States. All leaves would have to be removed from fruit to remove the leaf mining pest *Leucoptera malifoliella.* Packinghouse culling and inspection procedures would have to be followed to remove fruit with pupae of *Leucoptera malifoliella.* These procedures would be detailed in the operational workplan.

Under paragraph (c)(3), all packed fruit intended for shipment to the United States would need to be safeguarded from infestation by fruit flies and other pests at the packinghouse and during transport to the continental United States. Safeguarding measures for packinghouses and packed fruit, which would be detailed in the operational workplan, include protecting fruit by a pest-proof screen or plastic tarpaulin while the fruit is in transit to the packinghouse and while awaiting packing. Other safeguarding measures include the use of packinghouse screens and double doors that are sufficient to prevent pests from entering the packing area and requiring fruit to be packed in insect-proof cartons or containers, or covered with insect-proof mesh or a plastic tarpaulin, for transport to the United States.

Under proposed paragraph (c)(4), apple and pear fruit would have to be held in a cold storage facility while awaiting export. If any other fruit from unregistered production sites are stored in the same facility, the apple and pear fruit must be isolated from that other fruit.

Under proposed § 319.75(c)(5), each shipping box would need to be marked with the identity of the packing facility, the production site, and grower or grower organization to enable trace back as necessary.

Mitigations for Medfly

Under proposed § 319.56–75(d), apple and pear fruit being exported from countries where APHIS has determined that Medfly is known to occur would be required to undergo cold treatment in accordance with the phytosanitary treatments regulations in 7 CFR part 305. Currently, treatment schedule T 107–a [3] is approved for apples and pears from countries where Medfly is known to occur. Details of required cold treatment procedures would be included in the operational workplan.

Phytosanitary Inspection

Paragraph § 319.56–75(e) would require that, after post-harvest processing, the NPPO of the exporting country or officials authorized by the NPPO of the exporting country inspect the apple and pear fruit for signs of pest infestation and confirm absence of the pests listed in the operational workplan. Upon detection of *Adoxophyes orana, Alternaria gaisen, Argyrotaenia pulchellana, Ascochyta piricola, Ceratitis capitata, Grapholita (Cydia) funebrana, Leucoptera malifoliella, Monilinia fructigena* and/or *Monilinia polystroma* in a consignment for export, the NPPO of the exporting country would be required to reject that consignment and may, under conditions specified in the operational workplan, be required to suspend the production site and/or packinghouse from importation to the continental United States for the remainder of that season. If any of these pests are found in a consignment at U.S. ports of entry, APHIS may, under conditions specified in the operational workplan, reject the consignment and suspend imports from the production site and/or packinghouse until an investigation is completed by the NPPO of the exporting country and APHIS. The investigation may include site visits by APHIS and reports from the NPPO of the exporting country. Procedures for suspension of production sites and/or packinghouses would be detailed in the operational workplan. The exportation to the continental United States of fresh apple and pear fruit from a suspended production site and/or packinghouse may resume in the next growing season if an investigation is conducted and APHIS and the NPPO of the exporting country agree that appropriate remedial actions have been taken.

Phytosanitary Certificate

Paragraph § 319.56–75 (f) would require that each consignment of fresh apple or pear fruit be accompanied by a phytosanitary certificate issued by the NPPO of the exporting country. Requiring a phytosanitary certificate ensures that the NPPO of the exporting country has inspected the fruit and certified that the fruit meets the conditions under the systems approach for export to the continental United States.

APHIS has determined that the above risk management measures under the proposed systems approach will mitigate the risk of pest introductions on fresh apple and pear fruit from Belgium, Germany, France, Italy, Poland, Portugal, Spain, and the Netherlands into the continental United States.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The

[3] USDA/PPQ Treatment Manual, section 5, Treatment Schedules. *https://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/treatment.pdf.*

proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is summarized below, regarding the economic effects of this proposed rule on small entities. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

Based on the information we have, there is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

This proposed rule would allow the importation of fresh apples (*Malus domestica*) and fresh pears (*Pyrus communis*) from eight European Union (EU) countries (Belgium, France, Germany, Italy, the Netherlands, Poland, Portugal, and Spain, referred to here as the EU–8) into the continental United States, if they are produced in accordance with an approved systems approach. At present, importation of fresh pear from Germany and fresh apple and fresh pear from Poland is not allowed. For the other EU–8 countries, this action would provide an alternative to current preclearance import requirements.

The United States and the EU both have large apple and pear industries. U.S. demand for EU–8 apples and pears imported under the proposed rule would depend on relative prices and on market characteristics as determined by domestic and foreign supplies and consumer preferences. The competitiveness of EU–8 apples and pears would largely rest on their prices, the varieties shipped, and their quality.

The EU estimates that annual apple and pear exports by the EU–8 to the United States would total 14,000 MT under the proposed rule. EU–8 apple and pear exports in recent years to countries outside of the EU show the quantity of apples to have been four times that of pears. For our analysis, we apportion the 14,000 MT similarly, that is, 80 percent apple (11,200 MT) and 20 percent pear (2,800 MT).

Apple and pear imports from the EU–8 would directly compete with U.S. produced fruit since the growing seasons are the same. Most apple and pear imports by the United States come from southern hemisphere countries (89 percent of apple imports, 78 percent of pear imports) and, notwithstanding year-round storage capabilities, we expect any displacement of apple and pear imports from current sources by EU–8 shipments would be limited due to different growing seasons. For this analysis, we therefore assume that not more than 10 percent of U.S. apple and pear imports from the EU–8 countries would displace imports from elsewhere.

We use a non-spatial, net trade, partial equilibrium approach to welfare analysis to compute expected impacts of the proposed rule on U.S. producers and consumers. We model changes in U.S. consumption, production, price, consumer welfare, and producer welfare for three import levels (the expected quantity, and this quantity plus or minus 10 percent). In all cases, consumer welfare gains under the proposed rule outweigh producer welfare losses, yielding a positive net welfare impact. The expected net benefit for the two fruits exceeds $1.3 million per year.

For apples, producer welfare losses under the three import levels range between $9.2 million and $11.2 million, the equivalent of about 0.3 percent of the annual value of fresh apple production. Consumer welfare gains range between $10.0 million and $12.2 million, yielding net welfare gains of between $800,000 and $1 million. Apple prices are calculated to decline by about 0.5 percent when 11,200 MT of fresh apples are imported annually from the EU–8. This quantity is equivalent to about 0.5 percent of annual fresh apple consumption in the United States.

For pears, producer welfare losses under the three import levels range between $1.9 million and $2.3 million, coincidentally also equivalent to about 0.3 percent of the annual value of fresh pear production. Consumer welfare gains range between $2.3 million and $2.8 million, and net welfare gains are less than $500,000. Pear prices are calculated to decline by about 0.4 percent when 2,800 MT of fresh pears are imported annually from the EU–8. This quantity is equivalent to about 0.7 percent of annual fresh pear consumption in the United States. Small-entity apple and pear producers may be directly affected by the proposed rule. Other small entities that may be affected include those in auxiliary industries that support the production and distribution of fresh apples and pears in the United States, as well as importers of fresh apples and pears.

Executive Order 12988

This proposed rule would allow fresh apple and pear fruit to be imported into the continental United States from certain EU countries under a systems approach. If this proposed rule is adopted, State and local laws and regulations regarding fresh apple and pear fruit imported under this rule would be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2015–0073. Please send a copy of your comments to: (1) APHIS, using one of the methods described under **ADDRESSES** at the beginning of this document, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

The regulations in ''Subpart—Fruits and Vegetables'' (Title 7, Code of Federal Regulations (CFR) 319.56 through 319.56–74, referred to as the regulations), prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed with the United States.

APHIS is proposing to amend the regulations to allow the importation of fresh apple and pear fruit from certain

countries in the European Union into the continental United States, provided that the fruit is produced in accordance with a systems approach, as an alternative to importation under the current preclearance program. The proposed systems approach for fresh apple and pear fruit consists of production site and packinghouse registration, inspection of registered production sites twice a season, production site pest control and sanitation, post-harvest safeguards, fruit culling, traceback, sampling, cold treatment against Mediterranean fruit fly in countries where the pest is known to occur, a phytosanitary certificate, port of entry inspection, and importation as commercial consignments only. Fresh apple and pear fruit that does not meet the requirements in the systems approach would continue to be allowed to be imported into the United States subject to the conditions of the preclearance program.

This action would provide an alternative for the importation of fresh apple and pear fruit from certain countries in the European Union while continuing to provide protection against the introduction of plant pests into the continental United States.

Implementing this rule will require an operational workplan, production site and packing house registrations, tracking system, monitoring, inspections, investigations, box markings, cold treatment burden requirements, and phytosanitary certificates.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average .00627 hours per response.

Respondents: Foreign businesses and NPPOs.

Estimated annual number of respondents: 72.

Estimated annual number of responses per respondent: 2,230.

Estimated annual number of responses: 160,553.

Estimated total annual burden on respondents: 1,007 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2727.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the EGovernment Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2727.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. In § 319.56–22, the introductory text of paragraph (a) is revised to read as follows:

§ 319.56–22 Apples and pears from certain countries in Europe.

(a) *Importations allowed.* The following fruits may be imported into the United States in accordance with this section and all other applicable provisions of this subpart. See § 319.56–75 for alternative provisions authorizing the importation of apples and pears from certain countries in Europe.

* * * * *

■ 3. Section 319.56–75 is added to subpart—Fruits and Vegetables to read as follows:

§ 319.56–75 Fresh apple and pear fruit from Belgium, Germany, France, Italy, Poland, Portugal, Spain and the Netherlands.

Fresh apple (*Malus domestica* Borkh.) and fresh pear (*Pyrus communis* L.) fruit from Belgium, Germany, France, Italy, Poland, Portugal, Spain, and the Netherlands may be imported into the continental United States in accordance with the conditions listed in this section. See § 319.56–22 for alternative provisions authorizing the importation of apples and pears from certain countries in Europe.

(a) *General requirements.* (1) The NPPO of the exporting country must develop an operational workplan, subject to APHIS approval, that details the activities that the NPPO would carry out to meet the requirements of this section.

(2) The fresh apple and pear fruit must be imported in commercial consignments only.

(b) *Production site requirements.* (1) Production sites where the fresh apple and pear fruit is grown must be registered with the NPPO of the exporting country.

(2) The registered grower of the production site must follow the phytosanitary measures agreed upon by APHIS and the NPPO of the exporting country in the operational workplan, including applying control measures that are authorized for use in the EU and the United States to reduce pest populations. The NPPO of the exporting country or officials authorized by the NPPO must monitor pest populations at production sites in order to determine the need and timing of such control measures and ensure effective control of pests. The NPPO must also ensure that registered production sites are inspected twice every season with emphasis on the quarantine pests listed in the operational workplan.

(3) Any apple and pear propagative material introduced into registered production sites must be certified free of quarantine pests by the NPPO of the exporting country.

(c) *Packinghouse requirements.* (1) All fresh apple and pear fruit for export to the continental United States must be packed in packinghouses that are registered and approved by the NPPO of the exporting country. Packinghouses must be able to exclude plant pests and have a tracking system to identify individual production sites in accordance with the operational workplan.

(2) Packinghouses must not pack apple and pear fruit for other countries while packing for shipment to the continental United States. All leaves must be removed from the fruit to remove *Leucoptera malifoliella,* and packinghouse culling and inspection procedures must be followed to remove fruit with pupae of *Leucoptera malifoliella.*

(3) All packed fruit intended for shipment to the continental United States must be safeguarded from infestation by fruit flies and other pests while at the packinghouse and during shipment to the continental United States in accordance with the operational workplan.

(4) Apple and pear fruit must be held in a cold storage facility while awaiting export. If any other fruit from unregistered production sites are stored in the same facility, the apple and pear fruit must be isolated from that other fruit.

(5) Each shipping box must be marked with the identity of the packing facility, the production site, and grower or grower organization to ensure traceback.

(d) *Mitigation for Mediterranean fruit fly.* Apple and pear fruit being exported from countries where Mediterranean fruit fly is known to occur must undergo cold treatment in accordance with the phytosanitary treatments regulations in part 305 of this chapter. Cold treatment procedures and schedules will be included in the operational workplan.

(e) *Phytosanitary inspection.* After post-harvest processing, the NPPO of the exporting country or officials authorized by the NPPO of the exporting country must inspect the apple and pear fruit for signs of pest infestation and confirm absence of the pests listed in the operational workplan. Upon detection of *Adoxophyes orana, Alternaria gaisen, Argyrotaenia pulchellana, Ascochyta piricola, Ceratitis capitata, Grapholita (Cydia) funebrana, Leucoptera malifoliella, Monilinia fructigena* and/or *Monilinia polystroma* in a consignment for export, the NPPO of the exporting country must reject the consignment and may, under conditions specified in the operational workplan, be required to suspend the production site and/or packinghouse from importation to the continental United States for the remainder of that season. If any of these pests are found in a consignment at U.S. ports of entry, APHIS may, under conditions specified in the operational workplan, reject the consignment and suspend the production site and/or packinghouse from importation to the continental United States until an investigation is completed by the NPPO of the exporting country and APHIS. The investigation may include site visits by APHIS and/or reports from the NPPO of the exporting country. Procedures for suspension of production sites and/or packinghouses will be detailed in the operational workplan. The exportation to the continental United States of fresh apple and pear fruit from a suspended production site and/or packinghouse may resume in the next growing season if an investigation is conducted and APHIS and the NPPO of the exporting country agree that appropriate remedial actions have been taken.

(f) *Phytosanitary certificate.* Each consignment of fresh apple or pear fruit must be accompanied by a phytosanitary certificate issued by the NPPO of the exporting country certifying that the fruit meets the conditions under this section for export to the continental United States.

Done in Washington, DC, this 13th day of January 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–00992 Filed 1–19–16; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–8471; Directorate Identifier 2013–NM–153–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2010–23–19, that applies to certain Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, and 702) airplanes, Model CL–600–2D15 (Regional Jet Series 705) airplanes, and Model CL–600–2D24 (Regional Jet Series 900) airplanes. AD 2010–23–19 requires repetitive inspections for damage of the main landing gear (MLG) inboard doors and fairing, and corrective actions if necessary. Since we issued AD 2010–23–19, we have received reports of the MLG failing to fully extend. This proposed AD would require repetitive inspections for damage of the MLG inboard doors, MLG fairing, and adjacent structures of the MLG inboard doors, and corrective actions if necessary; replacement of the MLG fairing seal; and a terminating action involving increasing the clearances between the MLG fairing and MLG door. This proposed AD would also add one airplane and remove others from the applicability. We are proposing this AD to prevent loss of controllability of the airplane during landing.

DATES: We must receive comments on this proposed AD by March 7, 2016.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Hand Delivery: U.S. Department of Transportation, Docket Operations, M–30, 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.

For service information identified in this proposed AD, contact, Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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–2015–8471; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Ezra Sasson, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7320; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–8471; Directorate Identifier 2013–NM–153–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On November 1, 2010, we issued AD 2010–23–19, Amendment 39–16508 (75 FR 68695, November 9, 2010). AD 2010–23–19 requires actions intended to address an unsafe condition on certain Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, and 702) airplanes, Model CL–600–2D15 (Regional Jet Series 705) airplanes, and Model CL–600–2D24 (Regional Jet Series 900) airplanes.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Airworthiness Directive CF–2010–36R1, dated July 18, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Two cases of main landing gear (MLG) failure to fully extend have been reported. An MLG failing to extend may result in an unsafe asymmetric landing configuration.
>
> Preliminary investigation has shown that interference between the MLG door and the MLG fairing seal prevented the MLG door from opening.
>
> This [Canadian] AD mandates the [detailed] inspection [for damage] and rectification [corrective action], as required, of the MLG fairing and seal, MLG door, and adjacent structures.
>
> Data collected from the Original Issue of this [Canadian] AD shows potential deficiencies with the inspection. This [Canadian] AD is revised to update the applicability section and to introduce additional mitigating actions and the terminating action [a modification that includes related investigative actions, and corrective action if necessary].

The unsafe condition is the loss of controllability of the airplane during landing.

Damage includes the following:

- For the MLG fairing seal: Cracks, cuts, or tears in the material of the MLG fairing seal, and cuts in the material base.
- For the MLG inboard doors: Missing or broken rollers on the MLG inboard door, missing stops, loose or missing fasteners from the stops, and damage (including, but not limited to, corrosion, cracking, and dents) along the edge of the MLG inboard door adjacent to the MLG fairing.
- For the MLG fairing: Missing forward and aft stops, loose or missing fasteners from the forward and aft stops, and damage (including, but not limited to, corrosion, cracking, and dents) along the edge of the MLG fairing adjacent to the MLG inboard door.
- For the stops and wedges on the forward and aft spars: Missing stops, loose or missing fasteners from the stops, missing wedges, and loose or missing fasteners from the wedges.

Corrective actions include replacement of MLG fairing seals, and increasing the clearances between the MLG fairing and MLG door.

The terminating modification involves increasing the clearance between the left and right MLG fairings and the left and right MLG doors. Related investigative actions for the terminating modification include the following inspections:

- A detailed inspection of the MLG fairing for missing forward and aft stops, loose or missing fasteners from the forward and aft stops, and damage along the edge of the MLG fairing adjacent to the MLG inboard door.
- A detailed visual inspection of the MLG inboard door for missing or broken rollers on the MLG inboard door, missing stops, loose or missing fasteners from the stops, and damage along the edge of the MLG inboard door adjacent to the MLG fairing.
- A detailed visual inspection on the stops and wedge on the forward and aft spars for missing stops, loose or missing fasteners from the stops, missing wedges, and loose or missing fasteners from the wedges.
- A liquid penetrant inspection or an eddy current inspection for cracks in the aft stop-fitting and stiffener of the forward member of the MLG inboard door.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8471.

Related Service Information Under 1 CFR Part 51

Bombardier, Inc. has issued Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013, which describes procedures for an inspection of the MLG inboard doors, MLG fairing, and adjacent structure of the MLG inboard doors. This service bulletin also describes procedures for replacement of damaged MLG fairing seal(s) and for a clearance check of the MLG door or, if necessary, for removing and/or installing a MLG door.

Bombardier, Inc. has also issued Bombardier Service Bulletin 670BA–32–040, Revision E, dated November 13, 2014, which describes procedures for increasing the clearances between the fairing and the MLG inboard doors, and between the MLG fairing and adjacent structure of the MLG doors. This service bulletin also describes procedures for adjusting the MLG doors.

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

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 416 airplanes of U.S. registry.

The actions that are required by AD 2010–23–19, Amendment 39–16508 (75 FR 68695, November 9, 2010), and retained in this proposed AD take about 1 work-hour per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that are required by AD 2010–23–19 is $85 per inspection cycle for each product.

We also estimate that it would take about 50 work-hours for each product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to

be $1,768,000, or $4,250 for each product.

In addition, we estimate that any necessary follow-on replacement actions would take about 24 work-hours and require parts costing $2,626, for a cost of $4,666 per product. We have no way of determining the number of aircraft that might need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2010–23–19, Amendment 39–16508 (75 FR 68695, November 9, 2010), and adding the following new AD:

Bombardier, Inc.: Docket No. FAA–2015–8471; Directorate Identifier 2013–NM–153–AD.

(a) Comments Due Date

We must receive comments by March 7, 2016.

(b) Affected ADs

This AD replaces AD 2010–23–19, Amendment 39–16508 (75 FR 68695, November 9, 2010).

(c) Applicability

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

(1) Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, having serial numbers (S/Ns) 10002 through 10333 inclusive.

(2) Model CL–600–2D15 (Regional Jet Series 705) and CL–600–2D24 (Regional Jet Series 900) airplanes, having S/Ns 15001 through 15284 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 32: Landing gear.

(e) Reason

This AD was prompted by reports of the main landing gear (MLG) failing to fully extend. We are issuing this AD to prevent loss of controllability of the airplane during landing.

(f) Compliance

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

(g) Retained Repetitive Inspections and Corrective Actions, With New Service Information and Revised Repair Instructions

(1) This paragraph restates the requirements of paragraph (g) of AD 2010–23–19, Amendment 39–16508 (75 FR 68695, November 9, 2010), with new service information. For airplanes having S/Ns 10003 through 10313 inclusive, 15001 through 15238 inclusive, and 15240 through 15255 inclusive: Within 50 flight cycles after November 24, 2010 (the effective date of AD 2010–23–19), do the inspections specified in paragraphs (g)(1)(i) through (g)(1)(iv) of this AD, in accordance with ''PART A—Inspection of the MLG Inboard Doors, MLG Fairing and Adjacent Structure'' of the Accomplishment Instructions of Bombardier Alert Service Bulletin A670BA–32–030, Revision A, dated October 22, 2010; or Bombardier Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013; as applicable. As of the effective date of this AD, use only Bombardier Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013, to accomplish the actions required by this paragraph. Repeat the inspections thereafter at intervals not to exceed 600 flight hours.

(i) Do a detailed inspection for damage (including wear lines, cracks, fraying, tears, and evidence of chafing) of the rubber seal of the MLG fairing.

(ii) Do a detailed inspection for damage (including missing and broken rollers, loose and missing fasteners, and damaged and missing stops) of the MLG inboard doors, and for damage along the edge of the MLG inboard door adjacent to the MLG fairing.

(iii) Do a detailed inspection of the MLG fairing for damage (including missing forward and aft stops, and loose and missing fasteners), and for damage along the edge of the MLG fairing adjacent to the MLG door.

(iv) Do a detailed inspection for damage (including missing stops, loose and missing fasteners, and missing wedges) of the stops and wedge on the forward and aft spars.

(2) This paragraph restates the requirements of paragraph (h) of AD 2010–23–19, Amendment 39–16508 (75 FR 68695, November 9, 2010), with revised service information. For airplanes not identified in paragraph (g)(1) of this AD, excluding the airplane having S/N 10002, and excluding airplanes having MLG fairing seals having part numbers (P/Ns) CC670–39244–5 and CC670–39244–6: Within 600 flight hours after November 24, 2010 (the effective date of AD 2010–23–19), do the inspections specified in paragraphs (g)(2)(i) through (g)(2)(iv) of this AD, in accordance with ''PART A—Inspection of the MLG Inboard Doors, MLG Fairing and Adjacent Structure'' of the Accomplishment Instructions of Bombardier Alert Service Bulletin A670BA–32–030, Revision A, dated October 22, 2010; or Bombardier Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013. As of the effective date of this AD, use only Bombardier Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013, to accomplish the actions required by this paragraph. Repeat the inspections thereafter at intervals not to exceed 600 flight hours.

(i) Do a detailed inspection for damage (including wear lines, cracks, fraying, tears, and evidence of chafing) of the rubber seal of the MLG fairing.

(ii) Do a detailed inspection for damage (including missing and broken rollers, loose and missing fasteners, and damaged and missing stops) of the MLG inboard doors, and for damage along the edge of the MLG inboard door adjacent to the MLG fairing.

(iii) Do a detailed inspection of the MLG fairing for damage (including missing forward and aft stops, and loose and missing fasteners), and for damage along the edge of the MLG fairing adjacent to the MLG door.

(iv) Do a detailed inspection for damage (including missing stops, loose and missing

fasteners, and missing wedges) of the stops and wedge on the forward and aft spars.

(3) This paragraph restates the requirements of paragraph (i) of AD 2010–23–19, Amendment 39–16508 (75 FR 68695, November 9, 2010), with revised service information. If damage to only the rubber seal on the MLG fairing is found during any inspection required by paragraph (g)(1) or (g)(2) of this AD, before further flight, do either action specified in paragraph (g)(3)(i) or (g)(3)(ii) of this AD.

(i) Replace the rubber seal on the MLG fairing with a new rubber seal, in accordance with ''PART B—Replacement of the Forward Rubber Seal on the MLG Fairing'' of the Accomplishment Instructions of Bombardier Alert Service Bulletin A670BA–32–030, Revision A, dated October 22, 2010; or the Accomplishment Instructions of Bombardier Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013. As of the effective date of this AD, use only Bombardier Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013, to accomplish the actions required by this paragraph.

(ii) Remove the MLG inboard door, in accordance with ''PART C—Removal of MLG Inboard Door'' of the Accomplishment Instructions of Bombardier Alert Service Bulletin A670BA–32–030, Revision A, dated October 22, 2010; or Bombardier Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013. For airplanes on which the MLG inboard door is re-installed, do the installation of the MLG inboard door in accordance with ''PART D—Installation of MLG Inboard Door'' of the Accomplishment Instructions of Bombardier Alert Service Bulletin A670BA–32–030, Revision A, dated October 22, 2010; or Bombardier Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013. As of the effective date of this AD, use only Bombardier Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013, to accomplish the actions required by this paragraph.

(4) This paragraph restates the requirements of paragraph (j) of AD 2010–23–19, Amendment 39–16508 (75 FR 68695, November 9, 2010), with revised repair instructions. If damage other than the damage identified in paragraph (g)(3) of this AD is found during any inspection required by paragraph (g)(1) or (g)(2) of this AD, before further flight, contact the Bombardier Regional Aircraft Customer Response Center for repair instructions and do the repair; or repair using a method approved by the Manager, New York ACO, ANE–170, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO).

(h) New Inspections of MLG Fairing Seal Having P/N CC670–39244–1 or CC670–39244–2

For airplanes on which an MLG fairing seal having P/N CC670–39244–1 or P/N CC670–39244–2 is installed: At the applicable time specified in paragraph (i)(1) of this AD, do the inspections specified in paragraphs (h)(1) through (h)(4) of this AD, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013, except as specified in paragraph (o) of this AD. Repeat the inspections thereafter at the time specified in paragraph (i)(2) of this AD.

(1) Do a detailed inspection for damage (including cracking, cuts, and tears in the material (fabric/rubber)) of the MLG fairing and seal.

(2) Do a detailed inspection for damage (including missing and broken rollers, loose and missing fasteners, and damaged and missing stops) of the MLG inboard doors, and for damage along the edge of the MLG inboard door adjacent to the MLG fairing.

(3) Do a detailed inspection of the MLG fairing for damage (including missing forward and aft stops, and loose and missing fasteners), and for damage (including, but not limited to, corrosion, cracking, and dents) along the edge of the MLG fairing adjacent to the MLG door.

(4) Do a detailed inspection for damage (including missing stops, loose and missing fasteners, and missing wedges) of the stops and wedge on the forward and aft spars.

(i) New Compliance Times for the Actions Required by Paragraph (h) of This AD

This paragraph specifies the compliance times for the actions required by paragraph (h) of this AD.

(1) The initial compliance time is specified in paragraphs (i)(1)(i) and (i)(1)(ii) of this AD.

(i) For airplanes having S/Ns 10002 through 10313 inclusive; 15001 through 15238 inclusive; and 15240 through 15255 inclusive: Within 50 flight cycles after the effective date of this AD.

(ii) For all other airplane serial numbers: Within 600 flight hours after the effective date of this AD.

(2) Repeat the inspections specified in paragraph (h) of this AD at the earlier of the times specified in paragraphs (i)(2)(i) and (i)(2)(ii) of this AD.

(i) Repeat the inspections within 200 flight hours after the effective date of this AD. Repeat the inspections thereafter at intervals not to exceed 200 flight hours.

(ii) Repeat the inspections within 600 flight hours after the most recent inspection done in accordance with the requirements of AD 2010–23–19, Amendment 39–16508 (75 FR 68695, November 9, 2010). Repeat the inspections thereafter at intervals not to exceed 200 flight hours.

(j) New Corrective Actions

(1) If any damage to the MLG fairing seal is found during any inspection required by paragraph (h) of this AD: Before further flight, do the actions specified in paragraph (j)(1)(i) or (j)(1)(ii) of this AD, except as specified in paragraph (o) of this AD.

(i) Before further flight, remove the MLG inboard doors, in accordance with Part C of the Accomplishment Instructions of Bombardier Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013. For airplanes on which the MLG inboard door is re-installed, do the installation of the MLG inboard door in accordance with Part D of the Accomplishment Instructions of Bombardier Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013.

(ii) Before further flight, replace the MLG fairing seals, in accordance with Part E of the Accomplishment Instructions of Bombardier Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013. Within 200 flight hours after installing the MLG fairing seals, do the actions required by paragraph (h) of this AD.

(2) If any damage other than that specified in paragraph (j)(1) of this AD is found, or if parts or fasteners are found missing, during any inspection required by paragraph (h) of this AD, before further flight, repair using a method approved by the Manager, New York ACO, ANE–170, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO.

(k) New Replacement of MLG Fairing Seals

Within 2,500 flight hours or 12 months, whichever occurs first, after the effective date of this AD: Replace any MLG fairing seals having P/Ns CC670–39244–1 and CC670–39244–2 with P/Ns CC670–39244–5 and CC670–39244–6, respectively, in accordance with Part E of the Accomplishment Instructions of Bombardier Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013, except as specified in paragraph (o) of this AD.

(l) New MLG Fairing Seal Post-Replacement Inspections

Within 600 flight hours after installing fairing seals having P/Ns CC670–39244–5 or CC670–39244–6: Do the inspections specified in paragraphs (h)(1) through (h)(4) of this AD, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013. If any damage to the MLG fairing seal is found during any inspection required by this paragraph: Before further flight, do the applicable actions specified in paragraphs (j)(1) or (j)(2) of this AD. If no damage is found during any inspection required by this paragraph, repeat the inspections specified in paragraphs (h)(1) through (h)(4) of this AD thereafter at intervals not to exceed 600 flight hours, except as provided in paragraph (m) of this AD.

(m) New Exception to MLG Fairing Seal Post-Replacement Inspections

After accomplishment of the initial inspections specified in paragraph (l) of this AD, removal of the MLG inboard door, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013, defers the repetitive inspections required by paragraph (l) of this AD until the MLG inboard door is re-installed. For airplanes on which the MLG inboard door is re-installed, do the installation of the MLG inboard door in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013, except as specified in paragraph (o) of this AD; and before the accumulation of 600 flight hours on the MLG inboard door since the actions required by paragraph (k) of this AD were accomplished, do the inspections specified in paragraph (l) of this AD, and repeat the inspections thereafter at the applicable time specified in paragraph (l) of this AD.

(n) New Terminating Modification

Within 6,600 flight hours or 36 months, whichever occurs first after the effective date of this AD: Modify the airplane by increasing the clearance between the left and right MLG fairings and the left and right MLG doors; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–32–040, Revision E, dated November 13, 2014, except as provided by paragraph (o) of this AD. Do all applicable related investigative and corrective actions before further flight. If an MLG door has been removed, the modification may be delayed until the MLG door is re-installed in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013. Accomplishing this modification terminates the requirements of paragraphs (g) through (m) of this AD for that MLG door.

(o) Exceptions to Bombardier Service Bulletins

Where Bombardier Alert Service Bulletin A670BA–32–030, Revision D, dated August 6, 2013; and Bombardier Service Bulletin 670BA–32–040, Revision E, dated November 14, 2014; specify to contact the Bombardier Customer Response Center for an analysis or to get an approved disposition, repair using a method approved by the Manager, New York ACO, ANE–170, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO.

(p) Credit for Previous Actions

(1) This paragraph restates the provisions of paragraph (l) of AD 2010–23–19, Amendment 39–16508 (75 FR 68695, November 9, 2010), with additional service information. This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before November 24, 2010 (the effective date of AD 2010–23–19) using Bombardier Alert Service Bulletin A670BA–32–030, dated October 18, 2010; or Bombardier Alert Service Bulletin A670BA–32–030, Revision A, dated October 22, 2010.

(2) This paragraph provides credit for the corresponding actions required by paragraphs (g)(1), (g)(2), (g)(3)(i), (g)(3)(ii), (h), (j)(1), (k), (l), (m), and (n) of this AD, if those actions were performed before the effective date of this AD using the service bulletins specified in paragraph (p)(2)(i), (p)(2)(ii), or (p)(2)(iii) of this AD.

(i) Bombardier Alert Service Bulletin A670BA–32–030, Revision A, dated October 22, 2010.

(ii) Bombardier Alert Service Bulletin A670BA–32–030, Revision B, dated November 3, 2011.

(iii) Bombardier Alert Service Bulletin A670BA–32–030, Revision C, dated March 13, 2013.

(3) This paragraph provides credit for the corresponding actions required by paragraph (n) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraph (p)(3)(i), (p)(3)(ii), (p)(3)(iii), or (p)(3)(iv) of this AD.

(i) Bombardier Service Bulletin 670BA–32–040, Revision A, dated March 13, 2013.

(i) Bombardier Service Bulletin 670BA–32–040, Revision B, dated August 6, 2013.

(iii) Bombardier Service Bulletin 670BA–32–040, Revision C, dated November 1, 2013.

(iv) Bombardier Service Bulletin 670BA–32–040, Revision D, dated July 2, 2014.

(q) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

(r) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2010–36R1, dated July 18, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8471.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 6, 2016.

Victor Wicklund,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–00698 Filed 1–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–8472; Directorate Identifier 2014–NM–106–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Fokker Services B.V. Model F.28 Mark 1000, 2000, 3000, and 4000 airplanes. This proposed AD was prompted by a design review, that revealed a hot spot may develop in the main fuel tank under certain failure conditions of the solenoid of the level control pilot valve, the reed switch of the main tank overflow valve, the level float switch of the collector tank, or the solenoid of the main tank fueling shut-off valve. This proposed AD would require installing fuses in the wiring of the solenoid of the level control pilot valve, the reed switch of the main tank overflow valve, the level float switch of the collector tank, and the solenoid of the main tank fueling shut-off valve, as applicable. This proposed AD would also require accomplishing concurrent actions and revising the airplane maintenance or inspection program, as applicable, by incorporating fuel airworthiness limitation items and critical design configuration control limitations (CDCCLs). We are proposing this AD to prevent an ignition source in the main fuel tank vapor space, which could result in a fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by March 7, 2016.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, 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.

For service information identified in this proposed AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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–2015–8472; 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 regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–8472; Directorate Identifier 2014–NM–106–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0107, dated May 7, 2014 (referred to after this the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Fokker Services B.V. Model F.28 Mark 1000, 2000, 3000, and 4000 airplanes. The MCAI states:

> Prompted by an accident * * *, the Federal Aviation Administration (FAA) published Special Federal Aviation Regulation (SFAR) 88 [(66 FR 23086, May 7, 2001)], and the Joint Aviation Authorities (JAA) published Interim Policy INT/POL/25/12.
>
> The review conducted by Fokker Services on the Fokker F28 design in response to these regulations revealed that, under certain failure conditions of the solenoid of the level control pilot valve, the main tank overflow valve reed switch, the collector tank level float switch or the main tank fuelling shut-off valve solenoid, a hot spot may develop in the tank.
>
> This condition, if not corrected, could create an ignition source in the main tank vapour space, possibly resulting in a fuel tank explosion and consequent loss of the aeroplane.
>
> To address this potential unsafe condition, Fokker Services developed a modification to the wiring (installation of fuses) of the affected components.
>
> For the reasons described above, this AD requires the installation of fuses in the wiring of the affected components [the solenoid of the level control pilot valve, the reed switch of the main tank overflow valve, the level float switch of the collector tank, and the solenoid of the main tank fuelling shut-off valve] and, subsequently, the implementation of the associated Critical Design Configuration Control Limitations (CDCCL) items [and revision of the maintenance or inspection program].
>
> More information on this subject can be found in Fokker Services All Operators Message AOF28.038#02.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8472.

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 (66 FR 23086, May 7, 2001) requires certain type design (*i.e.,* type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

The Joint Aviation Authorities (JAA) has issued a regulation that is similar to SFAR 88 (66 FR 23086, May 7, 2001). (The JAA is an associated body of the European Civil Aviation Conference (ECAC) representing the civil aviation regulatory authorities of a number of European States who have agreed to co-operate in developing and implementing common safety regulatory standards and procedures.) Under this regulation, the JAA stated that all members of the ECAC that hold type certificates for transport category airplanes are required to conduct a design review against explosion risks.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed the following service information.

• Fokker Service Bulletin SBF28–28–049, Revision 2, dated November 3, 2014, including Fokker Drawing W57273, Sheet 002, Issue C, undated, Fokker Drawing W58048, Sheet 1, undated, and Fokker Manual Change Notification MCNM–F28–035, Rev 1, dated January 9, 2014. This service information describes procedures for installing fuses packed in jiffy junctions in the collector tank.

• Fokker Proforma Service Bulletin SBF28–28–056, dated January 9, 2014, including Appendix SBF28–28–056/APP01, dated July 15, 2014. This service information describes procedures for installing fuses in the wiring of the solenoid of the level control pilot valve, the reed switch of the main tank overflow valve, the level float switch of the collector tank, and the solenoid of the main tank fueling shut-off valve. This service information also describes certain CDCCLs.

• Fokker Service Bulletin SBF28–28–051, Revision 2, dated November 3, 2014, including Drawing W57231, Sheets 010 and 011, Issue K, undated; Drawing W58048, Sheet 2, dated April 29, 2010; and Manual Change Notification—Maintenance Document MCNM–F28–034 Rev 1, dated January 9, 2014. This service information describes procedures for reworking the wiring and installing fuses packed in jiffy junctions in the power supply wire of the solenoid in the left and right level control pilot valves.

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.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

This AD requires revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections) and/or CDCCLs. Compliance with these actions and/or CDCCLs is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (k)(1) of this AD. The request should include a description of changes to the required actions that will ensure the continued operational safety of the airplane.

Costs of Compliance

We estimate that this proposed AD affects 5 airplanes of U.S. registry.

We also estimate that it would take about 21 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $5,320 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $35,525, or $7,105, or per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Fokker Services B.V.: Docket No. FAA–2015–8472; Directorate Identifier 2014–NM–106–AD.

(a) Comments Due Date

We must receive comments by March 7, 2016.

(b) Affected ADs

This AD affects AD 2011–17–03, Amendment 39–16767 (76 FR 50115, August 12, 2011); and AD 2011–21–01, Amendment 39–16824 (76 FR 63156, October 12, 2011).

(c) Applicability

This AD applies to Fokker Services B.V. Model F.28 Mark 1000, 2000, 3000, and 4000 airplanes, certificated in any category, all serial numbers.

(d) Subject

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

(e) Reason

This AD was prompted by a design review, which revealed that a hot spot may develop in the main fuel tank under certain failure conditions of the solenoid of the level control pilot valve, the reed switch of the main tank overflow valve, the level float switch of the collector tank, or the solenoid of the main tank fueling shut-off valve. We are issuing this AD to prevent an ignition source in the main fuel tank vapor space, which could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Modification of Main Fuel Tank Wiring

Within 24 months after the effective date of this AD, install fuses in the wiring of the solenoid of the level control pilot valve, the reed switch of the main tank overflow valve, the level float switch of the collector tank, and the solenoid of the main tank fueling shut-off valve, as applicable, in accordance with the Accomplishment Instructions of Fokker Services Proforma Service Bulletin SBF28–28–056, dated January 9, 2014, including Appendix SBF28–28–056/APP01, dated July 15, 2014.

(h) Concurrent Requirements

Prior to or concurrently with accomplishing the requirements of paragraph (g) of this AD, do the actions specified in paragraphs (h)(1) and (h)(2) of this AD.

(1) Install fuses packed in jiffy junctions (*i.e.,* crimped wire in-line junction device(s)), in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF28–28–049, Revision 2, dated November 3, 2014, including Fokker Drawing W57273, Sheet 002, Issue C, undated, Fokker Drawing W58048, Sheet 1, undated, and Fokker Manual Change Notification MCNM–F28–035, Rev 1, dated January 9, 2014. Accomplishment of the actions in this paragraph terminates the requirement of paragraph (g) of AD 2011–17–03, Amendment 39–16767 (76 FR 50115, August 12, 2011).

Note 1 to paragraph (h)(1) of this AD: Accomplishment of this action is required by AD 2011–17–03, Amendment 39–16767 (76 FR 50115, August 12, 2011).

(2) Rework the wiring and install fuses packed in jiffy junctions in the power supply wire of the solenoid in the left and right level control pilot valve, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF28–28–051, Revision 2, dated November 3, 2014, including Drawing W57231, Sheets 010 and 011, Issue K, undated; Drawing W58048, Sheet 2, dated April 29, 2010; and Manual Change Notification—Maintenance Document MCNM–F28–034, Rev 1, dated January 9, 2014. Accomplishment of the actions in this paragraph terminates the requirement of paragraph (g) of AD 2011–21–01, Amendment 39–16824 (76 FR 63156, October 12, 2011), for the actions specified in the Accomplishment Instructions of Fokker Service Bulletin SBF28–28–051, Revision 2, dated November 3, 2014, including Drawing W57231, Sheets 010 and 011, Issue K, undated; Drawing W58048, Sheet 2, dated April 29, 2010; and Manual Change Notification—Maintenance Document MCNM–F28–034, Rev 1, dated January 9, 2014, only.

Note 2 to paragraph (h)(2) of this AD: Accomplishment of this action is required by AD 2011–21–01, Amendment 39–16824 (76 FR 63156, October 12, 2011).

(i) Revision of Maintenance or Inspection Program

Before further flight after completing the installation specified in paragraph (g) of this AD, or within 30 days after the effective date of this AD, whichever occurs later: Revise the airplane maintenance or inspection program, as applicable, by incorporating the critical design configuration control limitations (CDCCLs) specified in paragraph 1.L.(1)(c) of Fokker Services Proforma Service Bulletin SBF28–28–056, dated January 9, 2014, including Appendix SBF28–28–056/APP01, dated July 15, 2014.

(j) No Alternative CDCCLs

After accomplishing the revision required by paragraph (i) of this AD, no alternative CDCCLs may be used unless the CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k)(1) of this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance: The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Contacting the Manufacturer: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Fokker B.V. Service's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2014–0107, dated May 7, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov.* by searching for and locating Docket No. FAA–2015–8472.

(2) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 6, 2016.

Victor Wicklund,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–00700 Filed 1–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–8470; Directorate Identifier 2013–NM–199–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 95–21–09, for all Airbus Model A300 series airplanes, and Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). AD 95–21–09 currently requires repetitive inspections for cracking of the No. 2 flap beams, and replacement of the flap beams, if necessary; and provides optional modifications for extending certain inspection thresholds, and an optional terminating modification for certain inspections. Since we issued AD 95–21–09, we have determined that the compliance times must be reduced. This proposed AD would reduce the compliance times for inspections and also reduce the number of airplanes affected. We are proposing this AD to detect and correct cracking of the No. 2 flap beams, which could result in rupture of the flap beams and reduced structural integrity of the airplane.

DATES: We must receive comments on this proposed AD by March 7, 2016.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.

• *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

• *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, 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.

For service information identified in this proposed AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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–2015–8470; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–8470; Directorate Identifier 2013–NM–199–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On October 3, 1995, we issued AD 95–21–09, Amendment 39–9395 (60 FR 53847, October 18, 1995). AD 95–21–09 requires actions intended to address an unsafe condition on Airbus Model A300 and A300–600 series airplanes.

Since we issued AD 95–21–09, Amendment 39–9395 (60 FR 53847, October 18, 1995), we have received a report that analyses showed a need for reduced compliance times.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2013–0234R2, dated October 7, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A300 and A300–600 series airplanes. The MCAI states:

> Fatigue and ''fail safe'' tests developed on a test specimen confirmed that cracks may appear and propagate from the bolt holes of the base member and the side members of flap beam No. 2.
>
> The development of such cracks, if not detected, could result in a rupture of flap beams No. 2, which could adversely affect the structural integrity of the airframe.
>
> To address this potential unsafe condition, Airbus issued Service Bulletin (SB) A300–57–0116 and SB A300–57–6005 and DGAC France issued AD 1986–187–076(B) [available at *http://ad.easa.europa.eu/blob/1986-187-076%28B%29R4en.pdf/AD_F-1986-187-076R4_1*], later revised, to require a repetitive inspection programme [and corrective action] for A300 and A300–600 aeroplanes. [French AD 86–187–076(B)R3, dated March 2, 1994, corresponds to FAA AD 95–21–09, Amendment 39–9395 (60 FR 53847, October 18, 1995), which superseded FAA AD 85–07–04, Amendment 39–5027 (49 FR 45755, April 2, 1985).]
>
> For A300 aeroplanes, and in the frame of the Extended Service Goal (ESG) exercise, it was shown that design changes (Airbus Mod. 4740/Airbus SB A300–57–0128 or Airbus Mod. 5815/Airbus SB A300–57–0141) were not sufficient to enable full ESG life without inspections.
>
> For A300–600 aeroplanes, since DGAC France AD 1986–187–076(B) was issued, a fleet survey and updated Fatigue and Damage Tolerance analyses have been performed in order to substantiate the second A300–600 ESG2 exercise. Airbus SB A300–57–6005 has been revised accordingly to decrease the inspection thresholds and intervals.
>
> For the reasons described above, this [EASA] AD retains the requirements of DGAC France AD 1986–187–076(B)R4, which is superseded, and requires those inspections to be accomplished at reduced thresholds and intervals.
>
> This [EASA] AD has been revised to correct typographical errors in some compliance times defined in Appendix 1, Tables 1 and 2.

The MCAI also reduces the number of airplanes identified in the applicability by exempting certain Model A300–600 airplanes on which certain Airbus modifications have been embodied. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8470.

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletins A300–57–0116, Revision 07, dated September 19, 2011; and A300–57–6005, Revision 06, dated November 14, 2013. This service information describes procedures for ultrasonic inspections of the number 2 flap beam base and side members. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI. 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.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

Although the MCAI or service information allows further flight after cracks are found during compliance with the required action, paragraph (m) of this proposed AD requires that you replace the flap beam before further flight.

Explanation of ''RC'' Procedures and Tests in Service Information

The FAA worked in conjunction with industry, under the Airworthiness

Directive Implementation Aviation Rulemaking Committee (ARC), to enhance the AD system. One enhancement was a new process for annotating which procedures and tests in the service information are required for compliance with an AD. Differentiating these procedures and tests from other tasks in the service information is expected to improve an owner's/operator's understanding of crucial AD requirements and help provide consistent judgment in AD compliance. The procedures and tests identified as Required for Compliance (RC) in any service information have a direct effect on detecting, preventing, resolving, or eliminating an identified unsafe condition.

As specified in a NOTE under the Accomplishment Instructions of the specified service information, procedures and tests that are identified as RC in any service information must be done to comply with the proposed AD. However, procedures and tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an alternative method of compliance (AMOC), provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC will require approval of an AMOC.

Costs of Compliance

We estimate that this proposed AD affects 49 airplanes of U.S. registry.

The actions that are required by AD 95–21–09, Amendment 39–9395 (60 FR 53847, October 18, 1995), and retained in this proposed AD take about 6 work-hours per product, at an average labor rate of $85 per work-hour. Required parts cost about $0 per product. Based on these figures, the estimated cost of the actions that were required by AD 95–21–09 is $510 per product, per inspection cycle.

We also estimate that it would take about 6 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $24,990 per inspection cycle, or $510 per product, per inspection cycle.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 95–21–09, Amendment 39–9395 (60 FR 53847, October 18, 1995), and adding the following new AD:

Airbus: Docket No. FAA–2015–8470; Directorate Identifier 2013–NM–199–AD.

(a) Comments Due Date

We must receive comments by March 7, 2016.

(b) Affected ADs

This AD replaces AD 95–21–09, Amendment 39–9395 (60 FR 53847, October 18, 1995).

(c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1) through (c)(5) of this AD, certificated in any category.

(1) Model Airbus Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes, all manufacturer serial numbers (MSNs).

(2) Airbus Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, and B4–622R airplanes, all MSNs.

(3) Airbus Model A300 F4–605R, all MSNs, except those airplanes on which both Airbus Modifications 11133 and 12699 have been embodied.

(4) Airbus Model A300 F4–622R airplanes, all MSNs, except those airplanes on which all Airbus Modifications 11133, 12047, 12048, and 12050 have been embodied, and except those airplanes on which both Airbus Modifications 11133 and 12699 have been embodied.

(5) Airbus Model A300 C4–605R Variant F airplanes, all MSNs.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Reason

This AD was prompted by a determination that the compliance times must be reduced. We are issuing this AD to detect and correct cracking of the No. 2 flap beams, which could result in rupture of the flap beams and reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Inspection and Corrective Actions for Model A300 Series Airplanes, With Note 3 of AD 95–21–09, Amendment 39–9395 (60 FR 53847, October 18, 1995), Incorporated and Additional Terminating Provisions

This paragraph restates the requirements of paragraph (a) of AD 95–21–09, Amendment 39–9395 (60 FR 53847, October 18, 1995), with Note 3 of AD 95–21–09 incorporated and additional terminating provisions. For Model A300 series airplanes: Prior to the accumulation of 15,000 total landings, or within the next 120 days after May 9, 1985 (the effective date of AD 85–07–04, Amendment 39–5027 (49 FR 45755, April 2,

1985)), whichever occurs later, inspect for cracking of the base steel member and light alloy side members of the No. 2 flap beams, left hand and right hand, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–116, Revision 6, dated July 16, 1993. Accomplishing the requirements of paragraph (h) or (l) of this AD terminates the requirements of this paragraph. Measurement of crack length is performed by measurement of the probe displacement (perpendicular to symmetry plane of beam) between defect indication appearance and its complete disappearance. The bolt hole indication should not be interpreted as an indication of a defect. These two indications appear very close together because the defects originate from the bolt holes.

(1) If no cracking is detected: Except as provided by paragraph (i) of this AD, repeat the inspection at intervals not to exceed 1,700 landings until the requirements of paragraph (h) or (l) of this AD are accomplished.

(2) If any crack is detected that is less than or equal to 4 mm: Repeat the inspection at intervals not to exceed 250 landings, until the requirements of paragraph (h) or (l) of this AD are accomplished.

(3) If any crack is detected that exceeds 4 mm: Prior to further flight, replace the flap beam in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–116, Revision 6, dated July 16, 1993, and prior to the accumulation of 15,000 flight cycles on the replaced flap beam, perform the ultrasonic inspection as required by paragraph (h) or (l) of this AD.

(h) Retained Ultrasonic Inspection and Corrective Action for Model A300 Series Airplanes, With Additional Terminating Provisions

This paragraph restates the requirements of paragraph (b) of AD 95–21–09, Amendment 39–9395 (60 FR 53847, October 18, 1995), with additional terminating provisions. For Model A300 series airplanes: Prior to the accumulation of 15,000 total landings, or within the next 1,000 landings after November 17, 1995 (the effective date of AD 95–21–09), whichever occurs later, perform an ultrasonic inspection to detect cracking of the No. 2 flap beams, in accordance with Airbus Service Bulletin A300–57–116, Revision 6, dated July 16, 1993. Accomplishment of this inspection terminates the inspections required by paragraph (g) of this AD. Accomplishment of the requirements of paragraph (l) of this AD terminates the requirements of this paragraph.

(1) If no cracking is detected: Except as provided by paragraph (i) of this AD, repeat the ultrasonic inspections thereafter at intervals not to exceed 1,700 landings.

(2) If any crack is detected beyond the bolt hole, and that crack is less than or equal to 4 mm in length: Repeat the ultrasonic inspections thereafter at intervals not to exceed 250 landings.

(3) If any crack is detected beyond the bolt hole and that crack is greater than 4 mm in length: Prior to further flight, replace the flap beam in accordance with Airbus Service Bulletin A300–57–116, Revision 6, dated July 16, 1993, and prior to the accumulation of 15,000 flight cycles on the replaced flap beam, perform the ultrasonic inspection as required by this paragraph.

(i) Retained Modification of the No. 2 Track Beam for Model A300 Series Airplanes, With Changes to Compliance Extension

This paragraph restates the provisions of paragraph (c) of AD 95–21–09, Amendment 39–9395 (60 FR 53847, October 18, 1995), with changes to compliance extension. For Model A300 series airplanes: After accomplishing the initial inspection required by paragraph (h) of this AD, accomplishment of either paragraph (i)(1) or (i)(2) of this AD before the effective date of this AD extends the fatigue life of the No. 2 flap track beam as specified in those paragraphs, provided that no cracking is detected during any inspection required by paragraph (g) or (h) of this AD.

(1) Removal of any damage and the installation of larger diameter bolts on the No. 2 flap track beam (Modification No. 4740), in accordance with Airbus Service Bulletin A300–57–128, Revision 3, dated January 26, 1990, extends the interval for the first repetitive inspection required by paragraph (h) of this AD from 1,700 landings to 12,000 landings, provided that Modification No. 4740 is accomplished prior to the accumulation of 16,700 total landings on the flap beams. Following accomplishment of the first repetitive inspection, subsequent repetitive inspections shall be performed at intervals not to exceed 1,700 landings. Or

(2) Cold working of the bolt holes and the installation of larger diameter bolts on the No. 2 flap track beam (Modification No. 5815), in accordance with Airbus Service Bulletin A300–57–141, Revision 7, dated July 16, 1993, extends the interval for the first repetitive inspection required by paragraph (h) of this AD from 1,700 landings to the interval specified in paragraph (i)(2)(i) or (i)(2)(ii) of this AD.

(i) If interference fit bolts that are 15/32-inch in diameter are fitted, the interval for the first repetitive inspection required by paragraph (h) of this AD is extended to 22,000 landings, provided that Modification 5815 is accomplished prior to the accumulation of 16,700 total landings on the flap beam. Following accomplishment of the first repetitive inspection required by paragraph (h) of this AD, subsequent repetitive inspections shall be performed at intervals not to exceed 1,700 landings. Or

(ii) If interference fit bolts that are 7/16- or 3/8-inch in diameter are fitted, the interval for the first repetitive inspection required by paragraph (h) of this AD is extended to 33,000 landings, provided that Modification 5815 is accomplished prior to the accumulation of 16,700 total landings on the flap beam. Following accomplishment of the first repetitive inspection required by paragraph (h) of this AD, subsequent repetitive inspections shall be performed at intervals not to exceed 1,700 landings.

(j) Retained Ultrasonic Inspection and Corrective Actions for Model A300–600 Series Airplanes, With Terminating Provisions

This paragraph restates the requirements of paragraph (d) of AD 95–21–09, Amendment 39–9395 (60 FR 53847, October 18, 1995), with terminating provisions. For Model A300–600 series airplanes: Prior to the accumulation of 15,000 total landings, or within the next 1,000 landings after November 17, 1995 (the effective date of AD 95–21–09), whichever occurs later, perform an ultrasonic inspection to detect cracking of the No. 2 flap track beams, in accordance with Airbus Service Bulletin A300–57–6005, Revision 2, dated December 16, 1993. Accomplishing the actions required by paragraph (l) of this AD terminates the requirements of this paragraph.

(1) If no cracking is detected, repeat the ultrasonic inspections thereafter at intervals not to exceed 1,700 landings.

(2) If any crack is detected beyond the bolt hole and that crack is less than or equal to 4 mm in length: Repeat the ultrasonic inspections thereafter at intervals not to exceed 250 landings.

(3) If any crack is detected beyond the bolt hole and that crack is greater than 4 mm in length: Prior to further flight, replace the flap beam in accordance with Airbus Service Bulletin A300–57–6005, Revision 2, dated December 16, 1993, and prior to the accumulation of 15,000 landings on the replaced flap beam, perform the ultrasonic inspection required by paragraph (j) of this AD.

(k) Retained Optional Action With Note 5 of AD 95–21–09 Amendment 39–9395 (60 FR 53847, October 18, 1995), Incorporated and Changes to Terminating Action

This paragraph restates the provisions of paragraph (e) of AD 95–21–09, Amendment 39–9395 (60 FR 53847, October 18, 1995), with Note 5 of AD 95–21–09 incorporated and changes to terminating action. For Model A300–600 series airplanes: Installation of oversized transition fit bolts in cold-worked holes, in accordance with Airbus Service Bulletin A300–57–6006 (Modification 5815), Revision 4, dated July 25, 1994, constitutes terminating action for the repetitive inspection requirements of paragraph (j) of this AD, provided that no cracking is detected during any inspection required by paragraph (j) of this AD, and provided that the installation is accomplished prior to the accumulation of 15,000 total landings and before the effective date of this AD. If any bolt requires oversizing above 7/16-inch diameter during accomplishment of this installation, prior to further flight, repair using a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, or by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. As of the effective date of this AD, any new repair approval must be done using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. If Airbus Service Bulletin A300–57–6005, Revision 2, dated December 16, 1993, is accomplished concurrently with

Airbus Service Bulletin A300–57–6006, Revision 3, dated December 16, 1993 (Modification 5815), the ultrasonic inspection for cracking required by paragraph (j) of this AD need not be performed since the eddy current inspection detailed for Modification 5815 is more comprehensive.

(l) New Requirement of This AD: Initial and Repetitive Ultrasonic Inspections

At the applicable time specified in paragraph (l)(1) or (l)(2) of this AD and, thereafter at intervals not to exceed those defined in table 3 to paragraph (l) of this AD, as applicable, accomplish an ultrasonic inspection for cracking of the steel base member and the aluminum side members' flap beam on the left-hand (LH) and right-hand (RH) sides in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–0116, Revision 07, dated September 19, 2011, including Appendixes A and B, undated; or Airbus Service Bulletin A300–57–6005, Revision 06, dated November 14, 2013; as applicable. For the purposes of this AD, average flight time (AFT) is considered to be the number of flight hours per flight cycle. Doing the actions required by this paragraph terminates the requirements of paragraphs (g) through (k) of this AD.

(1) For Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes (referred to as Model A300 series airplanes): Within the applicable compliance time defined in table 1 to paragraph (l) of this AD.

(2) For Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, F4–622R airplanes, and Model A300 C4–605R Variant F airplanes (referred to as Model A300–600 series airplanes): At the later of the times specified in paragraphs (l)(2)(i) and (l)(2)(ii) of this AD.

(i) Within the compliance time defined in table 2 to paragraph (l) of this AD.

(ii) Within 300 flight cycles or 640 flight hours after the effective date of this AD, whichever occurs first.

TABLE 1 TO PARAGRAPH (l) OF THIS AD—INSPECTION COMPLIANCE TIMES FOR MODEL A300 SERIES AIRPLANES

Airplane configuration	Compliance times for airplanes with an AFT of less than 1.5	Compliance times for airplanes with an AFT of more than or equal to 1.5
Model A300 B2–1A, B2–1C, B2K–3C, B2–203 airplanes on which Airbus Modifications 4740 and 5815 have not been embodied.	Within 15,000 flight cycles or 16,900 flight hours since first flight of the airplane, whichever occurs first.	Within 15,000 flight cycles or 16,900 flight hours since first flight of the airplane, whichever occurs first.
Model A300 B4–103 airplanes on which Airbus Modifications 4740 and 5815 have not been embodied.	Within 15,000 flight cycles or 20,500 flight hours since first flight of the airplane, whichever occurs first.	Within 15,000 flight cycles or 20,500 flight hours since first flight of the airplane, whichever occurs first.
Model A300 B4–2C, and B4–203 airplanes on which Airbus Modifications 4740 and 5815 have not been embodied.	Within 16,200 flight cycles or 22,200 flight hours since first flight of the airplane, whichever occurs first.	Within 15,000 flight cycles or 34,000 flight hours since first flight of the airplane, whichever occurs first.
Model A300 B2–1A, B2–1C, B2K–3C, B2–203 airplanes on which Airbus Modification 4740 has been embodied.	Within 12,000 flight cycles or 13,500 flight hours since embodiment of Airbus Modification 4740, whichever occurs first.	Within 12,000 flight cycles or 13,500 flight hours since embodiment of Airbus Modification 4740, whichever occurs first.
Model A300 B4–103 airplanes on which Airbus Modification 4740 has been embodied.	Within 12,000 flight cycles or 16,400 flight hours since embodiment of Airbus Modification 4740, whichever occurs first.	Within 12,000 flight cycles or 16,400 flight hours since embodiment of Airbus Modification 4740, whichever occurs first.
Model A300 B4–2C, and B4–203 airplanes on which Airbus Modification 4740 has been embodied.	Within 12,900 flight cycles or 17,700 flight hours since embodiment of Airbus Modification 4740, whichever occurs first.	Within 12,000 flight cycles or 27,200 flight hours since embodiment of Airbus Modification 4740, whichever occurs first.
Model A300 B2–1A, B2–1C, B2K–3C, B2–203 airplanes on which Airbus Modification 5815 has been embodied and no bolt larger than 7/16-inch diameter is fitted.	Within 33,000 flight cycles or 37,200 flight hours since embodiment of Airbus Modification 5815, whichever occurs first.	Within 33,000 flight cycles or 37,200 flight hours since embodiment of Airbus Modification 5815, whichever occurs first.
Model A300 B4–103 airplanes on which Airbus Modification 5815 has been embodied and no bolt larger than 7/16-inch diameter is fitted.	Within 33,000 flight cycles or 45,200 flight hours since embodiment of Airbus Modification 5815, whichever occurs first.	Within 33,000 flight cycles or 45,200 flight hours since embodiment of Airbus Modification 5815, whichever occurs first.
Model A300 B4–2C, and B4–203 airplanes on which Airbus Modification 5815 has been embodied and no bolt larger than 7/16-inch diameter is fitted.	Within 35,600 flight cycles or 48,800 flight hours since embodiment of Airbus Modification 5815, whichever occurs first.	Within 33,000 flight cycles or 74,900 flight hours since embodiment of Airbus Modification 5815, whichever occurs first.
Model A300 B2–1A, B2–1C, B2K–3C, B2–203 airplanes on which Airbus Modification 5815 has been embodied and at least one bolt with a 15/32-inch diameter is fitted.	Within 22,000 flight cycles or 24,800 flight hours since embodiment of Airbus Modification 5815, whichever occurs first.	Within 22,000 flight cycles or 24,800 flight hours since embodiment of Airbus Modification 5815, whichever occurs first.
Model A300 B4–103 airplanes on which Airbus Modification 5815 has been embodied and at least one bolt with a 15/32-inch diameter is fitted.	Within 22,000 flight cycles or 30,100 flight hours since embodiment of Airbus Modification 5815, whichever occurs first.	Within 22,000 flight cycles or 30,100 flight hours since embodiment of Airbus Modification 5815, whichever occurs first.
Model A300 B4–2C, and B4–203, airplanes on which Airbus Modification 5815 has been embodied and at least one bolt with a 15/32-inch diameter is fitted.	Within 23,700 flight cycles or 32,500 flight hours since embodiment of Airbus Modification 5815, whichever occurs first.	Within 22,000 flight cycles or 49,900 flight hours since embodiment of Airbus Modification 5815, whichever occurs first.

TABLE 2 TO PARAGRAPH (l) OF THIS AD—COMPLIANCE TIMES FOR MODEL A300–600 SERIES AIRPLANES

Airplane configuration	Compliance times for airplanes with an AFT of less than 1.5	Compliance times for airplanes with an AFT of more than or equal to 1.5
Model A300–600 series airplanes on which Airbus Modification 5815 and Airbus Modification 11133 have not been embodied.	Within 16,200 flight cycles or 24,300 flight hours since first flight of the airplane, whichever occurs first.	Within 15,000 flight cycles or 32,400 flight hours since first flight of the airplane, whichever occurs first.

TABLE 2 TO PARAGRAPH (I) OF THIS AD—COMPLIANCE TIMES FOR MODEL A300–600 SERIES AIRPLANES—Continued

Airplane configuration	Compliance times for airplanes with an AFT of less than 1.5	Compliance times for airplanes with an AFT of more than or equal to 1.5
Model A300–600 series airplanes on which Airbus Modification 5815 has been embodied and no bolt larger than 7/16-inch diameter is fitted.	Within 35,600 flight cycles or 53,400 flight hours since embodiment of Airbus Modification 5815, whichever occurs first.	Within 33,000 flight cycles or 71,200 flight hours since embodiment of Airbus Modification 5815, whichever occurs first.
Model A300–600 series airplanes on which Airbus Modification 5815 has been embodied and at least one bolt 15/32-inch diameter is fitted.	Within 23,700 flight cycles or 35,600 flight hours since embodiment of Airbus Modification 5815, whichever occurs first.	Within 22,000 flight cycles or 47,500 flight hours since embodiment of Airbus Modification 5815, whichever occurs first.
Model A300–600 series airplanes on which Airbus Modification 11133 has been embodied.	Within 35,600 flight cycles or 53,400 flight hours since first flight, whichever occurs first.	Within 33,000 flight cycles or 71,200 flight hours since first flight, whichever occurs first.

TABLE 3 TO PARAGRAPH (I) OF THIS AD—REPETITIVE INSPECTION INTERVALS

Airplane models	Repetitive interval (not to exceed) for airplanes with an AFT of less than 1.5	Repetitive interval (not to exceed) for airplanes with an AFT equal to or more than 1.5
A300 B2–1A, B2–1C, B2K–3C, B2–203	1,500 flight cycles or 1,600 flight hours, whichever occurs first.	1,500 flight cycles or 1,600 flight hours, whichever occurs first.
A300B4–103 airplanes	1,500 flight cycles or 2,000 flight hours, whichever occurs first.	1,500 flight cycles or 2,000 flight hours, whichever occurs first.
A300 B4–2C, and B4–203	1,600 flight cycles or 2,200 flight hours, whichever occurs first.	1,500 flight cycles or 3,400 flight hours, whichever occurs first.
A300–600 series airplanes	1,600 flight cycles or 2,400 flight hours, whichever occurs first.	1,500 flight cycles or 3,200 flight hours, whichever occurs first.

(m) New Requirement of This AD: Corrective Action

If any crack is found during any inspection required by paragraph (l) of this AD: Before further flight, replace the flap beam using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). Replacement of the flap beam does not constitute terminating action for the inspections required by paragraph (l) of this AD.

(n) Credit for Previous Actions

(1) This paragraph provides credit for inspections required by paragraph (g) of this AD, if those inspections were performed before November 17, 1995 (the effective date of AD 95–21–09, Amendment 39–9395 (60 FR 53847, October 18, 1995)) using Airbus Service Bulletin A300–57–116, Revision 1, dated August 27, 1983; Revision 2, dated April 24, 1984; Revision 3, dated July 20, 1984; Revision 4, dated August 13, 1986; or Revision 5, dated July 10, 1989; as applicable.

(2) This paragraph provides credit for actions required by paragraph (l) of this AD, if those actions were performed before the effective date of this AD using the applicable service information identified in paragraphs (n)(2)(i) through (n)(2)(x) of this AD.

(i) Airbus Service Bulletin A300–57–6005, Revision 03, dated November 25, 1997, which was not previously incorporated by reference.

(ii) Airbus Service Bulletin A300–57–6005, Revision 04, dated October 25, 1999, which was not previously incorporated by reference.

(iii) Airbus Service Bulletin A300–57–6005, Revision 05, dated April 25, 2013, which was not previously incorporated by reference.

(iv) Airbus Service Bulletin A300–57–6005, Revision 2, dated December 16, 1993, which was previously incorporated by reference on November 17 1995 (60 FR 53847, October 18, 1995).

(v) Airbus Service Bulletin A300–57–116, Revision 1, dated August 27, 1983, which was not previously incorporated by reference.

(vi) Airbus Service Bulletin A300–57–116, Revision 2, dated April 24, 1984, which was not previously incorporated by reference.

(vii) Airbus Service Bulletin A300–57–116, Revision 3, dated July 20, 1984, which was not previously incorporated by reference.

(viii) Airbus Service Bulletin A300–57–116, Revision 4, dated August 13, 1986, which was not previously incorporated by reference.

(ix) Airbus Service Bulletin A300–57–116, Revision 5, dated July 10, 1989, which was not previously incorporated by reference.

(x) Airbus Service Bulletin A300–57–116, Revision 6, dated July 16, 1993, which was previously incorporated by reference on November 17, 1995 (60 FR 53847, October 18, 1995).

(o) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(ii) AMOCs approved previously for AD 95–21–09, Amendment 39–9395 (60 FR 53847, October 18, 1995), are approved as AMOCs for the corresponding provisions of paragraphs (g) through (j) of this AD.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (m) of this AD: If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without

obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(p) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2013–0234R2, dated October 7, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8470.

(2) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 6. 2016.

Victor Wicklund,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–00634 Filed 1–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–8467; Directorate Identifier 2014–NM–107–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Fokker Services B.V. Model F.28 Mark 1000, 2000, 3000, and 4000 airplanes. This proposed AD was prompted by a design review that revealed no controlled bonding provisions are present on a number of critical locations inside the fuel tanks or connected to the walls of the fuel tanks. This proposed AD would require installing additional and improved bonding provisions in the fuel tanks and revising the airplane maintenance or inspection program, as applicable, by incorporating fuel airworthiness limitation items and critical design configuration control limitations (CDCCLs). We are proposing this AD to prevent an ignition source in the fuel tank vapor space, which could result in a fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by March 7, 2016.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, 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.

For service information identified in this proposed AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com*; Internet *http://www.myfokkerfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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–2015–8467; 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 regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–8467; Directorate Identifier 2014–NM–107–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0108, dated May 8, 2014 (referred to after this the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Fokker Services B.V. Model F.28 Mark 1000, 2000, 3000, and 4000 airplanes. The MCAI states:

> Prompted by an accident * * *, the Federal Aviation Administration (FAA) published Special Federal Aviation Regulation (SFAR) 88 [(66 FR 23086, May 7, 2001)], and the Joint Aviation Authorities (JAA) published Interim Policy INT/POL/25/12.
>
> The review conducted by Fokker Services on the Fokker F28 design, in response to these regulations, revealed that no controlled bonding provisions are present on a number of critical locations, inside the fuel tank or connected to the fuel tank wall.
>
> This condition, if not corrected, could create an ignition source in the fuel tank vapour space, possibly resulting in a fuel tank explosions and consequent loss of the aeroplane.
>
> To address this potential unsafe condition, Fokker Services developed a set of fuel tank bonding modifications.
>
> For the reasons described above, this [EASA] AD requires the Installation of additional and improved bonding provisions [and a revision of the maintenance or inspection program, as applicable]. These modifications require opening of the fuel tank access panels.
>
> More information on this subject can be found in Fokker Services All Operators Message AOF28.038#02.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8467.

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 (66 FR 23086, May 7, 2001) requires certain type design (*i.e.,* type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

The Joint Aviation Authorities (JAA) has issued a regulation that is similar to SFAR 88 (66 FR 23086, May 7, 2001). (The JAA is an associated body of the European Civil Aviation Conference (ECAC) representing the civil aviation regulatory authorities of a number of European States who have agreed to co-operate in developing and implementing common safety regulatory standards and procedures.) Under this regulation, the JAA stated that all members of the ECAC that hold type certificates for transport category airplanes are required to conduct a design review against explosion risks.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Related Service Information Under 1 CFR Part 51

Fokker Services B.V. has issued Fokker Proforma Service Bulletin SBF28–28–058, dated January 9, 2014, including Appendix SBF28–28–058/APP01, dated July 15, 2014. The service information describes procedures for installing improved bonding provisions for the transfer jet pumps, ventilation float valves, center tank overflow valves, and level control pilot valves wiring conduit, and applicable related investigative and corrective actions.

Fokker Services B.V. has also issued Fokker Service Bulletin SBF28–28–050, Revision 3, dated December 11, 2014. The service information describes certain fuel airworthiness limitation items and critical design configuration control limitations.

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.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

This AD requires revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections) and/or CDCCLs. Compliance with these actions and/or CDCCLs is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j)(1) of this AD. The request should include a description of changes to the required actions that will ensure the continued operational safety of the airplane.

Costs of Compliance

We estimate that this proposed AD affects 5 airplanes of U.S. registry.

We also estimate that it would take about 21 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $8,925, or $1,785 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative,

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Fokker Services B.V.: Docket No. FAA–2015–8467; Directorate Identifier 2014–NM–107–AD.

(a) Comments Due Date

We must receive comments by March 7, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Fokker Services B.V. Model F.28 Mark 1000, 2000, 3000, and 4000 airplanes, certificated in any category, all serial numbers.

(d) Subject

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

(e) Reason

This AD was prompted by a design review that revealed no controlled bonding provisions are present on a number of critical locations inside the fuel tanks or connected to the walls of the fuel tanks. We are issuing this AD to prevent an ignition source in the fuel tank vapor space, which could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Installation of Bonding Provisions

At the next scheduled opening of the fuel tanks after the effective date of this AD, but no later than 84 months after the effective date of this AD, install additional and improved bonding provisions in the fuel tanks, and do the applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Fokker Services Proforma Service Bulletin SBF28–28–058, dated January 9, 2014, including Appendix SBF28–28–058/APP01, dated July 15, 2014.

(h) Revision of Maintenance or Inspection Program

Before further flight after completing the installation specified in paragraph (g) of this AD, or within 30 days after the effective date of this AD, whichever occurs later: Revise the airplane maintenance or inspection program, as applicable, by incorporating the fuel airworthiness limitation items and critical design configuration control limitations (CDCCLs) specified in paragraph 1.L.(1)(c) of Fokker Services Proforma Service Bulletin SBF28–28–058, dated January 9, 2014, including Appendix SBF28–28–058/APP01, dated July 15, 2014. The initial compliance times for the tasks are at the latest of the times specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD.

(1) At the applicable time specified in Fokker Service Bulletin SBF28–28–050, Revision 3, dated December 11, 2014.

(2) Before further flight after completing the installation specified in paragraph (g) of this AD.

(3) Within 30 days after the effective date of this AD.

(i) No Alternative Actions, Intervals, and CDCCLs

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

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance:* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Fokker B.V. Service's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2014–0108, dated May 8, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8467.

(2) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com*; Internet *http://www.myfokkerfleet.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 5, 2016.

Victor Wicklund,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–00636 Filed 1–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0922; Directorate Identifier 2014–NM–156–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for certain Airbus Model A319 and A320 series airplanes. The NPRM proposed to require the modification of eight fastener locations in the longeron area below the emergency exit cut-outs on the left-hand (LH) and right-hand (RH) sides. The NPRM was prompted by a report that fatigue cracking could appear at certain fastener locations in the longeron area below the emergency exit cut-outs. This proposed AD is intended to complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. This action

revises the applicability by adding post-Airbus modification 32208 airplanes, which are also affected. We are proposing this supplemental NPRM (SNPRM) to detect and correct cracking at certain fastener locations in the longeron area below the emergency exit cut-outs, which could lead to failure of the fasteners and reduced structural integrity of the airplane. Since these actions impose an additional burden over those proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: We must receive comments on this SNPRM by March 7, 2016.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, 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.

For service information identified in this proposed AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0922; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0922; Directorate Identifier 2014–NM–156–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Model A319 and A320 series airplanes. The NPRM published in the **Federal Register** on December 15, 2014 (79 FR 74035).

The NPRM was prompted by a report that fatigue cracking could appear at certain fastener locations in the longeron area below the emergency exit cut-outs. The NPRM was intended to complete certain mandated programs intended to support the airplane reaching its LOV of the engineering data that support the established structural maintenance program. The NPRM proposed to require the modification of eight fastener locations in the longeron area below the emergency exit cut-outs on the LH and RH sides.

Actions Since Previous NPRM (79 FR 74035, December 15, 2014) Was Issued

Since we issued the NPRM (79 FR 74035, December 15, 2014), we have determined that airplanes having Airbus modification 32208, which were excluded from the applicability of NPRM (79 FR 74035, December 15, 2014), are also affected. For this reason, the FAA added airplanes having Airbus modification 32208 to the applicability of this proposed AD and increased the number of airplanes in the Costs of Compliance section to 294 airplanes. The European Aviation Safety Agency, which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2015–0085, dated May 13, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition on certain Model A319 and Model A320 series airplanes. The MCAI states:

> During the A320 fatigue test campaign for Extended Service Goal (ESG), it was determined that fatigue damage could appear at certain fastener locations on the longeron [area] below the emergency exit cut-outs, on the left-hand (LH) and right-hand (RH) sides of the fuselage.
>
> This condition, if not detected and corrected, could affect the structural integrity of the aeroplane.
>
> To address this potential unsafe condition, Airbus developed a modification, which has been published through Airbus Service Bulletin (SB) A320–53–1265 for in-service application to allow aeroplanes to operate up to the new ESG limit. Consequently, EASA issued AD 2014–0176 to require modification (cold working) of 8 fastener locations in the longeron area (Stringer 20A) below the emergency exit cut-outs on the LH and RH sides.
>
> Since that [EASA] AD was issued, it was identified that post-mod 32208 aeroplanes, which were excluded from the Applicability of that [EASA] AD, are also affected.
>
> For the reason described above, this [EASA] AD retains the requirements of EASA AD 2014–0176, which is superseded, but no longer excludes post-mod 32208 aeroplanes from the Applicability.

As described in FAA Advisory Circular 120–104 (*http://www.faa.gov/documentLibrary/media/Advisory_Circular/120-104.pdf*), several programs have been developed to support initiatives that will ensure the continued airworthiness of aging airplane structure. The last element of those initiatives is the requirement to establish a LOV of the engineering data that support the structural maintenance program under 14 CFR 26.21. This proposed AD is the result of an assessment of the previously established programs by the design approval holder (DAH) during the process of establishing the LOV for Airbus Model A319 and A320 series airplanes. The actions specified in this proposed AD are necessary to complete certain programs to ensure the continued airworthiness of aging airplane structure and to support an airplane reaching its LOV.

You may examine the MCAI in the AD docket on the Internet at *http://*

www.regulations.gov/#!documentDetail;D=FAA-2014-0922.

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A320–53–1265, Revision 02, dated July 10, 2014. The service information describes procedures for modifying the fastener locations in the longeron area below the emergency exit cut-outs on both RH and LH sides of the fuselage. 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.

Comments

We gave the public the opportunity to participate in developing this proposed AD. We considered the comment received. The following presents the comment received on the NPRM (79 FR 74035, December 15, 2014) and the FAA's response to the comment.

Request To Allow the Use of Later Revisions of Service Bulletin

United Airlines (United) requested that the NPRM (79 FR 74035, December 15, 2014) contain a statement allowing use of later revisions of the service information as an acceptable method of compliance for the proposed AD. United stated the modification addressed by the NPRM allows operators to reach an ESG. United stated that the service information mentioned in the NPRM may not incorporate the proper effectivity, since Airbus Service Bulletin A320–53–1265, Revision 01, dated July 2, 2013, is restricted to operators who have applied for Airbus's request for change/request for modification order (RFC/RMO) process. United stated the effectivity of Airbus Service Bulletin A320–53–1265, Revision 02, dated July 10, 2014, will likely not agree with the applicability of the NPRM.

We partially agree. We disagree to allow use of later revisions of service documents in an AD because use of unpublished service information is not allowed by the Office of the Federal Register's regulations for approving materials incorporated by reference. However, we have reviewed Airbus Service Bulletin A320–53–1265, Revision 02, dated July 10, 2014, which updated the kit information and the effectivity. We revised the applicability in this proposed AD to reflect the effectivity of Airbus Service Bulletin A320–53–1265, Revision 02, dated July 10, 2014. We also revised the references in paragraph (g) of this proposed AD to refer to Airbus Service Bulletin A320–53–1265, Revision 02, dated July 10, 2014, and revised paragraph (h) of this proposed AD to allow credit for actions done using Airbus Service Bulletin A320–53–1265, Revision 01, dated July 2, 2013. Affected operators may request approval to use a later revision of the referenced service information as an Alternative Method of Compliance (AMOC) using the procedures specified in paragraph (i) of this proposed AD.

FAA's Determination and Requirements of This SNPRM

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Certain changes described above expand the scope of the NPRM (79 FR 74035, December 15, 2014). As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Explanation of ''RC'' Procedures and Tests in Service Information

The FAA worked in conjunction with industry, under the Airworthiness Directive Implementation Aviation Rulemaking Committee (ARC), to enhance the AD system. One enhancement was a new process for annotating which procedures and tests in the service information are required for compliance with an AD. Differentiating these procedures and tests from other tasks in the service information is expected to improve an owner's/operator's understanding of crucial AD requirements and help provide consistent judgment in AD compliance. The procedures and tests identified as RC (required for compliance) in any service information have a direct effect on detecting, preventing, resolving, or eliminating an identified unsafe condition.

As specified in a NOTE under the Accomplishment Instructions of the specified service information, procedures and tests that are identified as RC in any service information must be done to comply with the proposed AD. However, procedures and tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an alternative method of compliance (AMOC), provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC will require approval of an AMOC.

Costs of Compliance

We estimate that this SNPRM affects 294 airplanes of U.S. registry.

We estimate that it would take about 12 work-hours per product to comply with the new basic requirements of this SNPRM. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this SNPRM on U.S. operators to be $299,880, or $1,020 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39–AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2014–0922; Directorate Identifier 2014–NM–156–AD.

(a) Comments Due Date

We must receive comments by March 7, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category, except those on which Airbus modification (mod) 152637 has been embodied in production.

(1) Airbus Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes, all manufacturer serial numbers (MSN).

(2) Airbus Model A320–211, –212, –214, –231, –232, and –233 airplanes, all manufacturer serial numbers (MSN).

(d) Subject

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

(e) Reason

This AD was prompted by a report that fatigue cracking could appear at certain fastener locations in the longeron area below the emergency exit cut-outs. We are issuing this AD to detect and correct cracking at certain fastener locations in the longeron area below the emergency exit cut-outs, which could lead to failure of the fasteners and reduced structural integrity of the airplane.

(f) Compliance

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

(g) Modification of Fastener Locations

Before the accumulation of 48,000 total flight cycles or 96,000 total flight hours, whichever occurs first since the airplane's first flight, modify the 8 fastener locations in the longeron area (stringer 20A) below the emergency exit cut-outs on both RH and LH sides, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–53–1265, Revision 02, dated July 10, 2014.

(h) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A320–53–1265, dated January 2, 2013; or Airbus Service Bulletin A320–53–1265, Revision 01, dated July 2, 2013; which are not incorporated by reference in this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2015–0085, dated May 13, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0922-0002*.

(2) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 5, 2016.

Victor Wicklund,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–00699 Filed 1–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–8469; Directorate Identifier 2014–NM–105–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Fokker Services B.V. Model F.28 Mark 1000, 2000, 3000, and 4000 airplanes. This proposed AD was prompted by a design review that revealed insufficient measures were taken to ensure the correct locking of the attachments of the fuel quantity tank units (FQTUs) in each wing tank. When an FQTU becomes loose, this could lead to insufficient clearance between the FQTU and the adjacent tank structure or other metal parts, and under certain conditions, create an ignition source inside the wing fuel vapor space. This proposed AD would require modifying the FQTUs by applying sealant to cover the nuts, washers, and stud ends at the FQTU attachments in each main wing tank. This proposed AD would also require

revising the maintenance or inspection program, as applicable, by incorporating a fuel airworthiness limitation item and a critical design configuration control limitation (CDCCL). We are proposing this AD to prevent an ignition source in the wing fuel tank vapor space, which could result in a wing fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by March 7, 2016.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, 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.

For service information identified in this proposed AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com*; Internet *http://www.myfokkerfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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–2015–8469; 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 regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–8469; Directorate Identifier 2014–NM–105–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0106, dated May 7, 2014 (referred to after this the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Fokker Services B.V. Model F.28 Mark 1000, 2000, 3000, and 4000 airplanes. The MCAI states:

> Prompted by an accident . . ., the Federal Aviation Administration (FAA) published Special Federal Aviation Regulation (SFAR) 88 [(66 FR 23086, May 7, 2001)], and the Joint Aviation Authorities (JAA) published Interim Policy INT/POL/25/12.
>
> The review conducted by Fokker Services on the Fokker F28 design, in response to these regulations, revealed that insufficient measures were taken to ensure the correct locking of the attachments of the Fuel Quantity Tank Units (FQTUs). When a FQTU becomes loose, this could lead to insufficient clearance between the FQTU and the adjacent tank structure or other metal parts and, under certain conditions, create an ignition source inside the wing fuel tank vapour space.
>
> This condition, if not detected and corrected, could result in a wing fuel tank explosion and consequent loss of the aeroplane.
>
> To address this potential unsafe condition, Fokker Services developed a modification to ensure that each FQTU remains properly attached.
>
> For the reasons described above, this [EASA] AD requires the application of sealant covering the nuts, washers and stud ends at the FQTU attachment in each wing tank [and a revision to the maintenance or inspection program, as applicable to incorporate a fuel airworthiness limitation item and a CDCCL]. More information on this subject can be found in Fokker Services All Operators Message AOF28.038#02.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8469.

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 (66 FR 23086, May 7, 2001) requires certain type design (*i.e.*, type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

The Joint Aviation Authorities (JAA) has issued a regulation that is similar to SFAR 88 (66 FR 23086, May 7, 2001). (The JAA is an associated body of the European Civil Aviation Conference (ECAC) representing the civil aviation regulatory authorities of a number of European States who have agreed to co-operate in developing and implementing common safety regulatory standards and procedures.) Under this regulation, the JAA stated that all members of the ECAC that hold type certificates for transport category airplanes are required to conduct a design review against explosion risks.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Related Service Information Under 1 CFR Part 51

Fokker Services B.V. has issued Fokker Service Bulletin SBF28–28–054, Revision 1, which includes Fokker Manual Change Notification MCNM–F28–037, Revision 1, dated January 9, 2014. The service information describes procedures for applying sealant to the attachment nuts, washers, and stud ends of the FQTU.

Fokker Services B.V. has also issued Fokker Service Bulletin SBF28–28–050, Revision 3, dated December 11, 2014. The service information describes the fuel airworthiness limitation item and the CDCCL.

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.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

This AD requires revisions to certain operator maintenance documents to include new actions (*e.g.*, inspections) and/or CDCCLs. Compliance with these actions and/or CDCCLs is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (k)(1) of this proposed AD. The request should include a description of changes to the required actions that will ensure the continued operational safety of the airplane.

Costs of Compliance

We estimate that this proposed AD affects 5 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification and maintenance program revision.	7 work-hours × $85 per hour = $595	$0	$595	$2,975

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Fokker Services B.V.: Docket No. FAA–2015–8469; Directorate Identifier 2014–NM–105–AD.

(a) Comments Due Date

We must receive comments by March 7, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Fokker Services B.V. Model F.28 Mark 1000, 2000, 3000, and 4000 airplanes, certificated in any category, all serial numbers.

(d) Subject

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

(e) Reason

This AD was prompted by a design review that revealed insufficient measures were taken to ensure the correct locking of the attachments of the fuel quantity tank units (FQTUs) in each wing tank. When an FQTU becomes loose, this could lead to insufficient clearance between the FQTU and the adjacent tank structure or other metal parts, and under certain conditions, create an ignition source inside the wing fuel vapor space. We are issuing this AD to prevent an ignition source in the wing fuel tank vapor space, which could result in a wing fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Modification of the FQTUs

At the next scheduled opening of the fuel tanks after the effective date of this AD, but no later than 84 months after the effective date of this AD, modify the FQTU in each main wing tank by applying sealant to cover the nuts, washers, and stud ends of the FQTU attachments, and do an inspection for leakage of the tank access panels, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF28–28–054, Revision 1, including Fokker Manual Change Notification MCNM–F28–037, Revision 1, dated January 9, 2014. If any fuel leakage is found, before further flight, reapply the sealant, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF28–28–054, Revision 1, including Fokker Manual Change Notification MCNM–F28–037, Revision 1, dated January 9, 2014.

(h) Revision of Maintenance or Inspection Program

Before further flight after completing the modification specified in paragraph (g) of this AD, or within 30 days after the effective date of this AD, whichever occurs later: Revise the airplane maintenance or inspection program, as applicable, by incorporating the fuel airworthiness limitation item and critical design configuration control limitation (CDCCL) specified in paragraph 1.L.(1)(c) of Fokker Service Bulletin SBF28–28–054, Revision 1, dated January 9, 2014. The initial compliance times for these tasks are at the latest of the times specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD.

(1) At the applicable time specified in Fokker Service Bulletin SBF28–28–050, Revision 3, dated December 11, 2014.

(2) Before further flight after completing the modification specified in paragraph (g) of this AD.

(3) Within 30 days after the effective date of this AD.

(i) No Alternative Actions, Intervals, and CDCCLs

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

(j) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Fokker Service Bulletin SBF28–28–054, dated June 30, 2010, which is not incorporated by reference in this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Fokker B.V. Service's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014–0106, dated May 7, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov.* by searching for and locating Docket No. FAA–2015–8469.

(2) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com*; Internet *http://www.myfokkerfleet.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 6, 2016.

Victor Wicklund,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–00637 Filed 1–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–8466; Directorate Identifier 2015–NM–045–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes. This proposed AD was prompted by the need for more restrictive fuel airworthiness limitations. This proposed AD would require revising the maintenance program or inspection program, as applicable, to incorporate certain fuel system airworthiness limitations. We are proposing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by March 7, 2016.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, 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.

For service information identified in this proposed AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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–2015–8466; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–8466; Directorate Identifier 2015–NM–045–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2015–0032, dated February 24, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes. The MCAI states:

> Fokker Services published issue 5 of Engineering Report SE–672, containing Fuel Airworthiness Limitation Items (ALIs) and Critical Design Configuration Control Limitations (CDCCLs). This report is Part 3 of the Airworthiness Limitations Section (ALS Part 3) of the Instructions for Continued Airworthiness, referred to in Section 06, Appendix 1, of the Fokker 70/100 Maintenance Review Board (MRB) document.
>
> The complete ALS currently consists of: Part 1—Report SE–473, Certification Maintenance Requirements (CMRs), Part 2—Report SE–623, ALIs and Safe Life Items (SLIs), and Part 3—Report SE–672, Fuel ALIs and CDCCLs.
>
> The instructions contained in those reports have been identified as mandatory actions for continued airworthiness.
>
> For the reasons described above, this [EASA] AD requires implementation of the maintenance actions as specified in ALS Part 3 of the Instructions for Continued Airworthiness, Fokker Services Engineering Report SE–672 at issue 5.

We have determined that the actions identified in this AD are necessary to reduce the potential of structural failures or of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8466.

Related Service Information Under 1 CFR Part 51

Fokker Services B.V. has issued Fokker Services B.V. Engineering Report SE–672, Fokker 70/100 Fuel ALI's and CDCCL's, Issue 5, released December 11, 2014. The service information describes fuel airworthiness limitation items and critical design configuration control limitations. 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.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

This AD requires revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections) and/or CDCCLs. Compliance with these actions and/or CDCCLs is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (i)(1) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Differences Between This Proposed AD and the MCAI or Service Information

The MCAI specifies that if there are findings from the ALS inspection tasks, corrective actions must be accomplished in accordance with Fokker Services maintenance documentation. However, this AD does not include that requirement. Operators of U.S.-registered airplanes are required by general airworthiness and operational regulations to perform maintenance using methods that are acceptable to the FAA. We consider those methods to be adequate to address any corrective actions necessitated by the findings of ALS inspections required by this AD.

Costs of Compliance

We estimate that this proposed AD affects 8 airplanes of U.S. registry.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $680, or $85 per product.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Fokker Services B.V.: Docket No. FAA–2015–8466; Directorate Identifier 2015–NM–045–AD.

(a) Comments Due Date

We must receive comments by March 7, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes, certificated in any category, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by the need for more restrictive fuel airworthiness limitations. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

(f) Compliance

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

(g) Maintenance Program Revision

(1) Within 12 months after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the fuel airworthiness limitation items (ALIs) and critical design configuration control limitations (CDCCLs) specified in Fokker Services B.V. Engineering Report SE–672, Fokker 70/100 Fuel ALI's and CDCCL's, Issue 5, released December 11, 2014.

(2) The initial compliance times and repetitive intervals for the actions are at the applicable times specified within Fokker Services B.V. Engineering Report SE–672, Fokker 70/100 Fuel ALI's and CDCCL's, Issue 5, released December 11, 2014. If any discrepancy is found, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency; or Fokker B.V. Service's EASA Design Organization Approval (DOA). Repair any discrepancy before further flight.

(h) No Alternative Inspections, Inspection Intervals, or CDCCLs

After accomplishment of the actions specified in paragraph (g) of this AD, no alternative inspections, inspection intervals, or CDCCLs may be used unless the inspections, intervals, or CDCCLs are approved as an AMOC in accordance with the procedures specified in paragraph (i)(1) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@-faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Contacting the Manufacturer: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Fokker Services B.V.'s EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Related Information

(1) Refer to MCAI EASA Airworthiness Directive 2015–0032, dated February 24, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8466.

(2) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* Internet *http://www.myfokkerfleet.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 5, 2016.

Victor Wicklund,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–00633 Filed 1–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–8463; Directorate Identifier 2014–NM–226–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2013–20–11, for all Airbus Model A318, A319, A320, and A321 series airplanes. AD

2013–20–11 currently requires modifying the passenger emergency oxygen container assembly. Since we issued AD 2013–20–11, we have determined that the unsafe condition also affects oxygen containers labeled ''DAe Systems.'' This proposed AD would expand the affected group of oxygen containers to include those labeled ''DAe Systems.'' We are proposing this AD to prevent a high temperature oxygen generator and mask from falling down and possibly resulting in an ignition source in the passenger compartment, injury to passengers, and reduced availability of supplemental oxygen.

DATES: We must receive comments on this proposed AD by March 7, 2016.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, 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.

For Airbus service information identified in this proposed AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

For B/E Aerospace service information identified in this proposed AD, contact Dieter Heins, Customer Support Manager, Oxygen & PSU Systems, B/E Aerospace Systems, GmbH Revalstr. 1, D–23560 Lübeck; telephone: +49 (0)451 4093 2976; fax: +49 (0)451 4093 4488; email: *dieter_heins@beaerospace-systems.com.*

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

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–2015–8463; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1405; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–8463; Directorate Identifier 2014–NM–226–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On September 17, 2013, we issued AD 2013–20–11, Amendment 39–17617 (78 FR 64162, October 28, 2013). AD 2013–20–11 requires modifying the passenger emergency oxygen container assembly on all Model A318, A319, A320, and A321 series airplanes.

Since we issued AD 2013–20–11, Amendment 39–17617 (78 FR 64162, October 28, 2013), we have determined that the unsafe condition also affects oxygen containers labeled ''DAe Systems.''

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2014–0207, dated September 16, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition. The MCAI states:

It was determined that oxygen generators, installed on a specific batch of Type 1 (22 min) passenger emergency oxygen container assemblies, may become detached by extreme pulling of the mask tube at the end of oxygen supply. Investigations revealed that such detachment can be caused by the increase in temperature towards the end of the generator operation, which may weaken the plastic housing in the attachment area of the bracket.

This condition, if not corrected, could make the rivets slip through the plastic housing, causing a 'hot' oxygen generator and mask to fall down, possibly resulting in injury to passengers.

To address this potential unsafe condition, EASA issued AD 2012–0055 (later revised) [*http://ad.easa.europa.eu/blob/easa_ad_2012_0055_R1_superseded.pdf/AD_2012-0055R1_1*] [which corresponds to FAA AD 2013–20–11, Amendment 39–17617 (78 FR 64162, October 28, 2013)] to require modification of the affected oxygen container assemblies. That [EASA] AD also prohibited installation of unmodified containers on any aeroplane as replacement parts.

Since that [EASA] AD was issued, it was found that the affected containers have not only been marked with company name B/E Aerospace, as was specified, but also, for a brief period, with the former company name DAe Systems.

For the reason described above, this [EASA] AD retains the requirements of EASA AD 2012–0055R1, which is superseded, and expands the affected group of containers to include those that have the name ''DAe Systems'' on the identification plate.

This [EASA] AD also clearly separates the serial number (s/n) groups of containers into those manufactured by B/E Aerospace and those manufactured by DAe Systems, for which additional compliance time is provided.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8463.

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information. This service information describes procedures for installation of a reinforcement plate in the oxygen container assembly.

- Airbus Service Bulletin A320–35–1049, dated June 15, 2011.
- Airbus Service Bulletin A320–35–1053, dated June 15, 2011.
- Airbus Service Bulletin A320–35–1054, dated June 15, 2011.
- Airbus Service Bulletin A320–35–1055, dated June 15, 2011.
- Airbus Service Bulletin A320–35–1056, dated June 15, 2011.
- Airbus Service Bulletin A320–35–1057, dated June 15, 2011.
- Airbus Service Bulletin A320–35–1058, dated June 15, 2011.

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.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Costs of Compliance

We estimate that this proposed AD affects 4 airplanes of U.S. registry.

The actions required by AD 2013–20–11, Amendment 39–17617 (78 FR 64162, October 28, 2013), and retained in this proposed AD take about 2 work-hours per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that are required by AD 2013–20–11 is $170 per product.

We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $680, or $170 per product.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2013–20–11, Amendment 39–17617 (78 FR 64162, October 28, 2013), and adding the following new AD:

Airbus: Docket No. FAA–2015–8463; Directorate Identifier 2014–NM–226–AD.

(a) Comments Due Date

We must receive comments by March 7, 2016.

(b) Affected ADs

This AD replaces AD 2013–20–11, Amendment 39–17617 (78 FR 64162, October 28, 2013).

(c) Applicability

This AD applies to the Airbus airplanes, certificated in any category, specified in paragraphs (c)(1) through (c)(4) of this AD, all manufacturer serial numbers.

(1) Airbus Model A318–111, –112, –121, and –122 airplanes.

(2) Airbus Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Airbus Model A320–211, –212, –214, –231, –232, and –233 airplanes.

(4) Airbus Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 35, Oxygen.

(e) Reason

This AD was prompted by a determination that oxygen generators installed on a certain batch of passenger emergency oxygen container assemblies might become detached by extreme pulling of the mask tube at the end of the oxygen supply causing a high temperature oxygen generator and mask to fall down. This AD was also prompted by a determination that the unsafe condition affects oxygen containers labeled ''DAe Systems.'' We are issuing this AD to prevent a high temperature oxygen generator and mask from falling down and possibly resulting in an ignition source in the passenger compartment, injury to passengers, and reduced availability of supplemental oxygen.

(f) Compliance

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

(g) Retained Oxygen Container Assembly Modification, With Service Information Referenced in a New Paragraph

This paragraph restates the requirements of paragraph (g) of AD 2013–20–11, Amendment 39–17617 (78 FR 64162, October 28, 2013), with service information referenced in a new paragraph. Except as specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD, within 5,000 flight cycles, or 7,500 flight hours, or 24 months, whichever occurs first, after December 2, 2013 (the effective date of AD 2013–20–11): Modify each type 1 (22 minute) passenger emergency oxygen container assembly installed on an airplane, having a part number (P/N) listed in paragraph (g)(1)(i) of this AD and a serial number (S/N) listed in paragraph (g)(1)(ii) of this AD, in accordance with the Accomplishment Instructions of the applicable Airbus service information specified in paragraphs (k)(1) through (k)(7) of this AD.

(1) An oxygen container that has a part number listed in paragraph (g)(1)(i) of this AD and a serial number as listed in paragraph (g)(1)(ii) of this AD, and that has been modified using the instructions of B/E Aerospace Service Bulletin 1XC22–0100–35–006, is compliant with the modification requirement of paragraph (g) of this AD.

(i) Oxygen container part numbers listed in paragraphs (g)(1)(i)(A) through (g)(1)(i)(D) of this AD, where xxxxx stands for an alphanumerical value.

(A) 13C22Lxxxxx0100.

(B) 13C22Rxxxxx0100.

(C) 14C22Lxxxxx0100.

(D) 14C22Rxxxxx0100.

(ii) Oxygen container serial numbers listed in paragraphs (g)(1)(ii)(A) through (g)(1)(ii)(H) of this AD.

(A) ARBC–0182 to ARBC–9999, inclusive.

(B) ARBD–0000 to ARBD–9999, inclusive.

(C) ARBE–0000 to ARBE–9999, inclusive.

(D) BEBF–0000 to BEBF–9999, inclusive.

(E) BEBH–0000 to BEBH–9999, inclusive.

(F) BEBK–0000 to BEBK–9999, inclusive.

(G) BEBL–0000 to BEBL–9999, inclusive.

(H) BEBM–0000 to BEBM–0454, inclusive.

(2) Airplanes on which Airbus Modification 150704 has not been embodied in production are excluded from the requirements of paragraph (g) of this AD, unless an oxygen container with a part number listed in paragraph (g)(1)(i) of this AD and a serial number listed in paragraph (g)(1)(ii) of this AD is installed.

(3) Airplanes on which Airbus Modification 150704 has been embodied in production and that are not listed by model and manufacturer serial number in the applicable Airbus service information specified in paragraphs (k)(1) through (k)(7) of this AD; are excluded from the requirements of paragraph (g) of this AD, unless an oxygen container with a part number listed in paragraph (g)(1)(i) of this AD and a serial number listed in paragraph (g)(1)(ii) of this AD is installed.

Note 1 to paragraph (g) of this AD: The oxygen container assemblies listed in paragraph (g)(1)(i) of this AD and paragraph (g)(1)(ii) of this AD are B/E Aerospace products with the mark ''B/E AEROSPACE'' on the identification plate.

(h) Retained Parts Installation Limitation, With Service Information Referenced in a New Paragraph

This paragraph restates the requirements of paragraph (h) of AD 2013–20–11, Amendment 39–17617 (78 FR 64162, October 28, 2013), with service information referenced in a new paragraph. As of December 2, 2013 (the effective date of AD 2013–20–11), no person may install, on any airplane, an oxygen container with a part number listed in paragraph (g)(1)(i) of this AD, and serial number listed in paragraph (g)(1)(ii) of this AD, unless the oxygen container has been modified according to the applicable Airbus service information specified in paragraphs (k)(1) through (k)(7) of this AD.

(i) New Requirement of This AD: Modification of Additional Oxygen Containers

At the applicable times specified in paragraphs (i)(1) and (i)(2) of this AD: Modify each type 1 (22 minute) passenger emergency oxygen container assembly installed on an airplane, having a part number and a serial number listed in paragraph (j) of this AD, in accordance with the Accomplishment Instructions of the applicable Airbus service information specified in paragraphs (k)(1) through (k)(7) of this AD; except as specified in paragraph (l) of this AD.

(1) For units with ''B/E AEROSPACE'' on the identification plate and having a part number and a serial number listed in paragraph (j)(1) of this AD: Within 5,000 flight cycles, or 7,500 flight hours, or 24 months, whichever occurs first after the effective date of this AD.

(2) For units with ''DAe Systems'' on the identification plate and having a part number and a serial number listed in paragraph (j)(2) of this AD: Within 2,500 flight cycles, or 3,750 flight hours, or 12 months, whichever occurs first after the effective date of this AD.

(j) New Part Numbers and Serial Numbers for the Parts Affected by Paragraph (i) of This AD

Affected parts for the actions required by paragraph (i) of this AD are identified in paragraphs (j)(1) and (j)(2) of this AD.

(1) For oxygen containers with ''B/E AEROSPACE'' on the identification plate: Units having a part number identified in paragraphs (j)(1)(i) through (j)(1)(iv) of this AD, where part number ''xxxxx'' stands for any alphanumerical value, and a serial number of BEBM–0455 to BEBM–9999, inclusive.

(i) 13C22Lxxxxx0100.

(ii) 13C22Rxxxxx0100.

(iii) 14C22Lxxxxx0100.

(iv) 14C22Rxxxxx0100.

(2) For oxygen containers with ''DAe Systems'' on the identification plate: Units having a part number identified in paragraphs (j)(1)(i) through (j)(1)(iv) of this AD, where part number ''xxxxx'' stands for any alphanumerical value, and a serial number identified in paragraphs (j)(2)(i) through (j)(2)(iv) of this AD.

(i) ARBC–0000 to ARBC–9999 inclusive.

(ii) ARBD–0000 to ARBD–9999 inclusive.

(iii) ARBE–0000 to BEBE–9999 inclusive.

(iv) BEBE–0000 to BEBE–9999 inclusive.

(k) New Service Information Paragraph for the Requirements of Paragraphs (g), (h), (i), and (m) of This AD

Accomplish the requirements specified in paragraphs (g), (h), (i), and (m) of this AD in accordance with the Accomplishment Instructions of the applicable Airbus service information identified in paragraphs (k)(1) through (k)(7) of this AD.

(1) Airbus Service Bulletin A320–35–1049, dated June 15, 2011.

(2) Airbus Service Bulletin A320–35–1053, dated June 15, 2011.

(3) Airbus Service Bulletin A320–35–1054, dated June 15, 2011.

(4) Airbus Service Bulletin A320–35–1055, dated June 15, 2011.

(5) Airbus Service Bulletin A320–35–1056, dated June 15, 2011.

(6) Airbus Service Bulletin A320–35–1057, dated June 15, 2011.

(7) Airbus Service Bulletin A320–35–1058, dated June 15, 2011.

(l) New Exceptions to the Requirements of Paragraph (i) of This AD

(1) An oxygen container that has a part number and a serial number listed in paragraph (j) of this AD, and that has been modified as specified in B/E Aerospace Service Bulletin 1XC22–0100–35–006, is compliant with the modification requirement of paragraph (i) of this AD.

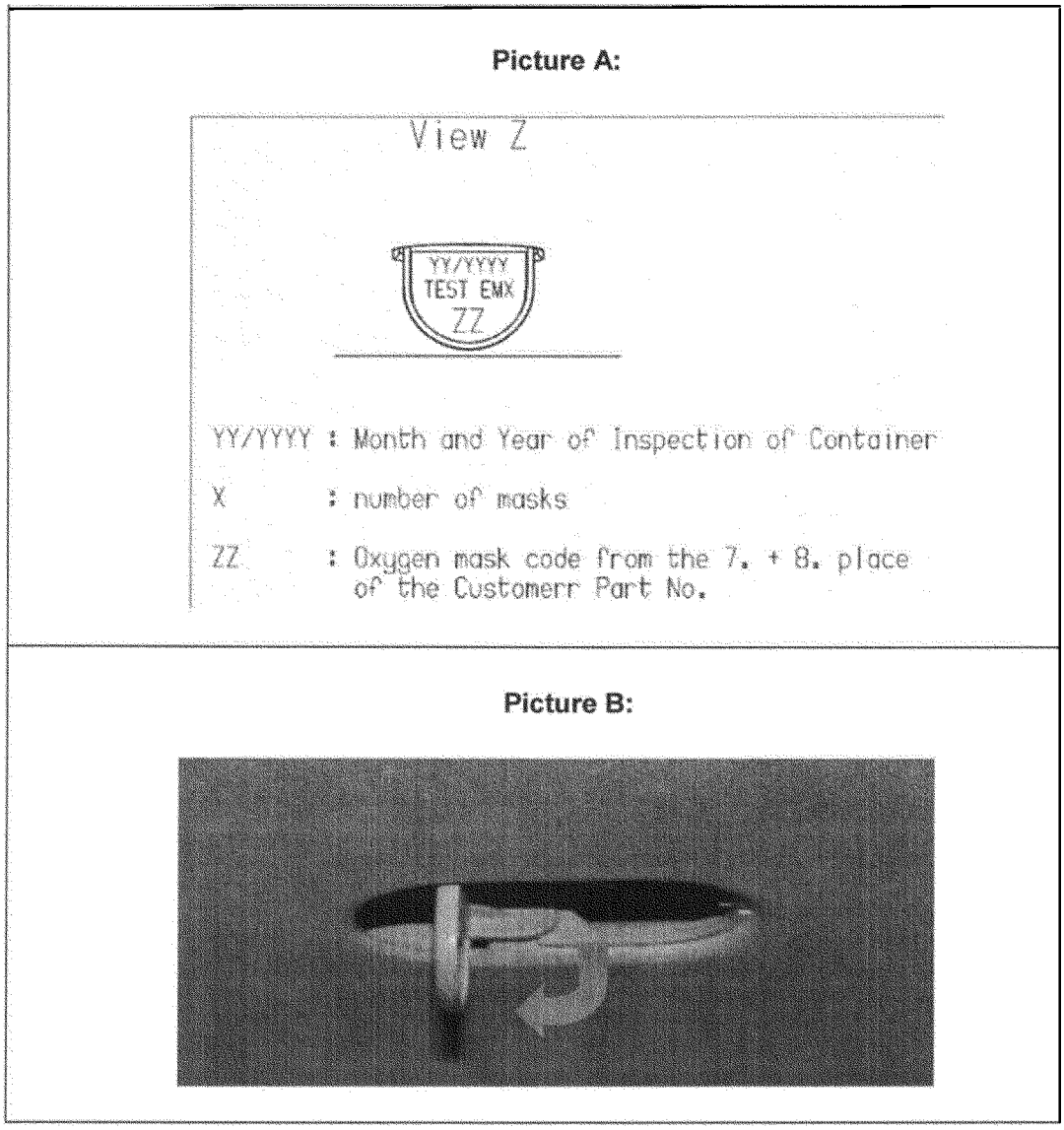
(2) Airplanes on which Airbus Modification 150704 has not been embodied in production are excluded from the requirements of paragraph (i) of this AD, unless an oxygen container with a part number and a serial number listed in paragraph (j) of this AD is installed.

(3) Airplanes on which Airbus Modification 150704 has been embodied in production and that are not listed by model and manufacturer serial number in the Airbus service information specified in paragraphs (k)(1) through (k)(7) of this AD, as applicable, are excluded from the requirements of paragraph (i) of this AD, unless an oxygen container with a part and a serial number listed in paragraph (j) of this AD is installed.

(4) Airplanes on which the design of the passenger oxygen container is not Design A, as defined in figure 1 to paragraph (l)(4) of this AD, are excluded from the requirements of paragraph (i) of this AD for that passenger oxygen container.

Note 2 to paragraph (l)(4) of this AD: For ''Design A,'' the placard on the passenger oxygen container test button is as described in ''Picture A'' in figure 1 to paragraph (l)(4) of this AD. The mask configuration (''ZZ'' in ''Picture A'') is a number, and the test button is as shown in ''Picture B.''

Figure 1 to Paragraph (l)(4) of this AD – Design A of the Passenger Oxygen Containers



(m) New Requirement of This AD: Parts Installation Limitation

As of the effective date of this AD, no person may install, on any airplane, an oxygen container with a part number and a serial number listed in paragraph (j) of this AD, unless the oxygen container has been modified in accordance with the Accomplishment Instructions of the applicable Airbus service information specified in paragraphs (k)(1) through (k)(7) of this AD.

(n) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: (425) 227–1405; fax: (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(ii) AMOCs approved previously for AD 2013–20–11, Amendment 39–17617 (78 FR 64162, October 28, 2013), are approved as AMOCs for the corresponding provisions of paragraphs (g) and (h) of this AD.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(o) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD

2014–0207, dated September 16, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8463.

(2) For Airbus service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(3) For B/E Aerospace service information identified in this AD, contact Dieter Heins, Customer Support Manager, Oxygen & PSU Systems, B/E Aerospace Systems, GmbH Revalstr. 1, D–23560 Lübeck; telephone: +49 (0)451 4093 2976; fax: +49 (0)451 4093 4488; email: *dieter_heins@beaerospace-systems.com.*

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

Issued in Renton, Washington, on January 5, 2016.

Victor Wicklund,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–00697 Filed 1–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–8468; Directorate Identifier 2014–NM–208–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2007–21–14 R1, for all Airbus Model A310 series airplanes. AD 2007–21–14 R1 currently requires revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems. Since we issued AD 2007–21–14R1, we have determined that more restrictive maintenance requirements and/or airworthiness limitations are necessary. This proposed AD would require revising the maintenance program or inspection program to incorporate revised fuel maintenance and inspection tasks. We are proposing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors caused by latent failures, alterations, repairs, or maintenance actions, could result in fuel tank explosions and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by March 7, 2016.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, 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.

For service information identified in this proposed AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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–2015–8468; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–8468; Directorate Identifier 2014–NM–208–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On October 19, 2009, we issued AD 2007–21–14 R1, Amendment 39–16061 (74 FR 55123, October 27, 2009). AD 2007–21–14 R1 requires actions intended to address an unsafe condition on all Airbus Model A310 series airplanes. AD 2007–21–14 R1 revised AD 2007–21–14, Amendment 39–15232, (72 FR 58499, October 16, 2007).

Since we issued AD 2007–21–14R1, Amendment 39–16061 (74 FR 55123, October 27, 2009), we have determined more restrictive maintenance requirements and airworthiness limitations are necessary.

The European Aviation Safety Agency, which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0193, dated October 15, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition all Airbus Model A310 series airplanes. The MCAI states:

> Prompted by an accident . . ., the Federal Aviation Administration (FAA) published Special Federal Aviation Regulation (SFAR) 88, [*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgFAR.nsf/0/EEFB3F94451DC06286256C93004F5E07?OpenDocument&Highlight=sfar* 88], and the Joint Aviation Authorities (JAA) published Interim Policy INT/POL/25/12. In response to these regulations, Airbus conducted a design review to develop Fuel Airworthiness Limitations (FAL) for Airbus on A310 aeroplanes.
>
> The FAL were specified in Airbus A310 FAL document ref. 95A.1930/05 at issue 02 and in the A310 Airworthiness Limitations Section (ALS) variation to FAL document issue 02, ref. 0BVLG110006/C0S issue 01, for A310 aeroplanes.
>
> EASA issued [EASA] AD 2006–0202 (*http://ad.easa.europa.eu/ad/2006-0202*) to

require compliance with the FAL documents (comprising maintenance/inspection tasks and Critical Design Configuration Control Limitations (CDCCL)).

EASA AD 2006–0202 was superseded by EASA AD 2007–0096 (later revised) [which corresponds to FAA AD 2007–21–14R1, Amendment 39–16061 (74 FR 55123, October 27, 2009)], which retained the original requirements and corrected and updated the compliance paragraphs concerning task ref. 28–18–00–03–1 and CDCCL's.

Since EASA AD 2007–0096R1 [(*http://ad.easa.europa.eu/ad/2007-0096R1*) which corresponds to FAA AD 2007–21–14R1, Amendment 39–16061 (74 FR 55123, October 27, 2009)] was published, Airbus issued A310 ALS Part 5, prompted by EASA policy statement (EASA D2005/CPRO) which requests design approval holders to integrate Fuel Tank Safety items into an ALS document. The A310 ALS Part 5 is approved by EASA.

Failure to comply with the items as identified in Airbus A310 ALS Part 5 could result in a fuel tank explosion and consequent loss of the aeroplane.

For the reasons described above, this [EASA] AD . . . requires implementation of the new and more restrictive maintenance instructions and/or airworthiness limitations as specified in Airbus A310 ALS Part 5.

The unsafe condition is the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors caused by latent failures, alterations, repairs, or maintenance actions, could result in fuel tank explosions and consequent loss of the airplane. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8468.

Related Service Information Under 1 CFR Part 51

Airbus has issued A310 Airworthiness Limitations Section (ALS), Part 5,—Fuel Airworthiness Limitations, Revision 00, dated May 27, 2014. The airworthiness limitations introduce mandatory instructions and more restrictive maintenance requirements. 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.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

This proposed AD requires revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections and/or Critical Design Configuration Control Limitations (CDCCLs). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance (AMOC) according to paragraph (m)(1) of this AD. The request should include a description of changes to the required actions that will ensure the continued operational safety of the airplane.

Notwithstanding any other maintenance or operational requirements, components that have been identified as airworthy or installed on the affected airplanes before accomplishing the revision of the airplane maintenance or inspection program specified in this AD, do not need to be reworked in accordance with the CDCCLs. However, once the airplane maintenance or inspection program has been revised as required by this AD, future maintenance actions on these components must be done in accordance with the CDCCLs.

Differences Between This Proposed AD and the MCAI or Service Information

The MCAI specifies that if there are findings from the ALS inspection tasks, corrective actions must be accomplished in accordance with Airbus maintenance documentation. However, this AD does not include that requirement. Operators of U.S.-registered airplanes are required by general airworthiness and operational regulations to perform maintenance using methods that are acceptable to the FAA. We consider those methods to be adequate to address any corrective actions necessitated by the findings of ALS inspections required by this AD.

This proposed AD would require operators to revise the maintenance or inspection program within 3 months after the effective date of the AD to incorporate revised fuel maintenance and inspection tasks. The MCAI specifies compliance with the tasks as of the effective date of the MCAI. In developing the compliance time for this action, we considered the degree of urgency associated with addressing the unsafe condition. We find 3 months an appropriate compliance time to complete these actions. This difference has been coordinated with the EASA.

Costs of Compliance

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

The actions required by AD 2007–21–14 R1, Amendment 39–16061 (74 FR 55123, October 27, 2009), and retained in this proposed AD take about 2 work-hours per product, at an average labor rate of $85 per work-hour. Required parts cost $0 per product. Based on these figures, the estimated cost of the actions that are required by AD 2007–21–14 R1 is $170 per product.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $1,955, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2007–21–14 R1, Amendment 39–16061 (74 FR 55123, October 27, 2009), and adding the following new AD:

Airbus: Docket No. FAA–2015–8468; Directorate Identifier 2014–NM–208–AD.

(a) Comments Due Date

We must receive comments by March 7, 2016.

(b) Affected ADs

This AD replaces (AD) 2007–21–14R1, Amendment 39–16061 (74 FR 55123, October 27, 2009).

(c) Applicability

This AD applies to Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes; certificated in any category; all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by Airbus issuing more restrictive instructions and/or fuel airworthiness limitations. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors caused by latent failures, alterations, repairs, or maintenance actions, could result in fuel tank explosions and consequent loss of the airplane.

(f) Compliance

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

(g) Retained Revision of the Airworthiness Limitations Section (ALS) To Incorporate Fuel Maintenance and Inspection Tasks, With No Changes

This paragraph restates the requirements of paragraph (f) of AD 2007–21–14R1, Amendment 39–16061 (74 FR 55123, October 27, 2009), with no changes. Within 3 months after November 20, 2007 (the effective date of AD 2007–21–14, Amendment 39–15232, (72 FR 58499, October 16, 2007)), revise the ALS of the Instructions for Continued Airworthiness to incorporate Airbus A310 ALS Part 5—Fuel Airworthiness Limitations, dated May 31, 2006, as defined in Airbus A310 Fuel Airworthiness Limitations, Document 95A.1930/05, Issue 2, dated May 11, 2007 (approved by the European Aviation Safety Agency (EASA) on July 6, 2007), Section 1, ''Maintenance/Inspection Tasks.'' For all tasks identified in Section 1 of Document 95A.1930/05, Issue 2, dated May 11, 2007 (approved by the European Aviation Safety Agency (EASA) on July 6, 2007), the initial compliance times start from the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD, and the repetitive inspections must be accomplished thereafter at the intervals specified in Section 1 of Document 95A.1930/05, except as provided by paragraph (h) of this AD.

(1) November 20, 2007 (the effective date of AD 2007–21–14, Amendment 39–15232, (72 FR 58499, October 16, 2007)).

(2) The date of issuance of the original French standard airworthiness certificate or the date of issuance of the original French export certificate of airworthiness.

Note 1 to paragraph (g) of this AD: Airbus Operator Information Telex SE 999.0079/07, Revision 01, dated August 14, 2007, identifies the applicable sections of the Airbus A310 Airplane Maintenance Manual necessary for accomplishing the tasks specified in Section 1 of Document 95A.1930/05.

(h) Retained Revision of Initial Compliance Time for Task 28–18–00–03–1, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2007–21–14 R1, Amendment 39–16061 (74 FR 55123, October 27, 2009), with no changes. For Task 28–18–00–03–1 identified in Section 1 of Document 95A.1930/05, ''Maintenance/Inspection Tasks,'' of Airbus A310 Fuel Airworthiness Limitations, Document 95A.1930/05, Issue 2, dated May 11, 2007 (approved by the EASA on July 6, 2007): The initial compliance time is the later of the times specified in paragraphs (h)(1) and (h)(2) of this AD. Thereafter, Task 28–18–00–03–1 identified in Section 1 of Document 95A.1930/05, ''Maintenance/Inspection Tasks,'' of Airbus A310 Fuel Airworthiness Limitations, Document 95A.1930/05, Issue 2, dated May 11, 2007 (approved by the EASA on July 6, 2007) must be accomplished at the repetitive interval specified in Section 1 of Document 95A.1930/05, Issue 2, dated May 11, 2007 (approved by the EASA on July 6, 2007).

(1) Prior to the accumulation of 40,000 total flight hours.

(2) Within 72 months or 20,000 flight hours after November 20, 2007 (the effective date of AD 2007–21–14, Amendment 39–15232, (72 FR 58499, October 16, 2007)), whichever occurs first.

(i) Retained Revision of the ALS To Incorporate CDCCLs, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2007–21–14R1, Amendment 39–16061 (74 FR 55123, October 27, 2009), with no changes. Within 12 months after November 20, 2007 (the effective date of AD 2007–21–14, Amendment 39–15232, (72 FR 58499, October 16, 2007)), revise the ALS of the Instructions for Continued Airworthiness to incorporate Airbus A310 ALS Part 5—Fuel Airworthiness Limitations, dated May 31, 2006, as defined in Airbus A310 Fuel Airworthiness Limitations, Document 95A.1930/05, Issue 2, dated May 11, 2007 (approved by the EASA on July 6, 2007), Section 2, ''Critical Design Configuration Control Limitations.''

(j) Retained No Alternative Inspections, Inspection Intervals, or CDCCLs, With New Paragraph Reference

This paragraph restates the requirements of paragraph (i) of AD 2007–21–14R1, Amendment 39–16061 (74 FR 55123, October 27, 2009), with a new paragraph reference. Except as provided by paragraphs (k) and (m)(1) of this AD: After accomplishing the actions specified in paragraphs (g) and (i) of this AD, no alternative inspections, inspection intervals, or CDCCLs may be used.

(k) New Requirement of This AD: Revise the Maintenance or Inspection Program

Within 3 months after the effective date of this AD, revise the maintenance or inspection program, as applicable, by incorporating the airworthiness limitations as specified in Airbus A310 Airworthiness Limitations Section (ALS) Part 5—Fuel Airworthiness Limitations, Revision 00, dated May 27, 2014. The initial compliance times for the actions specified Airbus A310 ALS Part 5—Fuel Airworthiness Limitations, Revision 00, dated May 27, 2014, are at the later of the times specified in Airbus A310 ALS Part 5—Fuel Airworthiness Limitations, Revision 00, dated May 27, 2014, or within 3 months after the effective date of this AD, whichever occurs later. Accomplishing the revision required by this paragraph terminates the actions required by paragraphs (g) through (i) of this AD.

(l) New Requirement of This AD: No Alternative Inspections, Intervals, and/or Critical Design Configuration Control Limitations (CDCCLs)

After the maintenance or inspection program has been revised as required by paragraph (k) of this AD, no alternative actions (*e.g.,* inspections), intervals, and/or CDCCLs may be used unless the actions, intervals, and/or CDCCLs are approved as an alternative method of compliance (AMOC) in

accordance with the procedures specified in paragraph (m)(1) of this AD.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2014–0193, dated October 15, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8468.

(2) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 5, 2016.

Victor Wicklund,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–00632 Filed 1–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–139483–13]

RIN 1545–BL87

Treatment of Certain Transfers of Property of Foreign Corporations; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of public hearing on the proposed regulations relating to certain transfers of property by United States persons to foreign corporations. The proposed regulations affect United States persons that transfer certain property, including foreign goodwill and going concern value, to foreign corporations in non-recognition transactions described in section 367 of the Internal Revenue Code.

DATES: The public hearing is being held on Monday, February 8, 2016 at 10:00 a.m. The IRS must receive outlines of the topics to be discussed at the public hearing by Monday, January 25, 2016.

ADDRESSES: The public hearing is being held in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building.

Send Submissions to CC:PA:LPD:PR (REG–139483–13), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday to CC:PA:LPD:PR (REG–139483–13), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 or sent electronically via the Federal eRulemaking Portal at *www.regulations.gov* (IRS–2015–0047).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Ryan A. Bowen at (202) 317–6937; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing Regina Johnson at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

The subject of the public hearing is the notice of proposed rulemaking (REG–139483–13) that was published in the **Federal Register** on Wednesday, September 16, 2015 (80 FR 55568). The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing that submitted written comments by December 15, 2015 must submit an outline of the topics to be addressed and the amount of time to be devoted to each topic by January 25, 2016.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or in the Freedom of Information Reading Room (FOIA RR) (Room 1621) which is located at the 11th and Pennsylvania Avenue NW. entrance, 1111 Constitution Avenue NW., Washington, DC 20224.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

Martin V. Franks,

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

[FR Doc. 2016–00961 Filed 1–19–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–1081]

RIN 1625–AA00

Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend its safety zones regulation for Annual Events in the Captain of the Port Lake Michigan zone. This proposed amendment updates 18 permanent safety zones and adds 3 new permanent safety zones. These amendments and additions are necessary to protect spectators, participants, and vessels from the hazards associated with annual

maritime events, including fireworks displays, boat races, and air shows.

DATES: Comments and related material must be received by the Coast Guard on or before February 19, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2015–1081 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Petty Officer Joseph McCollum, U.S. Coast Guard Sector Lake Michigan; telephone 414–747–7148, email *Joseph.P.McCollum@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On February 18, 2015, the Coast Guard published a final rule entitled Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone in the **Federal Register** (80 FR 8536). This final rule published after the Coast Guard requested public comments in response to a preceding NPRM in the **Federal Register** (79 FR 77415, December 24, 2014). No public meeting was requested, and none was held.

The legal basis for this proposed rule is the Coast Guard's authority to establish safety zones: 33 U.S.C. 1231; 33 CFR 1.05–1, 160.5; Department of Homeland Security Delegation No. 0170.1.

The purpose of this rulemaking is to update the safety zones in § 165.929 to ensure that they match the times, dates, and dimensions for various marine and triggering events that are expected to be conducted with the Captain of the Port Lake Michigan Zone throughout the year. The purpose of the rulemaking is also to ensure vessels and persons are protected from the specific hazards related to the aforementioned events. These specific hazards include obstructions to the waterway that may cause marine casualties; collisions among vessels maneuvering at a high speed within a channel; the explosive dangers involved in pyrotechnics and hazardous cargo; and flaming/falling debris into the water that may cause injuries.

III. Discussion of Proposed Rule

This proposed rule amends 18 permanent safety zones found within table 165.929 in 33 CFR 165.929. These 18 amendments involve updating the location, size, and/or enforcement times for: 11 fireworks displays in various locations; 1 regatta in Spring Lake, Michigan; 3 Air Shows; 1 Facility in Marinette, Wisconsin; 1 boat race from Chicago, Illinois; and 1 ski show in Sister Bay, Wisconsin.

Additionally, this proposed rule adds 3 new safety zones to table 165.929 within § 165.929 for annually-reoccurring events in the Captain of the Port Lake Michigan Zone. These 3 zones were added in order to protect the public from the safety hazards previously described. The 3 additions include 2 safety zones for fireworks displays, and 1 safety zone for a boat parade in Chicago Harbor, Chicago, Illinois. A list of specific changes and additions are available in the attachments within this Docket.

The Captain of the Port Lake Michigan has determined that the safety zones in this proposed rule are necessary to ensure the safety of vessels and people during annual marine or triggering events in the Captain of the Port Lake Michigan zone. Although this proposed rule will be effective year-round, the safety zones in this proposed rule will be enforced only immediately before, during, and after events that pose a hazard to the public and only upon notice by the Captain of the Port Lake Michigan.

The Captain of the Port Lake Michigan will notify the public that the zones in this proposal are or will be enforced by all appropriate means to the affected segments of the public, including publication in the **Federal Register**, as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include, but are not limited to, Broadcast Notice to Mariners or Local Notice to Mariners.

All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port Lake Michigan or his or her designated representative. Entry into, transiting, or anchoring within the safety zones is prohibited unless authorized by the Captain of the Port or his or her designated representative. The Captain of the Port or his or her designated representative may be contacted via VHF Channel 16.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of the statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

We conclude that this proposed rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zones created by this rule will be relatively small and effective during the time to ensure safety of spectator and participants for the listed triggering or marine events. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zones, and the rule would allow vessels to seek permission to enter the zones.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of safety zones for yearly triggering and marine events on and around Lake Michigan. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. An environmental analysis checklist and Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Revise § 165.929 to read as follows:

§ 165.929 Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone.

(a) *Regulations.* The following regulations apply to the safety zones listed in Table 165.929 of this section.

(1) The general regulations in 33 CFR 165.23.

(2) All vessels must obtain permission from the Captain of the Port Lake Michigan or his or her designated representative to enter, move within, or exit a safety zone established in this section when the safety zone is enforced. Vessels and persons granted permission to enter one of the safety zones listed in this section must obey all lawful orders or directions of the Captain of the Port Lake Michigan or his or her designated representative. Upon

being hailed by the U.S. Coast Guard by siren, radio, flashing light or other means, the operator of a vessel must proceed as directed.

(3) The enforcement dates and times for each of the safety zones listed in Table 165.929 are subject to change, but the duration of enforcement would remain the same or nearly the same total number of hours as stated in the table. In the event of a change, the Captain of the Port Lake Michigan will provide notice to the public by publishing a Notice of Enforcement in the **Federal Register**, as well as, issuing a Broadcast Notice to Mariners.

(b) *Definitions.* The following definitions apply to this section:

(1) *Designated representative* means any Coast Guard commissioned, warrant, or petty officer designated by the Captain of the Port Lake Michigan to monitor a safety zone, permit entry into a safety zone, give legally enforceable orders to persons or vessels within a safety zone, and take other actions authorized by the Captain of the Port Lake Michigan.

(2) *Public vessel* means a vessel that is owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

(3) *Rain date* refers to an alternate date and/or time in which the safety zone would be enforced in the event of inclement weather.

(c) *Suspension of enforcement.* The Captain of the Port Lake Michigan may suspend enforcement of any of these zones earlier than listed in this section. Should the Captain of the Port suspend any of these zones earlier than the listed duration in this section, he or she may make the public aware of this suspension by Broadcast Notice to Mariners and/or on-scene notice by his or her designated representative.

(d) *Exemption.* Public vessels, as defined in paragraph (b) of this section, are exempt from the requirements in this section.

(e) *Waiver.* For any vessel, the Captain of the Port Lake Michigan or his or her designated representative may waive any of the requirements of this section upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purposes of safety or security.

TABLE 165.929

Event	Location [1]	Enforcement date and time [2]
(a) March Safety Zones		
(1) St. Patrick's Day Fireworks.	Manitowoc, WI. All waters of the Manitowoc River within the arc of a circle with a 250-foot radius from a center point launch position at 44°05.492′ N., 087°39.332′ W.	The third Saturday of March; 5:30 p.m. to 7 p.m.
(2) Public Fireworks Display.	Green Bay, WI. All waters of the Fox River in the vicinity of the Main Street and Walnut Street Bridge within an area bounded by the following coordinates; 44°31.211′ N., 088°00.833′ W; then southwest along the river bank to 44°30.944′ N., 088°01.159′ W.; then southeast to 44°30.890′ N., 088°01.016′ W.; then northeast along the river bank to 44°31.074′ N., 088°00.866′ W.; then northwest returning to the point of origin.	March 15; 11:50 a.m. to 12:30 p.m. Rain date: March 16; 11:50 a.m. to 12:30 p.m.
(b) April Safety Zones		
(1) Michigan Aerospace Challenge Sport Rocket Launch.	Muskegon, MI. All waters of Muskegon Lake, near the West Michigan Dock and Market Corp facility, within the arc of a circle with a 1,500-yard radius from the rocket launch site located in position 43°14.018′ N., 086°15.585′ W.	The last Saturday of April; 8 a.m. to 4 p.m.
(2) Lubbers Cup Regatta.	Spring Lake, MI. All waters of Spring Lake in Spring Lake, Michigan in the vicinity of Keenan Marina within a rectangle that is approximately 6,300 by 300 feet. The rectangle will be bounded by points beginning at 43°04.914′ N., 086°12.525′ W.; then east to 43°;04.958′ N, 086°11.104′ W.; then south to 43°04.913′ N., 086°11.096′ W.; then west to 43°04.867′ N., 086°12.527′ W.; then north back to the point of origin.	April 9; 7:45 a.m. to 6:15 p.m., and April 10; 8:45 a.m. to 1 p.m.
(c) May Safety Zones		
(1) Tulip Time Festival Fireworks.	Holland, MI. All waters of Lake Macatawa, near Kollen Park, within the arc of a circle with a 1,000-foot radius from the fireworks launch site in approximate center position 42°47.496′ N., 086°07.348′ W.	The first Saturday of May; 9:30 p.m. to 11:30 p.m. Rain date: The first Friday of May; 9:30 p.m. to 11:30 p.m.
(2) Cochrane Cup	Blue Island, IL. All waters of the Calumet Saganashkee Channel from the South Halstead Street Bridge at 41°39.442′ N., 087°38.474′ W.; to the Crawford Avenue Bridge at 41°39.078′ N., 087°43.127′ W.; and the Little Calumet River from the Ashland Avenue Bridge at 41°39.098′ N., 087°39.626′ W.; to the junction of the Calumet Saganashkee Channel at 41°39.373′ N., 087°39.026′ W.	The first Saturday of May; 6:30 a.m. to 5 p.m.
(3) Rockets for Schools Rocket Launch.	Sheboygan, WI. All waters of Lake Michigan and Sheboygan Harbor, near the Sheboygan South Pier, within the arc of a circle with a 1,500-yard radius from the rocket launch site located with its center in position 43°44.914′ N., 087°41.869′ W.	The first Saturday of May; 8 a.m. to 5 p.m.
(4) Celebrate De Pere Fireworks.	De Pere, WI. All waters of the Fox River, near Voyageur Park, within the arc of a circle with a 500- foot radius from the fireworks launch site located in position 44°27.167′ N., 088°03.833′ W.	The Saturday or Sunday before Memorial Day; 8:30 p.m. to 10 p.m.

TABLE 165.929—Continued

Event	Location [1]	Enforcement date and time [2]
(d) June Safety Zones		
(1) International Bayfest	Green Bay, WI. All waters of the Fox River, near the Western Lime Company 1.13 miles above the head of the Fox River, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 44°31.408′ N., 088°00.710′ W.	The second Friday of June; 9 p.m. to 11 p.m.
(2) Harborfest Music and Family Festival.	Racine, WI. All waters of Lake Michigan and Racine Harbor, near the Racine Launch Basin Entrance Light, within the arc of a circle with a 200-foot radius from the fireworks launch site located in position 42°43.722′ N., 087°46.673′ W.	Friday and Saturday of the third complete weekend of June; 9 p.m. to 11 p.m. each day.
(3) Spring Lake Heritage Festival Fireworks.	Spring Lake, MI. All waters of the Grand River within the arc of a circle with a 700-foot radius from a barge in center position 43°04.375′ N., 086°12.401′ W.	The third Saturday of June; 9 p.m. to 11 p.m.
(4) Elberta Solstice Festival.	Elberta, MI. All waters of Betsie Lake within the arc of a circle with a 500-foot radius from the fireworks launch site located in approximate center position 44°37.607′ N., 086°13.977′ W.	The last Saturday of June; 9 p.m. to 11 p.m.
(5) World War II Beach Invasion Re-enactment.	St. Joseph, MI. All waters of Lake Michigan in the vicinity of Tiscornia Park in St. Joseph, MI beginning at 42°06.918′ N., 086°29.421′ W.; then west/northwest along the north breakwater to 42°06.980′ N., 086°29.682′ W.; then northwest 100 yards to 42°07.018′ N., 086°29.728′ W.; then northeast 2,243 yards to 42°07.831′ N., 086°28.721′ W.; then southeast to the shoreline at 42°07.646′ N., 086°28.457′ W.; then southwest along the shoreline to the point of origin.	The last Saturday of June; 8 a.m. to 2 p.m.
(6) Ephraim Fireworks ...	Ephraim, WI. All waters of Eagle Harbor and Lake Michigan within the arc of a circle with a 750-foot radius from the fireworks launch site located on a barge in position 45°09.304′ N., 087°10.844′ W.	The third Saturday of June; 9 p.m. to 11 p.m.
(7) Thunder on the Fox	Elgin, IL. All waters of the Fox River from the Kimball Street bridge, located at approximate position 42°02.499′ N., 088°17.367′ W., then 1,250 yards north to a line crossing the river perpendicularly running through position 42°03.101′ N., 088°17.461′ W.	Friday, Saturday, and Sunday of the third weekend in June; 10 a.m. to 7 p.m. each day.
(8) Olde Ellison Bay Days Fireworks.	Ellison Bay, WI. All waters of Green Bay, in the vicinity of Ellison Bay Wisconsin, within the arc of a circle with a 400-foot radius from the fireworks launch site located on a barge in approximate center position 45°15.595′ N., 087°05.043′ W.	The fourth Saturday of June; 9 p.m. to 10 p.m.
(9) Sheboygan Harborfest Fireworks.	Sheboygan, WI. All waters of Lake Michigan and Sheboygan Harbor within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 43°44.914′ N., 087°41.897′ W.	June 15; 8:45 p.m. to 10:45 p.m.
(e) July Safety Zones		
(1) Town of Porter Fireworks Display.	Porter IN. All waters of Lake Michigan within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in center position 41°39.927′ N., 087°03.933′ W.	The first Saturday of July; 8:45 p.m. to 9:30 p.m.
(2) City of Menasha 4th of July Fireworks.	Menasha, WI. All waters of Lake Winnebago and the Fox River within the arc of a circle with an 800-foot radius from the fireworks launch site located in center position 44°12.017′ N., 088°25.904′ W.	July 4; 9 p.m. to 10:30 p.m.
(3) Pentwater July Third Fireworks.	Pentwater, MI. All waters of Lake Michigan and the Pentwater Channel within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 43°46.942′ N., 086°26.625′ W.	July 3; 9 p.m. to 11 p.m. Rain date: July 4; 9 p.m. to 11 p.m.
(4) Taste of Chicago Fireworks.	Chicago, IL. All waters of Monroe Harbor and Lake Michigan bounded by a line drawn from 41°53.380′ N., 087°35.978′ W.; then southeast to 41°53.247′ N., 087°35.434′ W; then south to 41°52.809′ N., 087°35.434′ W.; then southwest to 41°52.453′ N., 087°36.611′ W.; then north to 41°53.247′ N., 087°36.573′ W.; then northeast returning to the point of origin.	July 3; 9 p.m. to 11 p.m. Rain date: July 4; 9 p.m. to 11 p.m.
(5) St. Joseph Fourth of July Fireworks.	St. Joseph, MI. All waters of Lake Michigan and the St. Joseph River within the arc of a circle with a 1,000-foot radius from the fireworks launch site in position 42°06.867′ N., 086° 29.463′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(6) US Bank Fireworks ..	Milwaukee, WI. All waters and adjacent shoreline of Milwaukee Harbor, in the vicinity of Veteran's park, within the arc of a circle with a 1,200-foot radius from the center of the fireworks launch site which is located on a barge in approximate position 43°02.362′ N., 087°53.485′ W.	July 3; 8:30 p.m. to 11 p.m. Rain date: July 4; 8:30 p.m. to 11 p.m.
(7) Manistee Independence Day Fireworks.	Manistee, MI. All waters of Lake Michigan, in the vicinity of the First Street Beach, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 44°14.854′ N., 086°20.757′ W.	July 3; 9 p.m. to 11 p.m. Rain date: July 4; 9 p.m. to 11 p.m.

TABLE 165.929—Continued

Event	Location [1]	Enforcement date and time [2]
(8) Frankfort Independence Day Fireworks.	Frankfort, MI. All waters of Lake Michigan and Frankfort Harbor, bounded by a line drawn from 44°38.100′ N., 086°14.826′ W.; then south to 44°37.613′ N., 086°14.802′ W.; then west to 44°37.613′ N., 086°15.263′ W.; then north to 44°38.094′ N., 086°15.263′ W.; then east returning to the point of origin.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(9) Freedom Festival Fireworks.	Ludington, MI. All waters of Lake Michigan and Ludington Harbor within the arc of a circle with a 800-foot radius from the fireworks launch site located in position 43°57.171′ N., 086°27.718′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(10) White Lake Independence Day Fireworks.	Montague, MI. All waters of White Lake within the arc of a circle with an 800-foot radius from a center position at 43°24.621′ N., 086°21.463′ W.	July 4; 9:30 p.m. to 11:30 p.m. Rain date: July 5; 9:30 p.m. to 11:30 p.m.
(11) Muskegon Summer Celebration July Fourth Fireworks.	Muskegon, MI. All waters of Muskegon Lake, in the vicinity of Hartshorn Municipal Marina, within the arc of a circle with a 700-foot radius from a center position at 43°14.039′ N., 086°15.793′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(12) Grand Haven Jaycees Annual Fourth of July Fireworks.	Grand Haven, MI. All waters of the Grand River within the arc of a circle with a 800-foot radius from the fireworks launch site located on the west bank of the Grand River in position 43°3.908′ N., 086°14.240′ W.	July 4; 9 p.m. to 11:30 p.m. Rain date: July 5; 9 p.m. to 11:30 p.m.
(13) Celebration Freedom Fireworks.	Holland, MI. All waters of Lake Macatawa in the vicinity of Kollen Park within the arc of a circle with a 2,000-foot radius of a center launch position at 42°47.440′ N., 086°07.621′ W.	July 4; 10 p.m. to 11:59 p.m. Rain date: July 4; 10 p.m. to 11:59 p.m.
(14) Van Andel Fireworks Show.	Holland, MI. All waters of Lake Michigan and the Holland Channel within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in approximate position 42°46.351′ N., 086°12.710′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 3; 9 p.m. to 11 p.m.
(15) Saugatuck Independence Day Fireworks.	Saugatuck, MI. All waters of Kalamazoo Lake within the arc of a circle with a 500-foot radius from the fireworks launch site in center position 42°39.074′ N., 086°12.285′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(16) South Haven Fourth of July Fireworks.	South Haven, MI. All waters of Lake Michigan and the Black River within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in center position 42°24.125′ N., 086°17.179′ W.	July 3; 9:30 p.m. to 11:30 p.m.
(17) Town of Dune Acres Independence Day Fireworks.	Dune Acres, IN. All waters of Lake Michigan within the arc of a circle with a 700-foot radius from the fireworks launch site located in position 41°39.303′ N., 087°05.239′ W.	The first Saturday of July; 8:45 p.m. to 10:30 p.m.
(18) Gary Fourth of July Fireworks.	Gary, IN. All waters of Lake Michigan, approximately 2.5 miles east of Gary Harbor, within the arc of a circle with a 500-foot radius from the fireworks launch site located in position 41°37.322′ N., 087°14.509′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(19) Joliet Independence Day Celebration Fireworks.	Joliet, IL. All waters of the Des Plains River, at mile 288, within the arc of a circle with a 500-foot radius from the fireworks launch site located in position 41°31.522′ N., 088°05.244′ W.	July 3; 9 p.m. to 11 p.m. Rain date: July 4; 9 p.m. to 11 p.m.
(20) Glencoe Fourth of July Celebration Fireworks.	Glencoe, IL. All waters of Lake Michigan in the vicinity of Lake Front Park, within the arc of a circle with a 1,000-foot radius from a barge in position 42°08.404′ N., 087°44.930′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(21) Lakeshore Country Club Independence Day Fireworks.	Glencoe, IL. All waters of Lake Michigan within the arc of a circle with a 600-foot radius from a center point fireworks launch site in approximate position 42°09.130′ N., 087°45.530′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(22) Shore Acres Country Club Independence Day Fireworks.	Lake Bluff, IL. All waters of Lake Michigan within the arc of a circle with a 600-foot radius from approximate position 42°17.847′ N., 087°49.837′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(23) Kenosha Independence Day Fireworks.	Kenosha, WI. All waters of Lake Michigan and Kenosha Harbor within the arc of a circle with a 1,00-foot radius from the fireworks launch site located in position 42°35.283′ N., 087°48.450′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(24) Fourthfest of Greater Racine Fireworks.	Racine, WI. All waters of Racine Harbor and Lake Michigan within the arc of a circle with a 900-foot radius from a center point position at 42°44.259′ N., 087°46.635′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(25) Sheboygan Fourth of July Celebration Fireworks.	Sheboygan, WI. All waters of Lake Michigan and Sheboygan Harbor, in the vicinity of the south pier, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 43°44.917′ N., 087°41.850′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(26) Manitowoc Independence Day Fireworks.	Manitowoc, WI. All waters of Lake Michigan and Manitowoc Harbor, in the vicinity of south breakwater, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 44°05.395′ N., 087°38.751′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(27) Sturgeon Bay Independence Day Fireworks.	Sturgeon Bay, WI. All waters of Sturgeon Bay, in the vicinity of Sunset Park, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located on a barge in position 44°50.562′ N., 087°23.411′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.

TABLE 165.929—Continued

Event	Location [1]	Enforcement date and time [2]
(28) Fish Creek Independence.	Fish Creek, WI. All waters of Green Bay, in the vicinity of Fish Creek Harbor, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located on a barge in position 45°07.867′ N., 087°14.617′ W.	July 2; 9 p.m. to 11 p.m. Rain date: July 2; 9 p.m. to 11 p.m.
(29) Fire over the Fox Fireworks.	Green Bay, WI. All waters of the Fox River including the mouth of the East River from the Canadian National Railroad bridge in approximate position 44°31.467′ N., 088°00.633′ W then southwest to the Main St. Bridge in approximate position 44°31.102′ N., 088°00.963′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(30) Celebrate Americafest Ski Show.	Green Bay, WI. All waters of the Fox River, including the mouth of the East River from the West Walnut Street Bridge in approximate position 44°30.912′ N., 088°01.100′ W., then northeast to an imaginary line running perpendicularly across the river through coordinate 44°31.337′ N., 088°00.640′ W.	July 4 from 2:30 p.m. to 4:30 p.m. Rain date: July 5; 2:30 p.m. to 4:30 p.m.
(31) Marinette Fourth of July Celebration Fireworks.	Marinette, WI. All waters of the Menominee River, in the vicinity of Stephenson Island, within the arc of a circle with a 900-foot radius from the fireworks launch site in center position 45°6.232′ N., 087°37.757′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(32) Evanston Fourth of July Fireworks.	Evanston, IL. All waters of Lake Michigan, in the vicinity of Centennial Park Beach, within the arc of a circle with a 500-foot radius from the fireworks launch site located in position 42°02.933′ N., 087°40.350′ W.	July 4; 9 p.m. to 11 p.m. Rain date: July 5; 9 p.m. to 11 p.m.
(33) Gary Air and Water Show.	Gary, IN. All waters of Lake Michigan bounded by a line drawn from 41°37.217′ N., 087°16.763′ W.; then east along the shoreline to 41°37.413′ N., 087°13.822′ W.; then north to 41°38.017′ N., 087°13.877′ W.; then southwest to 41°37.805′ N., 087°16.767′ W.; then south returning to the point of origin.	July 6 thru 10; 8:30 a.m. to 5 p.m.
(34) Annual Trout Festival Fireworks.	Kewaunee, WI. All waters of Kewaunee Harbor and Lake Michigan within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 44°27.493′ N., 087°29.750′ W.	Friday of the second complete weekend of July; 9 p.m. to 11 p.m.
(35) Michigan City Summerfest Fireworks.	Michigan City, IN. All waters of Michigan City Harbor and Lake Michigan within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 41°43.700′ N., 086°54.617′ W.	Sunday of the second complete weekend of July; 8:30 p.m. to 10:30 p.m.
(36) Port Washington Fish Day Fireworks.	Port Washington, WI. All waters of Port Washington Harbor and Lake Michigan, in the vicinity of the WE Energies coal dock, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 43°23.117′ N., 087°51.900′ W.	The third Saturday of July; 9 p.m. to 11 p.m.
(37) Bay View Lions Club South Shore Frolics Fireworks.	Milwaukee, WI. All waters of Lake Michigan and Milwaukee Harbor, in the vicinity of South Shore Yacht Club, within the arc of a circle with a 900-foot radius from the fireworks launch site in position 42°59.658′ N., 087°52.808′ W.	Friday, Saturday, and Sunday of the second or third weekend of July; 9 p.m. to 11 p.m. each day.
(38) Venetian Festival Fireworks.	St. Joseph, MI. All waters of Lake Michigan and the St. Joseph River, near the east end of the south pier, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 42°06.800′ N., 086°29.250′ W.	Saturday of the third complete weekend of July; 9 p.m. to 11 p.m.
(39) Joliet Waterway Daze Fireworks.	Joliet, IL. All waters of the Des Plaines River, at mile 287.5, within the arc of a circle with a 300-foot radius from the fireworks launch site located in position 41°31.250′ N., 088°05.283′ W.	Friday and Saturday of the third complete weekend of July; 9 p.m. to 11 p.m. each day.
(40) EAA Airventure	Oshkosh, WI. All waters of Lake Winnebago in the vicinity of Willow Harbor within an area bounded by a line connecting the following coordinates: beginning at 43°56.822′ N., 088°29.904′ W; then north approximately 5,100 feet to 43°57.653′ N., 088°29.904′ W., then east approximately 2,300 feet to 43°57.653′ N., 088°29.374′ W; then south to shore at 43°56.933′ N., 088°29.374′ W.; then southwest along the shoreline to 43°56.822′ N., 088°29.564′ W.; then west returning to the point of origin.	The last complete week of July, beginning Monday and ending Sunday; 8 a.m. to 8 p.m. each day.
(41) Saugatuck Venetian Night Fireworks.	Saugatuck, MI. All waters of Kalamazoo Lake within the arc of a circle with a 500-foot radius from the fireworks launch site located on a barge in position 42°39.073′ N., 086°12.285′ W.	The last Saturday of July; 9 p.m. to 11 p.m.
(42) Roma Lodge Italian Festival Fireworks.	Racine, WI. All waters of Lake Michigan and Racine Harbor within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 42°44.067′ N., 087°46.333′ W.	Friday and Saturday of the last complete weekend of July; 9 p.m. to 11 p.m.
(43) Chicago Venetian Night Fireworks.	Chicago, IL. All waters of Monroe Harbor and all waters of Lake Michigan bounded by a line drawn from 41°53.050′ N., 087°36.600′ W.; then east to 41°53.050′ N., 087°36.350′ W.; then south to 41°52.450′ N., 087°36.350′ W.; then west to 41°52.450′ N., 087°36.617′ W.; then north returning to the point of origin.	Saturday of the last weekend of July; 9 p.m. to 11 p.m.
(44) New Buffalo Business Association Fireworks.	New Buffalo, MI. All waters of Lake Michigan and New Buffalo Harbor within the arc of a circle with a 800-foot radius from the fireworks launch site located in position 41°48.153′ N., 086°44.823′ W.	July 3rd or July 5th; 9:30 p.m. to 11:15 p.m.

TABLE 165.929—Continued

Event	Location [1]	Enforcement date and time [2]
(45) Start of the Chicago to Mackinac Race.	Chicago, IL. All waters of Lake Michigan in the vicinity of the Navy Pier at Chicago IL, within a rectangle that is approximately 1,500 by 900 yards. The rectangle is bounded by the coordinates beginning at 41°53.252′ N., 087°35.430′ W.; then south to 41°52.812′ N., 087°35.430′ W.; then east to 41°52.817′ N., 087°34.433′ W.; then north to 41°53.250′ N., 087°34.433′ W.; then west, back to point of origin.	July 22; 2 p.m. to 4:30 p.m. and July 23; 9 a.m. to 3 p.m.
(46) Fireworks at Pier Wisconsin.	Milwaukee, WI. All waters of Milwaukee Harbor, including Lakeshore Inlet and the marina at Pier Wisconsin, within the arc of a circle with a 300-foot radius from the fireworks launch site on Pier Wisconsin located in approximate position 43°02.178′ N., 087°53.625′ W.	Dates and times will be issued by Notice of Enforcement and Broadcast Notice to Mariners.
(47) Gills Rock Fireworks.	Gills Rock, WI. All waters of Green Bay near Gills Rock WI within a 1,000-foot radius of the launch vessel in approximate position at 45°17.470′ N., 087°01.728′ W.	July 4; 8:30 p.m. to 10:30 p.m.
(48) City of Menominee 4th of July Celebration Fireworks.	Menominee, MI. All waters of Green Bay, in the vicinity of Menominee Marina, within the arc of a circle with a 900-foot radius from a center position at 45°06.417′ N., 087°36.024′ W.	July 4; 9 p.m. to 11 p.m.
(49) Miesfeld's Lakeshore Weekend Fireworks.	Sheboygan, WI. All waters of Lake Michigan and Sheboygan Harbor within an 800-foot radius from the fireworks launch site located at the south pier in approximate position 43°44.917′ N., 087°41.967′ W.	July 29; 9 p.m. to 10:30 p.m. Rain date: July 30; 9 p.m. to 10:30 p.m.
(50) Marinette Logging and Heritage Festival Fireworks.	Marinette, WI. All waters of the Menominee River, in the vicinity of Stephenson Island, within the arc of a circle with a 900-foot radius from the fireworks launch site in position 45°06.232′ N., 087°37.757′ W.	July 13; 9 p.m. to 11 p.m.
(51) Summer in the City Water Ski Show.	Green Bay, WI. All waters of the Fox River in Green Bay, WI from the Main Street Bridge in position 44°31.089′ N., 088°00.904′ W. then southwest to the Walnut Street Bridge in position 44°30.900′ N. 088°01.091′ W.	Each Wednesday of July through August; 6 p.m. to 6:30 p.m. and 7 p.m. to 7:30 p.m.
(52) Holiday Celebration Fireworks.	Kewaunee, WI. All waters of Kewaunee Harbor and Lake Michigan within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 44°27.481′ N., 087°29.735′ W.	July 4; 8:30 p.m. to 10:30 p.m. Rain date: July 5; 8:30 p.m. to 10:30 p.m.
(53) Independence Day Fireworks.	Wilmette, IL. All waters of Lake Michigan and the North Shore Channel within the arc of a circle with a 1,000-foot radius from the fireworks launch site located at approximate center position 42°04.674′ N., 087°40.856′ W.	July 3; 8:30 p.m. to 10:15 p.m.
(54) Neenah Fireworks	Neenah, WI. All waters of Lake Winnebago within a 700-foot radius of an approximate launch position at 44°11.126′ N., 088°26.941′ W.	July 3 or 4; 8:45 p.m. to 10:30 p.m.
(55) Milwaukee Air and Water Show.	Milwaukee, WI. All waters and adjacent shoreline of Lake Michigan in the vicinity of McKinley Park located within an area that is approximately 4,800 by 1,250 yards. The area will be bounded by the points beginning at 43°02.450′ N., 087°52.850′ W.; then southeast to 43°02.230′ N., 087°52.061′ W.; then northeast to 43°04.543′ N., 087°50.801′ W.; then northwest to 43°04.757′ N., 087°51.512′ W.; then southwest returning to the point of origin.	July 6 thru 10; 8:30 a.m. to 5 p.m.
(f) August Safety Zones		
(1) Super Boat Grand Prix.	Michigan City, IN. All waters of Lake Michigan bounded by a rectangle drawn from 41°43.655′ N., 086°54.550′ W.; then northeast to 41°44.808′ N., 086°51.293′ W., then northwest to 41°45.195′ N., 086°51.757′ W.; then southwest to 41°44.063′ N., 086°54.873′ W.; then southeast returning to the point of origin.	The first Sunday of August; 9 a.m. to 4 p.m. Rain date: The first Saturday of August; 9 a.m. to 4 p.m.
(2) Port Washington Maritime Heritage Festival Fireworks.	Port Washington, WI. All waters of Port Washington Harbor and Lake Michigan, in the vicinity of the WE Energies coal dock, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 43°23.117′ N., 087°51.900′ W.	Saturday of the last complete weekend of July or the second weekend of August; 9 p.m. to 11 p.m.
(3) Grand Haven Coast Guard Festival Fireworks.	Grand Haven, MI. All waters of the Grand River within the arc of a circle with an 800-foot radius from the fireworks launch site located on the west bank of the Grand River in position 43°03.907′ N., 086°14.247′ W.	First weekend of August; 9 p.m. to 11 p.m.
(4) Sturgeon Bay Yacht Club Evening on the Bay Fireworks.	Sturgeon Bay, WI. All waters of Sturgeon Bay within the arc of a circle with a 500-foot radius from the fireworks launch site located on a barge in approximate position 44°49.297′ N., 087°21.447′ W.	The first Saturday of August; 8:30 p.m. to 10:30 p.m.
(5) Hammond Marina Venetian Night Fireworks.	Hammond, IN. All waters of Hammond Marina and Lake Michigan within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 41°41.883′ N., 087°30.717′ W.	The first Saturday of August; 9 p.m. to 11 p.m.
(6) North Point Marina Venetian Festival Fireworks.	Winthrop Harbor, IL. All waters of Lake Michigan within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 42°28.917′ N., 087°47.933′ W.	The second Saturday of August; 9 p.m. to 11 p.m.

TABLE 165.929—Continued

Event	Location [1]	Enforcement date and time [2]
(7) Waterfront Festival Fireworks.	Menominee, MI. All waters of Green Bay, in the vicinity of Menominee Marina, within the arc of a circle with a 1,000-foot radius from a center position at 45°06.447′ N., 087°35.991′ W.	August 3; 9 p.m. to 11 p.m.
(8) Ottawa Riverfest Fireworks.	Ottawa, IL. All waters of the Illinois River, at mile 239.7, within the arc of a circle with a 300-foot radius from the fireworks launch site located in position 41°20.483′ N., 088°51.333′ W.	The first Sunday of August; 9 p.m. to 11 p.m.
(9) Chicago Air and Water Show.	Chicago, IL. All waters and adjacent shoreline of Lake Michigan and Chicago Harbor bounded by a line drawn from 41°55.900′ N at the shoreline, then east to 41°55.900′ N., 087°37.200′ W, then southeast to 41°54.000′ N., 087°36.000′ W., then southwestward to the northeast corner of the Jardine Water Filtration Plant, then due west to the shore.	August 18 thru 21; 8:30 a.m. to 5 p.m.
(10) Pentwater Homecoming Fireworks.	Pentwater, MI. All waters of Lake Michigan and the Pentwater Channel within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 43°46.942′ N., 086°26.633′ W.	Saturday following the second Thursday of August; 9 p.m. to 11 p.m.
(11) Chicago Match Cup Race.	Chicago, IL. All waters of Chicago Harbor in the vicinity of Navy Pier and the Chicago Harbor break wall bounded by coordinates beginning at 41°53.617′ N., 087°35.433′ W.; then south to 41°53.400′ N., 087°35.433′ W.; then west to 41°53.400′ N., 087°35.917′ W.; then north to 41°53.617′ N., 087°35.917′ W.; then back to point of origin.	August 6 thru 11; 8 a.m. to 8 p.m.
(12) New Buffalo Ship and Shore Fireworks.	New Buffalo, MI. All waters of Lake Michigan and New Buffalo Harbor within the arc of a circle with a 800-foot radius from the fireworks launch site located in position 41°48.150′ N., 086°44.817′ W.	August 10; 9:30 p.m. to 11:15 p.m.
(13) Operations at Marinette Marine.	Marinette, WI. All waters of the Menominee River in the vicinity of Marinette Marine Corporation, from the Bridge Street Bridge located in position 45°06.188′ N., 087°37.583′ W., then approximately .95 NM south east to a line crossing the river perpendicularly passing through positions 45°05.881′ N., 087°36.281′ W. and 45°05.725′ N., 087°36.385′ W.	This zone will be enforced in the case of hazardous cargo operations or vessel launch by issue of Notice of Enforcement and Marine Broadcast.
(14) Fireworks Display ..	Winnetka, IL. All waters of Lake Michigan within the arc of a circle with a 900-foot radius from a center point barge located in approximate position 42°06.402′ N., 087°43.115′ W.	Third Saturday of August; 9:15 p.m. to 10:30 p.m.
(15) Algoma Shanty Days Fireworks.	Algoma, WI. All waters of Lake Michigan and Algoma Harbor within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in a center position of 44°36.400′ N., 087°25.900′ W.	Sunday of the second complete weekend of August; 9 p.m. to 11 p.m.
(16) Venetian Night Parade.	Chicago, IL. All waters of Lake Michigan, in the vicinity of Navy Pier, bounded by coordinates beginning at 41°53.771′ N., 087°35.815′ W.; and then south to 41°53.367′ N., 087°35.814′ W.; then west to 41°53.363′ N., 087°36.587′ W.; then north to 41°53.770′ N., 087°36.601′ W.; then east back to the point of origin.	Last Saturday of August; 6:30 p.m. to 9:30 p.m.
(g) September Safety Zones		
(1) ISAF Nations Cup Grand Final Fireworks Display.	Sheboygan, WI. All waters of Lake Michigan and Sheboygan Harbor, in the vicinity of the south pier in Sheboygan Wisconsin, within a 500-foot radius from the fireworks launch site located on land in position 43°44.917′ N., 087°41.850′ W.	September 13; 7:45 p.m. to 8:45 p.m.
(2) Sister Bay Marinafest Ski Show.	Sister Bay, WI. All waters of Sister Bay within an 800-foot radius of position 45° 11.585′ N., 087°07.392′ W.	September 3; 1 p.m. to 3:15 p.m.
(3) Sister Bay Marinafest Fireworks.	Sister Bay, WI. All waters of Sister Bay within an 800-foot radius of the launch vessel in approximate position 45°11.585′ N., 087°07.392′ W.	September 3 and 4; 8:15 p.m. to 10 p.m.
(h) October Safety Zones		
(1) Corn Festival Fireworks.	Morris, IL. All waters of the Illinois River within a 560-foot radius from approximate launch position at 41°21.173′ N., 088°25.101′ W.	The first Saturday of October; 8:15 p.m. to 9:15 p.m.
(i) November Safety Zones		
(1) Downtown Milwaukee Fireworks.	Milwaukee, WI. All waters of the Milwaukee River in the vicinity of the State Street Bridge within the arc of a circle with a 300-foot radius from a center point fireworks launch site in approximate position 43°02.559′ N., 087°54.749′ W.	The third Thursday of November; 6 p.m. to 8 p.m.
(2) Magnificent Mile Fireworks Display.	Chicago, IL. All waters and adjacent shoreline of the Chicago River bounded by the arc of the circle with a 210-foot radius from the fireworks launch site with its center in approximate position of 41°53.350′ N., 087°37.400′ W.	The third weekend in November; sunset to termination of display.

TABLE 165.929—Continued

Event	Location [1]	Enforcement date and time [2]
(j) December Safety Zones		
(1) New Years Eve Fireworks.	Chicago, IL. All waters of Monroe Harbor and Lake Michigan within the arc of a circle with a 1,000-foot radius from the fireworks launch site located on a barge in approximate position 41°52.683′ N., 087°36.617′ W.	December 31; 11 p.m. to January 1 at 1 a.m.

[1] All coordinates listed in Table 165.929 reference Datum NAD 1983.
[2] As noted in paragraph (a)(3) of this section, the enforcement dates and times for each of the listed safety zones are subject to change.

Dated: December 18, 2015.

A.B. Cocanour,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2016–00865 Filed 1–19–16; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2015–0112; FRL–9941–27–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Attainment Plan for the Lower Beaver Valley Nonattainment Area for the 2008 Lead National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania (Pennsylvania) for the purpose of demonstrating attainment of the 2008 lead national ambient air quality standard (NAAQS) in the Lower Beaver Valley 2008 lead nonattainment area (Lower Beaver Valley Area or Area). The attainment plan includes the base year emissions inventory, modeling demonstration of attainment with the lead NAAQS, and an analysis of reasonably available control measures (RACM), reasonably available control technology (RACT), and reasonable further progress (RFP). The attainment plan also includes contingency measures for the Lower Beaver Valley Area which include parts of a Consent Order and Agreement (COA) between Horsehead Corporation (Horsehead) and the Pennsylvania Department of Environmental Protection (PADEP). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before February 19, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2015–0112 at *http://www.regulations.gov,* or via email to *fernandez.cristina@epa.gov.* For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Gerallyn Duke, (215) 814–2084, or by email at *duke.gerallyn@epa.gov.*

SUPPLEMENTARY INFORMATION: On January 15, 2015, PADEP submitted a revision to its SIP for the purpose of demonstrating attainment of the 2008 lead NAAQS in the Lower Beaver Valley Area in accordance with requirements in sections 172 and 192 of the CAA. Pennsylvania's lead attainment plan for the Area includes a base year emissions inventory, a modeling demonstration of attainment with the 2008 lead NAAQS, an analysis of RACM, RACT, and RFP, and contingency measures. The lead attainment plan also includes paragraphs 3, 5, and 6 of a COA, dated November 21, 2012, between Horsehead and PADEP that demonstrates how Pennsylvania will achieve and maintain compliance with the 2008 lead NAAQS. EPA has determined that Pennsylvania's attainment plan for the 2008 lead NAAQS for the Lower Beaver Valley Area meets the applicable requirements of the CAA in sections 172 and 192. Thus, EPA is proposing to approve Pennsylvania's attainment plan for the Lower Beaver Valley Area.

EPA's analysis and findings are discussed for each applicable requirement in this rulemaking action. Additional details on the base year inventory and modeling portions of the attainment demonstration are contained in two Technical Support Documents (TSDs) for this proposed action.

I. Background

On November 12, 2008 (73 FR 66964), EPA revised the lead NAAQS, lowering the level from 1.5 micrograms per cubic meter ($\mu g/m^3$) to 0.15 $\mu g/m^3$ calculated over a three-month rolling average. EPA established the 2008 lead NAAQS based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to lead emissions.

On November 22, 2010, EPA designated Vanport and Potter Townships in Beaver County, Pennsylvania as the Lower Beaver Valley Area for its nonattainment status with the 2008 lead NAAQS. The design value used for this designation was based on monitoring data from 2007–2009. On November 22, 2011, EPA revised the lead NAAQS designation for the Area based on 2008–2010 monitoring data by adding Center Township to the Area. 76 FR 72097. Under sections 191(a) and 192 of the CAA, Pennsylvania is required to submit a SIP revision with a plan for how the Area will attain the 2008 lead NAAQS, as expeditiously as practicable, but no later than December 31, 2015.

Horsehead owned and operated a permitted zinc production plant in Potter Township, Pennsylvania (the Monaca Smelter or Facility). This Facility was the only industrial source

of lead emissions over 0.5 tons per year (tpy) in the Area. On November 21, 2012, PADEP and Horsehead entered into a COA which required Horsehead to permanently discontinue, on or before October 1, 2014, production of zinc metal from its electrothermic furnace line (Furnace Plant), the sintering line (Sinter Plant), and secondary material operations. After these units shut down permanently, the COA provided that Horsehead would be subject to an aggregate potential lead emission rate of 0.1 tpy over each consecutive 12-month rolling period from all of its remaining stationary and fugitive emission sources at the Facility. However, in May 2014, Horsehead permanently ceased operations at additional major sources of emissions at the Facility, including the Larvik Furnaces and Refinery Feed Pot, which were not required under the COA to be shut down. Horsehead's zinc dust sizing circuit, whose emissions are considered insignificant, is allowed to continue to operate periodically, subject to the 0.1 tpy facility-wide limit contained in its federally-enforceable permit as well as in the COA.

II. Summary of SIP Revision

On January 15, 2015, the Commonwealth of Pennsylvania through the PADEP submitted an attainment plan for the Lower Beaver Valley Area as a SIP revision which includes the base year emissions inventory and an attainment demonstration. The attainment demonstration includes: technical analyses that locate, identify, and quantify sources of lead emissions which contributed to violations of the 2008 lead NAAQS; a modeling analysis of an emissions control strategy that demonstrates attainment with the 2008 lead NAAQS by the attainment year 2015; and an analysis of RACT, RACM and RFP, and contingency measures for the Lower Beaver Valley Area. The SIP revision also includes paragraphs 3, 5, and 6 of the COA between Horsehead and PADEP as measures for the attainment plan. EPA's analysis of the submitted attainment plan includes a review of the pollutant addressed, emissions inventory requirements, modeling, RACM, RACT, and RFP requirements, and contingency measures for the Lower Beaver Valley Area.

1. Emissions Inventory Requirements

States are required under section 172(c)(3) of the CAA for nonattainment areas to develop comprehensive, accurate, and current inventories of actual emissions from all sources of the relevant pollutant or pollutants in the relevant nonattainment area. These inventories provide a detailed accounting of all emissions and emission sources by relevant pollutant and its precursors. In the November 12, 2008 lead NAAQS rulemaking, EPA finalized the emissions inventory requirements. These inventory requirements at 40 CFR 51.117(e) require, among other things, that the SIP inventory include all sources that emit 0.5 or more tons of lead emissions per year, that the inventory is subject to public hearing requirements, and that the inventory is included in the SIP.

Section 172(c)(3) of the CAA requires that an identification of emissions from all sources of lead in the nonattainment area be submitted with attainment plans. The base year inventory is typically one of the years in which the area was designated for the standard and includes emissions from stationary point and nonpoint sources. EPA recommends using either 2010 or 2011 as the base year, but does provide flexibility for using other inventory years if states can show another year is more appropriate. Additionally, EPA guidance provides that actual emissions should be used for purposes of the base year inventory.[1]

Pennsylvania's lead attainment plan for Lower Beaver Valley Area evaluates lead emissions in the Area, which includes sources in the area bounded by Vanport, Potter, and Center Townships in Beaver County. There are no precursors for lead which EPA requires to be considered for the lead attainment plan required by section 172 of the CAA.

Pennsylvania developed its base-year inventory using data from 2010, the year the Area was designated nonattainment, for stationary source lead emissions. For the nonpoint sources of lead emissions, PADEP submitted EPA's 2011 National Emissions Inventory (NEI) v2 data as a surrogate for the 2010 inventory, since inventories for nonpoint source emissions are only prepared every three years (2008, 2011) and 2011 was the most recent inventory available.

The only source of lead emissions above 0.5 tpy within the Lower Beaver Valley Area was the Monaca Smelter. The only other stationary source of lead emissions in the Lower Beaver Valley Area was AES Beaver Valley, a 125–MW coal-fired cogeneration plant, though its lead emissions are less than 0.5 tpy. Another source of lead emissions above 0.5 tpy, an electric generating unit (EGU), Bruce Mansfield Power Station (Bruce Mansfield), is located in the adjacent municipality of Shippingsport. The monitor associated with Bruce Mansfield was in attainment with the 2008 lead NAAQS, demonstrating it had no impact on the Lower Beaver Valley Area, so Bruce Mansfield was not included in the Inventory.

Horsehead produced high purity zinc oxide and high grade zinc metal at the Facility. Two sources emitted the majority of lead emissions from the Facility: the Sinter Plant and the Furnace Plant. Roughly ninety-five percent of the Facility's 2010 lead emissions which volatilized during processing were point sources and the remaining five percent escaped as fugitive emissions. Estimates used for calculating 2010 fugitive lead emissions at the Sinter Plant were based on estimates from samples collected during 2007 and 2008. PADEP considered estimates of 2010 fugitive emissions to be conservative because improvements made in fugitive emission control at the Facility, including controls installed at the Sinter Plant since 2008, were not factored into the analysis for 2010 fugitive emissions.

Table 1 identifies the 2010 base year emissions inventory for the Lower Beaver Valley Area. In 2010, lead emissions from point sources or stacks in the Area totaled 5.5961 tons. Lead emissions from nonpoint sources, including mobile sources, also were included in the lead inventory but found by PADEP to be insignificant. There are no other sources of lead emissions in the Area above 0.5 tpy of lead emissions nor smaller sources. According to Pennsylvania's inventory, the Monaca Smelter's emissions comprised almost all of the lead emissions in the Area in 2010.

TABLE 1—2010 BASE YEAR LOWER BEAVER VALLEY NONATTAINMENT AREA EMISSIONS INVENTORY

Source	Lead emissions (tpy)
Monaca Smelter	5.5531
AES Beaver Valley Plant	0.0430
Subtotal for Point Sources	5.5961
Nonpoint Sources	0.0009
Total	5.5970

Additional information regarding the emissions inventory for the Area and EPA's analysis of the inventory in accordance with CAA requirements in CAA section 172(c) and 40 CFR

[1] *See* ''Addendum to the 2008 Lead NAAQS Implementation Questions and Answers'' dated August 10, 2012, which is included in EPA's SIP Toolkit located at *www3.epa.gov/airquality/lead/implement.html.*

51.117(e) can be found in the TSD for the Base Year Inventory for the Lower Beaver Valley Area which is included in the docket for this proposed action (EPA–R03–OAR–2015–0112) and is available online at *www.regulations.gov.* EPA finds that the 2010 base year emissions inventory prepared by Pennsylvania and included in the January 15, 2015 SIP submission for Lower Beaver Valley Area meets the requirements of section 172(c)(3) of the CAA and the corresponding regulations at 40 CFR 51.117(e).

2. Attainment Planning Modeling

Section 172 of the CAA and the lead control strategy regulations found at 40 CFR 51.117 require states to employ atmospheric dispersion modeling for the demonstration of attainment of the lead NAAQS as expeditiously as practicable. 40 CFR 51.117(a) requires a demonstration that the attainment plan will attain the NAAQS in the areas in the vicinity of point sources listed in 40 CFR 51.117(a)(1) as well as any other area with lead concentrations in excess of the NAAQS per 40 CFR 1.117(a)(2). The demonstration must meet the requirements of 40 CFR 51.112 and 51.117 as well as appendix W of 40 CFR part 51 and include inventory data, modeling results, and emissions reduction analyses on which the state has based its projected attainment. All these requirements comprise the ''attainment demonstration'' that is required for lead nonattainment areas.

PADEP performed an air-dispersion modeling analysis to predict the maximum predicted three-month rolling lead concentration using emission inventories representing two facilities, Monaca Smelter and AES Beaver Valley. PADEP used reported lead emissions in 2010 for the base year and projected (future) lead emissions for 2015 because 2015 is the attainment year for the 2008 lead NAAQS. Horsehead's 2010 emissions include point and fugitive emission sources.

Projected emissions were determined based on the November 21, 2012 COA for Horsehead, which contains a plant-wide lead emission limit of 0.1 tpy for the Facility, as well as maximum throughput information and allowable lead emissions from AES Beaver Valley under its current permit. Only point source emissions were calculated for AES Beaver Valley, as only point source emissions were reported from AES. PADEP did not include emissions from Bruce Mansfield in its modeling for the attainment demonstration because prior modeling had demonstrated Bruce Mansfield did not contribute to nonattainment in the Area. Lead emissions from nonpoint sources and mobile source were also examined, but found to be insignificant, so they were not included in the lead modeling demonstration. The modeling was conducted in accordance with 40 CFR part 51, Appendix W—Guideline on Air Quality Models.

The final modeled lead concentration for the future attainment year of 2015 is the maximum projected three-month average lead concentration of 0.0274 μg/m^3 plus the background monitored concentration of 0.05 μg/m^3 from the Shippingport monitor. This yields a projected lead concentration of approximately 0.08 μg/m^3, which is significantly lower than the NAAQS of 0.15 μg/m^3.

Modeling for attainment was based primarily on the lead emissions expected in December 31, 2015. Due to monitored violations in 2013 and early 2014, the Area will not attain the NAAQS by 2015 based on ambient air quality over 36 consecutive three-month periods. However, closure of Horsehead operations in 2014 will facilitate attainment of the 2008 lead NAAQS by 2017. More detailed information on the modeling system tools and documents used for the model attainment demonstration for the Area and EPA's analysis of PADEP's attainment modeling conducted for the Area can be found on the EPA Technology Transfer Network Support Center for Regulatory Atmospheric Modeling (SCRAM) (*http://www.epa.gov/ttn/scram/*), in Pennsylvania's January 15, 2015 submittal, and in the TSD for the modeling portion of the proposed SIP in the docket for this proposed action (EPA–R03–OAR–2015–0112) and available online at *www.regulations.gov*. EPA finds the modeling was conducted in accordance with requirements for a modeled attainment demonstration in the CAA and in 40 CFR 51.112 and 117 and in appendix W of 40 CFR part 51.

3. RACM, RACT, and RFP

Section 172(c)(1) of the CAA requires nonattainment areas to implement all RACM, including emissions reductions through the adoption of RACT, as expeditiously as practicable. EPA interprets this as requiring consideration of all available controls and to implement all measures in the nonattainment area that are determined to be reasonably available. However, EPA believes it would be unreasonable to require that a plan which demonstrates attainment include all technologically and economically available control measures even though such measures would not expedite attainment. *See* 58 FR 67751 (December 22, 1993).

In March 2012, EPA issued guidance titled, ''Guide to Developing Reasonably Available Control Measures for Controlling Lead Emissions'' (RACM Guidance).[2] Pennsylvania performed a RACM analysis in compliance with the RACM Guidance. The shutdown of the Monaca Smelter Sinter Plant, Furnace Plant, and secondary materials operations on May 19, 2014 are discrete control measures that have already occurred. Pennsylvania has determined that the shutdown of those operations at the Monaca Smelter, along with a plant-wide lead emission limit of 0.1 tpy required in the COA, addresses RACM based on the significant decrease in emissions that will result.

The 2012 COA also incorporates requirements for control of fugitive emissions from the Monaca Smelter, and PADEP has determined that all known significant sources of lead emissions from the Facility have been eliminated, controlled, or found ineffective or not viable, consistent with EPA's RACM Guidance (which also addresses RACT). Because Horsehead agreed in the COA to discontinue metal production operation at the site by October 14, 2014, PADEP considered further investment in additional control strategies to not be reasonable or cost effective. Thus, PADEP has determined that no additional control measures such as RACT are required at the Monaca Smelter. EPA has reviewed PADEP's determinations and analysis and finds it reasonable for RACM and RACT at the Monaca Smelter.

EPA set a threshold of 0.5 tpy for lead sources to undergo a RACT analysis. 73 FR 67038. Because the lead emissions from the AES Beaver Valley facility are well below 0.5 tpy, PADEP concluded no RACT review is required for that facility and EPA finds PADEP's conclusion reasonable for AES Beaver Valley.

Section 172(c)(2) of the CAA also requires areas designated as nonattainment for criteria pollutants to include a demonstration of RFP for meeting air quality standards in attainment plans. Section 171(1) of the CAA defines RFP as annual incremental reductions in emissions of the relevant air pollutants as required by Part D of Title I of the CAA, or emission reductions that may reasonably be required by EPA to ensure attainment of

[2] *http://www3.epa.gov/airquality/lead/pdfs/2012ImplementationGuide.pdf.*

the applicable NAAQS by the applicable date.[3]

As stated in the final lead NAAQS rule (73 FR 67038), RFP is satisfied by the strict adherence to a compliance schedule which is expected to periodically yield significant emission reductions. Pennsylvania's control strategy in the Lower Beaver Valley Area is not staggered or phased. Nonattainment of the 2008 lead NAAQS is primarily attributable to a single source, the Monaca Smelter, whose major operations shut down in May 2014. Ambient air quality concentrations dropped at or below attainment levels immediately after Horsehead shut down these operations at the Facility, thus fulfilling RFP requirements for the Lower Beaver Valley Area. All of the Area's ambient air quality monitors reported lead concentrations below the 2008 lead NAAQS for the three-month rolling average for May through July, 2014. The monitor located in Center Township and associated with the Monaca Smelter showed a 2013 design value of 0.25 μg/m^3, which exceeds the lead NAAQS limit of 0.15 μg/m^3.[4] However, the maximum three-month rolling average ambient lead concentration for the five-month period since the closure of the Monaca Smelter was 0.02 μg/m^3. *See* Table 3 to Pennsylvania's January 15, 2015 SIP submittal.

With continued implementation of RACM, *i.e.,* continued shutdown of the primary lead emitting units at the Monaca Smelter and the COA emissions limit of 0.1 tpy for the Facility, lead emissions at the Facility are expected to stay well below 0.1 tpy and ambient lead concentrations in the Area are expected to continue to remain well below the NAAQS limit. Thus, EPA finds that Pennsylvania has demonstrated that RFP has been addressed.

4. Contingency Measures

In accordance with section 172(c)(9) of the CAA, contingency measures are required as additional measures to be implemented in the event that an area fails to make RFP or fails to attain a standard by its attainment date. These measures must be fully adopted rules or control measures that can be implemented quickly and without additional EPA or state action and should contain trigger mechanisms and an implementation schedule.[5] In addition, these measures should be ones that are not already included in the SIP control strategy for attaining the standard. *See* 73 FR 67038 (November 12, 2008).

The contingency measures in Pennsylvania's SIP submittal are primarily focused on control of fugitive dust because there is no longer an operating source with emissions above 0.5 tpy of lead in the Area. The SIP submittal provides for contingency measures in the COA with Horsehead which would apply should Horsehead continue operations at units not required to be shut down under the COA, and should PADEP determine that these operations cause or significantly contribute to ongoing lead NAAQS exceedances. These measures include source testing and reporting, wetting down roads in the facility, installing and operating a vehicle washing facility near material storage and handling areas, and retrofitting baghouses, or alternative control measures approved by PADEP.[6]

The SIP submittal also states that should PADEP determine that specific activities at the Monaca Smelter or at other sources in the Area are likely to have caused an exceedance of the lead NAAQS, or if PADEP documents a violation of Pennsylvania's fugitive dust regulations at 25 PA Code Section 123.1 or 123.2, additional control measures would be triggered. Specifically, PADEP can enforce those regulations and require the party whose actions likely have caused the exceedance or whose actions resulted in a violation to mitigate the impact on the 2008 lead NAAQS by implementing additional control measures. Such control measures may include paving, vegetating, watering, or chemically stabilizing traffic paths; periodic cleaning of paved roads; wet suppression at bulldozing sites and soil piles; vehicle washing at property exits; and covering soil-bearing trucks.

The January 15, 2015 SIP submittal provides the following process for triggering the above contingency measures. Any single sample result exceeding 0.15μg/m^3 at a monitor in the Lower Beaver Valley Area would trigger investigation by PADEP to determine what specific activities have caused the increased concentration level (because the only significant stationary source of lead emissions is no longer in operation). Should PADEP determine, as the result of observations by PADEP or receipt of a complaint, that specific activities are likely to have caused an exceedance or violation, PADEP will notify the party that an action appears to be adversely affecting the NAAQS or violating Pennsylvania regulations. Corrective action in the form of contingency measures would follow, involving enforcement as appropriate.

Pennsylvania's SIP submission further provides that persistent lead exceedances at any monitor would trigger increased sampling frequency at the monitor where such an exceedance occurred.[7] Four or more sample results within any three-month rolling period reported to exceed 0.15μg/m^3 would trigger expanded ambient air monitoring and investigation as needed to identify the potential source(s) and address the source of the exceedance.

Section 172(c)(5) of the CAA requires permits for the construction and operation of new and modified major stationary sources anywhere in a nonattainment area. The Pennsylvania SIP includes provisions consistent with the federal requirements, set forth at 40 CFR 51.165, for nonattainment new source review (NSR).

PADEP's SIP submittal states that NSR permitting requirements in its SIP ensure that no new or modified sources will cause or contribute to a NAAQS violation by requiring, as part of the NSR permit, a demonstration that such a violation will not occur. *See* 25 Pa. Code § 127.81 and 127.201–127.217. If Horsehead or any entity proposes to restart or modify operations or construct and operate other activities at the Facility that would result in increased lead emissions, such changes would trigger NSR permitting requirements which include measures to minimize emissions and prevent NAAQS violations.

In summary, EPA finds these contingency measure triggers and actions will help ensure compliance with the 2008 lead NAAQS and meet the requirements of section 172(c)(9) of the CAA to ensure continued attainment

[3] Incremental reductions in lead emissions are not specified in Part D of Title I of the CAA.

[4] The monitoring data for 2010–2013 is included in appendix A of Pennsylvania's January 15, 2015 SIP submittal and uses data queried from the Air Quality System (AQS) Data Mart Database at *https://aqs.epa.gov/api.*

[5] *See* EPA document titled ''Addendum to the 2008 Lead NAAQS Implementation Questions and Answers'' dated August 10, 2012, included in EPA's SIP Toolkit at *http://www3.epa.gov/airquality/lead/pdfs/20120810qanda.pdf.*

[6] Horsehead's COA does not require closure or shut down of the Larvik Furnaces, the Refinery Feed Pot, and zinc dust sizing circuit. Thus, the COA includes contingency measures applicable to the Facility. The COA is included in the PADEP SIP submittal. Upon final approval of the SIP, the COA's terms will be federally enforceable as part of the Pennsylvania SIP. The COA is available in the docket for this rulemaking which is available online at *www.regulations.gov.*

[7] Sampling would increase from once every six days to every three days if results from two samples during any three-month rolling period exceed 0.15 μg/m^3. Sampling frequency would further increase to daily if results from three samples during any three-month period exceed 0.15 μg/m^3.

of the NAAQS if any events occur interfering with attainment. EPA finds PADEP's SIP submittal contains adequate contingency measures if the Area fails to attain the NAAQS or fails to achieve RFP because the only significant stationary source of lead emissions is no longer in operation, Pennsylvania's existing rules related to control of fugitive dusts and permitting are sufficient to minimize emissions and prevent NAAQS violations, and additional measures are not reasonably available to serve as contingency measures.

III. Proposed Action

EPA finds the January 15, 2015 SIP submittal attainment plan for the Lower Beaver Valley Area meets the applicable requirements of the CAA for attainment plans in section 172 and 192 of the CAA and in implementing regulations including 40 CFR 51.112 and 51.117. EPA is proposing to approve the Pennsylvania SIP revision attainment plan for the Lower Beaver Valley Area for the 2008 lead NAAQS including the attainment demonstration, base year emissions inventory, RACM/RACT and RFP analyses, and contingency measures.

EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

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

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

In addition, this proposed rule to approve Pennsylvania's SIP revision containing the attainment plan for the 2008 lead NAAQS in the Lower Beaver Valley Area, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead.

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

Dated: December 30, 2015.

Shawn M. Garvin,

Regional Administrator, Region III.

[FR Doc. 2016–00871 Filed 1–19–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 206

[Docket ID FEMA–2016–0003]

RIN 1660–AA84

Establishing a Deductible for FEMA's Public Assistance Program

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Emergency Management Agency (FEMA) is considering the establishment of a disaster deductible, requiring a predetermined level of financial or other commitment from a Recipient (Grantee), generally the State, Tribal, or Territorial government, before FEMA will provide assistance under the Public Assistance Program when authorized by a Presidential major disaster declaration. FEMA believes the deductible model would incentivize Recipients to make meaningful improvements in disaster planning, fiscal capacity for disaster response and recovery, and risk mitigation, while contributing to more effective stewardship of taxpayer dollars. For example, Recipients could potentially receive credit toward their deductible requirement through proactive pre-event actions such as adopting enhanced building codes, establishing and maintaining a disaster relief fund or self-insurance plan, or adoption of other measures that reduce the Recipient's risk from disaster events. The deductible model would increase stakeholder investment and participation in disaster recovery and building for future risk, thereby strengthening our nation's resilience to disaster events and reducing the cost of disasters long term. FEMA seeks comment on all aspects of the deductible concept.

DATES: Comments must be received by March 21, 2016.

ADDRESSES: Comments must be identified by docket ID FEMA–2016–0003 and may be submitted by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail/Hand Delivery/Courier: Regulatory Affairs Division, Office of Chief Counsel, Federal Emergency Management Agency, 8NE, 500 C Street SW., Washington, DC 20472–3100.

FOR FURTHER INFORMATION CONTACT: Jotham Allen, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202–646–1957.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Instructions: All submissions received must include the agency name and docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include

any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice, which can be viewed by clicking on the ''Privacy Notice'' link in the footer of *www.regulations.gov.*

You may submit your comments and material by the methods specified in the **ADDRESSES** section of this Notice. Please submit your comments and any supporting material by only one means to avoid the receipt and review of duplicate submissions.

Docket: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov* and search for the docket ID. Submitted comments may also be inspected at FEMA, Office of Chief Counsel, 8NE, 500 C Street SW., Washington, DC 20472.

II. Background

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5121–5207, provides an orderly and continuing means of assistance by the Federal Government to State, Tribal, Territorial, and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from disasters. 42 U.S.C. 5121(b). A ''major disaster,'' as defined by the Stafford Act, is ''any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance . . . to supplement the efforts and available resources of [State, Tribal, Territorial, and local governments], and disaster relief organizations, in alleviating the damage, loss, hardship, or suffering caused thereby.'' 42 U.S.C. 5122(2).

The declaration process is governed by Federal Emergency Management Agency (FEMA) regulations at 44 CFR part 206, subpart B. Upon receipt of a declaration request, FEMA formulates a recommendation which is forwarded to the President along with the request. 44 CFR 206.37(c). In developing its recommendation, FEMA considers such factors as the amount and type of damages, the impact of damages on affected individuals, the State, Tribal, Territorial, and local governments, the available resources of the State, Tribal, Territorial, and local governments, and other disaster relief organizations, the extent and type of insurance in effect to cover losses, assistance available from other Federal programs and other sources, imminent threats to public health and safety, recent disaster history, hazard mitigation measures taken by the State, Tribal, Territorial, or local governments (especially implementation of measures required as a result of previous major disaster declarations), and other factors pertinent to a given incident. 44 CFR 206.37(c)(1).

A disaster declaration specifies the types of assistance that may be awarded under the Stafford Act, such as Public Assistance, Individual Assistance, or Hazard Mitigation assistance. Public Assistance provides assistance for debris removal, emergency protective measures, and permanent restoration of infrastructure to State, Tribal, Territorial, and local governments and certain private nonprofit organizations. 44 CFR part 206, subparts G and H.

When evaluating the need for Public Assistance in a major disaster request FEMA evaluates the following factors: Estimated cost of assistance, localized impacts, insurance coverage in force, hazard mitigation, recent multiple disasters, and the availability of other Federal assistance programs. 44 CFR 206.48(a). FEMA evaluates the estimated cost of assistance on a per capita basis using the State population (using the most recent decennial Census population), and has established a per capita indicator of $1 (adjusted annually based on the Consumer Price Index for all Urban Consumers, the indicator is $1.41 for events occurring in Fiscal Year 2015) as a level at which an event might warrant Federal assistance. 44 CFR 206.48(a)(1).

Currently, once Public Assistance is authorized, FEMA documents all projects, including debris removal, emergency protective measures, and repair and replacement of eligible facilities, on Project Worksheets to reimburse the Recipient (formerly known as the Grantee, this is the State, Tribal, or Territorial government that received the disaster declaration) and Subrecipients (formerly known as Subgrantees, these are local and Tribal governments, and certain private nonprofit organizations that apply for and receive funding through the Recipient) for all of their eligible costs at the level of the Federal cost share designated by the President. 44 CFR part 206, subpart G.

This practice of funding all eligible costs is somewhat at odds with the principle underlying the Stafford Act that there is a level of disaster activity which the affected State, Tribal, or Territorial government can handle on its own. For simplicity, consider a State that is subject to the $1 million minimum threshold. 44 CFR 206.48(a)(1). An event that causes $999,999 in Public Assistance-eligible damage will most likely not warrant a major disaster declaration and the State and affected Tribal and local governments will need to fund all $999,999 in disaster costs without any supplemental Federal assistance. However, an incident that causes exactly $1 million in damage in the same State likely will result in a major disaster declaration. Once declared, FEMA will reimburse $750,000 under the typical 75% Federal cost share arrangement and the State will only need to fund $250,000. FEMA is arguably supplanting $750,000 that the State should be fully capable to handle itself.

III. Deductible

Consistent with the principles of the Stafford Act that assistance from the Federal Government is supplemental in nature and that every recipient of disaster assistance has some measureable capacity to independently respond, FEMA is considering the establishment of a disaster ''deductible.'' To ensure a Recipient's participation in recovery from disaster losses, following receipt of a major disaster declaration authorizing the Public Assistance Program, the Recipient(s) would be required to demonstrate it has satisfied a predetermined deductible amount before FEMA would provide assistance through a Project Worksheet for eligible Public Assistance work. FEMA would intend for the calculation of the deductible level for each Recipient to be published periodically and to be representative of Recipient capability. In addition to considering how to calculate a deductible amount, FEMA is considering what means by which a Recipient could demonstrate it has satisfied a deductible requirement, including through completion of FEMA-eligible projects entirely with its own funding, or through other Recipient activities for which FEMA would calculate an appropriate credit against the deductible. FEMA might provide a credit toward the deductible, for example, for a Recipient's prior adoption of a building code that reduces risk; for adoption of proactive fiscal planning such as establishing a disaster relief fund or a self-insurance fund; or investment in programs of assistance available when there is not a federal declaration.

FEMA anticipates a deductible would be calculated and applied at the Recipient (*i.e.,* State, Tribal, or Territorial level), not Subrecipient, level. However, the deductible would need to be satisfied before any project, at either the Recipient or Subrecipient level, would be eligible for assistance.

FEMA believes that a deductible could result in more effective use of taxpayer resources. It could incentivize proactive fiscal planning by Recipients for disasters, encouraging them to set aside funding specifically reserved for disaster response and recovery. The availability of credits toward the deductible could incentivize increased planning and adoption of specific mitigation activities which will result in risk-informed mitigation strategies on a broad scale. States may be encouraged to develop and fund special programs such as emergency management programs and individual assistance programs, as such plans may be credited toward satisfaction of the deductible. Recipients that adopt standardized and enhanced building codes could be rewarded with a credit toward their deductible amount. The results of these efforts may in turn increase our nation's resiliency to disaster events: Increased self-sufficiency on the part of State and local governments and their ability to support their citizens during and after a disaster, and a decrease in the negative effects of a disaster on our citizens.

IV. Public Comment

FEMA welcomes public comment on all aspects of the deductible concept, but would derive particular benefit from commenters addressing one or more of the following questions (''Recipient'' in these questions refers to any possible entity that might be a Grantee for Public Assistance, including States, Tribes, and Territories):

1. Calculating the Deductible: How should FEMA calculate the deductible amount for each Recipient to adequately reflect individual Recipient capacity?

a. Using the Public Assistance per capita indicator established by 44 CFR 206.48(a)(1)? Why?

b. Using population estimates? Why?

i. If so, should FEMA continue to rely upon the decennial census population calculations, consider population estimates, or consider other population calculation sources and why?

c. Using the Recipient's fiscal capacity? Why?

i. If so, how should FEMA measure fiscal capacity? Which metrics should be used to assess it and why? Please also identify preferred sources for suggested metrics. Potential metrics include, but are not limited to:

1. Actual revenue.
2. Potential revenue.
3. Total Taxable Resources.
4. Gross Domestic Product.
5. Budget surplus/deficit.
6. Economic projections.
7. Bond ratings.
8. Unemployment rate.
9. Other.

d. Using a measurement of disaster risk? Why?

i. If so, how should FEMA measure disaster risk? Which metrics should be used to assess it and why? Potential metrics include, but are not limited to:

1. Past presidential declarations.
2. Past FEMA disaster relief.
3. Insurance industry data.
4. Climatological data, including projected future risk.
5. Priority placed on mitigation in the State or local budget.

2. Scope of Deductible: How should FEMA define the applicability of the deductible to ensure it incentivizes meaningful improvements in planning, fiscal capacity, and risk mitigation?

a. Should the deductible apply to State governments, Territorial governments, Tribal governments, or all of the above?

b. To which of the following types of FEMA Public Assistance should the deductible apply and why?

i. Direct Federal Assistance (emergency work performed, or contracted for, by the Federal government at the request of the Recipient).

ii. Emergency Work (debris removal and emergency protective measures).

iii. Permanent Work (infrastructure repair and replacement).

iv. Management Costs.

v. Other.

3. Satisfying the Deductible: How should a Recipient be able to satisfy its deductible?

a. Should only Recipient actions be allowed to satisfy the deductible, or should Subrecipient actions be considered as well and why?

i. If Subrecipient actions should be considered, which of the following Subrecipients should be included and why?

1. Local governments.
2. Indian Tribal governments.
3. Private nonprofit organizations.

b. What of the following types of actions should qualify towards satisfying the deductible and why?

i. Work that would be eligible for FEMA assistance but for the deductible.

ii. Management costs for work that would be eligible for FEMA assistance but for the deductible.

iii. Spending on incidents that do not receive a Presidential declaration and supplemental FEMA assistance (for example, emergencies declared by the Governor).

iv. For incidents that do receive a Presidential declaration, spending in jurisdictions that were not designated for supplemental FEMA assistance.

v. Cost-share requirements for FEMA programs.

1. If so, which programs and why?

vi. Spending on projects beyond the cost-share required amount.

vii. Investments in emergency management programs using non-Federal funds.

viii. Establishment of a disaster relief fund or ''rainy day'' fund.

ix. Expenditures from a disaster relief fund or ''rainy day'' fund.

x. Establishment of an individual assistance program.

xi. Expenditures from an individual assistance program.

xii. Planning, preparedness, or mitigation programs supported by non-Federal funding.

xiii. Adoption of standardized or enhanced building codes.

xiv. Proportion of the jurisdiction which is covered by standardized and/or enhanced building codes.

xv. Other.

c. How much of an administrative burden would it be for Recipients to track, and submit for verification, documentation related to each manner of satisfying the deductible?

i. How would Recipients track the documentation?

ii. How should FEMA verify the information?

d. How should these actions be counted or credited toward satisfaction the deductible? Why?

i. Dollar-for-dollar reductions in the deductible. For example, each dollar spent through a Recipient's own individual assistance program could count as a dollar toward meeting the deductible.

ii. Percentage credits toward the deductible. For example, a Recipient may receive a credit of X percent of the deductible for establishing its own individual assistance program.

iii. Other. If so, please provide details regarding these other actions.

4. Incentivizing Change: FEMA believes a deductible could improve the United States' disaster management system and increase disaster resilience nationally by driving Recipient legislative action, budgeting, planning and other measures that further greater resilience. FEMA seeks comment on this, as follows:

a. Will a deductible requirement incentivize potential future Recipients of disaster assistance to adopt measures

that make them more resilient or more capable to respond to future disasters? If so, how?

b. In which of the following areas should FEMA focus the incentives of a deductible approach in order to achieve those improvements in disaster management and resilience and why?

i. Increased fiscal capacity to address disasters at the Recipient level.

ii. Better planning by Recipients for the financial costs of disaster.

iii. Reduced long-term impact of disasters.

iv. Reduced risk of loss from disaster.

v. Decreased future disaster costs.

vi. Better levels of cooperation among neighboring jurisdictions.

vii. Increased State emergency management staffing and funding.

viii. Other.

c. What specific actions should FEMA seek to incentivize and why? Potential actions include:

i. Acceptance of greater financial responsibility for disaster costs by non-Federal entities.

ii. Increased non-Federal investment in emergency management programs generally.

iii. Increased investment in mitigation strategies at Recipient levels.

iv. Establishment of Recipient disaster relief funds or ''rainy day'' funds.

1. Increased spending from such funds where they already exist.

v. Establishment of Recipient individual assistance programs.

1. Increased spending from such funds where they already exist.

vi. Increased level of Recipient financial relief provided for incidents that do not receive a Presidential declaration pursuant to the Stafford Act.

vii. Other.

d. How could a deductible incentivize the actions necessary to achieve improvements in the selected areas and how should FEMA design the deductible to provide that incentive?

e. Are there alternatives to a deductible that could serve as a better incentive to the selected improvements and actions?

i. If so, what are those alternatives?

ii. Why would those alternatives be more effective than a deductible?

5. Implementation Considerations: How could FEMA design deductible implementation so as to maximize effectiveness of the deductible as an incentive, but also ensure Recipients have sufficient opportunity to adjust to it?

a. What specific actions might Recipients take if a deductible were introduced to FEMA's Public Assistance Program? What specific types of actions should we seek to incentivize through the establishment of a deductible?

b. How would Recipients meet the deductible?

i. Would Recipients seek to pass the costs of the deductible on to Subrecipients? How?

ii. Would the passing on of costs to Subrecipients be appropriate? Why or why not?

iii. Should FEMA seek to prevent Recipients from passing the costs on to Subrecipients? Why?

iv. If so, what methods could FEMA use to prevent the transfer of responsibility for costs from Recipients to Subrecipients?

c. Should the deductible be applied on an annual basis or per disaster?

i. If annual, how should FEMA define the year? Why?

ii. If per disaster, should there be a cap on the number of deductibles, or total deductible amount, that a Recipient should be responsible for in a given year? Why? In what way can FEMA be sensitive to problems caused by recurrent disasters through a deductible policy?

iii. If appropriate, how should FEMA set the cumulative annual deductible cap for repetitive disasters?

d. Should FEMA ever consider waiving all or part of the deductible? Why?

i. If so, under what circumstances should FEMA consider waiving all or part of the deductible?

ii. If so, how should FEMA determine what portion of the deductible should be waived?

iii. How frequently should FEMA consider waiving all or a portion of the deductible? Why?

e. If FEMA introduced a deductible concept to the Public Assistance Program, what steps would Recipients take to adjust?

i. How long would it take Recipients, working with relevant stakeholders, to appropriately adjust to the introduction of a deductible?

ii. Should FEMA consider a phased implementation approach through which the deductible would be applied over time? Why?

iii. If so, over how much time should the deductible concept be phased in and in what way? Why?

6. Estimating Impacts: Implementation of a deductible as a prerequisite for receiving Public Assistance would have an economic impact on future Recipients of disaster assistance.

a. Do Recipients currently maintain a disaster relief or ''rainy day'' fund?

b. If not, how much would it cost to establish and administer a disaster relief or ''rainy day'' fund?

c. If a Recipient could satisfy its deductible through provision of its own individual assistance program, would Recipients establish or expand existing individual assistance programs?

d. What are the costs of establishing and running various individual assistance programs?

e. If a Recipient could satisfy its deductible through an increase in planning, preparedness, or mitigation programs, would Recipients increase the level of such activities or programs?

f. If a Recipient could satisfy its deductible through adoption of enhanced building codes, would Recipients or Recipient communities adopt such codes?

g. What are the costs associated with adoption of such building codes?

h. What are the costs associated with the specific actions Recipients might take if a deductible were introduced to FEMA's disaster relief programs?

i. What, if any, disproportionate impacts might be borne by small nonprofit entities or small government jurisdictions (populations less than 50,000)?

Authority: 42 U.S.C. 5121 *et seq.*

Dated: January 13, 2016.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2016–00997 Filed 1–19–16; 8:45 am]

BILLING CODE 9111–23–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 03–123; DA 15–1453]

Request for Comment on Petition for Rulemaking Filed by IDT Telecom, Inc., Regarding Interstate Telecommunications Relay Service Fund Contribution

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on a Petition for Rulemaking (Petition) filed by IDT Telecom, Inc. (IDT) requesting that the Commission issue a Notice of Proposed Rulemaking (NPRM) to review and revise its rules and policies on the contribution methodology for the Interstate Telecommunications Relay Service (TRS) Fund to include intrastate revenue within the TRS Fund contribution base. Additionally IDT requests that the Commission remove the rule provision requiring that video relay service (VRS) costs be recovered

from only interstate and international revenue.

DATES: Comments are due February 4, 2016 and reply comments are due February 16, 2016.

ADDRESSES: You may submit comments, identified by CG Docket No. 03–123 by any of the following methods:

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS), through the Commission's Web site *http://apps.fcc.gov/ecfs/*. Filers should follow the instructions provided on the Web site for submitting comments. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal service mailing address, and CG Docket No. 03–123.
- Paper filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit one additional copy for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

For detailed instructions for submitting comments and additional information on the rulemaking process, *see* the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Gregory Hlibok, Consumer and Governmental Affairs Bureau, Disability Rights Office, (202) 559–5158, email: *Gregory.Hlibok@fcc.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document.

- Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial Mail sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street SW., Washington, DC 20554.

This is a summary of the Commission's document DA 15–1453, released on December 18, 2015 in CG Docket No. 03–123. The full text of document DA 15–1453, the Petition, and any subsequently filed documents in this matter will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. Document DA 15–1453 can also be downloaded in Word or Portable Document Format (PDF) at: *https://www.fcc.gov/general/disability-rights-office-headlines*. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Initial Paperwork Reduction Act of 1995 Analysis

Document DA 15–1453 does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Synopsis

On November 25, 2015, IDT filed a petition for rulemaking asking the Commission to issue an NPRM to review and revise its rules and policies concerning the contribution methodology for the TRS Fund. IDT asks the commission to implement a contribution methodology that includes intrastate revenue within the TRS Fund contribution base. Additionally, IDT requests that the Commission remove the rule provision that requires VRS costs to be recovered from only interstate and international revenue. IDT asserts that this would greatly increase and strengthen the base of the TRS Fund.

Federal Communications Commission.

Gregory Hlibok,

Chief, Disability Rights Office, Consumer and Governmental Affairs Bureau.

[FR Doc. 2016–00910 Filed 1–19–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[WC Docket No. 05–25 and RM–10593; DA 15–1473]

Wireline Competition Bureau Extends Comment and Reply Comment Deadlines in Business Data Services (Special Access) Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Wireline Competition Bureau grants in part a request seeking an extension to the comment and reply comment deadlines in the business data services (special access proceeding, *Special Access FNPRM.*

DATES: Comments may be filed on or before January 22, 2016, and reply comments may be filed by February 19, 2016.

ADDRESSES: Federal Communications Commission, 445 12th Street, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joseph Price, Wireline Competition Bureau, Pricing Policy Division, 202–418–1540 or at *Joseph.Price@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's order WC Docket 05–25, RM–10593, DA 15–1473, released December 21, 2015. This document does not contain information collection(s) subject to the Paperwork Act of 1995 (PRA), Public Law 104–93. In addition, therefore, it does not contain any new or modified ''information collection burdens[s] for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002. The full text of this document may be downloaded at the following Internet address: *http://transition.fcc.gov/Daily_Releases/Daily_Business/2015/db1221/DA-15-1473A1.pdf.* To request alternative formats for persons with disabilities (*e.g.*, accessible format documents, sign language, interpreters, CARTS, etc.), send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 or (202) 418–0432 (TTY).

Synopsis

In Section IV.B of the Further Notice of Proposed Rule Making (FNPRM) accompanying the Data Collection Order, adopted on December 11, 2012, the Commission sought comment on possible changes to its rules for the business data services. The Commission set the comment deadlines on this portion of the *Special Access FNPRM*, 78 FR 2600, several months beyond the document's release date to allow interested parties opportunity to review the data and information collected before filing comments. The Bureau has extended these deadlines, upon request and in consideration of oppositions filed in response to the request for extensions of time, to allow interested parties adequate time to access and review the data and information collected. Accordingly, the deadline for filing comments is extended to *January 22, 2016*, and the deadline for reply comments is extended to *February 19, 2016*.

Federal Communications Commission.

Pamela Arluk,

Chief, Pricing Policy Division.

[FR Doc. 2016–01082 Filed 1–19–16; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 19, 42, and 52

[FAR Case 2014–004; Docket No. 2014–0004; Sequence No. 1]

RIN 9000–AM98

Federal Acquisition Regulations: FAR Case 2014–004, Payment of Subcontractors

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement a section of the Small Business Jobs Act of 2010. This statute requires contractors to notify the contracting officer in writing if the contractor pays a reduced price to a small business subcontractor, or if the contractor's payment to a small business contractor is more than 90 days past due.

DATES: Interested parties should submit written comments to the Regulatory Secretariat at one of the addresses shown below on or before March 21, 2016 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR Case 2014–004 by any of the following methods:

- Regulations.gov: *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''FAR Case 2014–004''. Select the link ''Comment Now'' that corresponds with FAR Case 2014–004. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''FAR Case 2014–004'' in all attached documents.
- Mail: General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Second floor, ATTN: Ms. Flowers, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR Case 2014–004, Payment of Subcontractors in all correspondence related to this case. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, at 202–501–1448 for clarification of content. Please cite FAR case 2014–004. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to implement section 1334 of the Small Business Jobs Act of 2010 (Pub. L. 111–240) and the Small Business Administration's (SBA's) implementation of section 1334 with its final rule, Small Business Subcontracting, published in the **Federal Register** at 78 FR 42391, on July 16, 2013, and effective August 15, 2013. This statute requires the prime contractor to self-report to the contracting officer when the prime contractor makes late or reduced payments to small business subcontractors. In addition, the contracting officer is required to record the identity of contractors with a history of late or reduced payments to small business subcontractors in the Federal Awardee Performance and Integrity Information System (FAPIIS).

The FAR is proposed to be amended as follows to implement the requirements of section 1334:

FAR 19.701 is revised to add definitions for ''reduced payment'' and ''untimely payment.''

FAR 19.704(a)(12) and 52.219–9(d)(12) are added to require that the offeror will pay its small business subcontractors on time and in accordance with the terms and conditions of the subcontract, and notify the contracting officer when the prime contractor pays a reduced or an untimely payment to a small business subcontractor.

FAR 42.1502(g) is revised to include in the past performance evaluation reduced or untimely payments reported to the contracting officer by the prime contractor in accordance with the clause at 52.242–XX, Payments to Small Business Subcontractors, that are determined by the contracting officer to be unjustified.

FAR 42.1503(b)(2)(v) is revised by including ''reduced or untimely payments to small business subcontractors when a subcontracting plan is required in accordance with 19.702(a)'' to the list of ''Small business subcontracting'' past performance evaluation factors.

FAR 42.1503(h)(1)(vi) is added to the list of ''other contractor performance information'' that will be reported to FAPIIS and considered by contracting officers in evaluating contractor past performance to include a contracting officer's determination that a contractor has a history of unjustified reduced or untimely payments to small business subcontractors.

FAR table 42–2, ''Evaluation Ratings Definitions (for the Small Business Subcontracting Evaluation Factor, When 52.219–9 is Used)'' is revised to include the contracting officer's evaluation of a prime contractor's self-reported unjustified reduced or untimely payments (history of three or more) to small business subcontractors.

FAR 42.1504 is added to require contracting officers to insert the clause at 52.242–XX, Payment to Small Business Subcontractors, in all solicitations and contracts containing the clause at 52.219–9, Small Business Subcontracting Plan.

FAR clause 52.219–9, Small Business Subcontracting Plan, is revised to add definitions for ''reduced payment'' and ''untimely payment.''

FAR clause 52.242–XX, Payment to Small Business Subcontractors, is added

to FAR part 52 to require the contractor to provide a written notice to the contracting officer if it makes a payment to a small business subcontractor that is for less than the amount agreed upon in a subcontract in accordance with its terms and conditions for supplies and services for which the Government has paid the prime contractor, or if payment to a subcontractor that is more than 90 days past due under the terms and conditions of a subcontract for supplies and services for which the Government has paid the prime contractor. In accordance with the SBA final rule, this proposed rule would apply to prime contracts that require small business subcontracting plans. For the reasons explained in section II, below, the proposed rule would cover acquisitions for commercial items, including acquisitions for commercial-off-the-shelf (COTS) items.

II. Determinations

The FAR Council has made the following preliminary determinations with respect to the rule's application of section 1334 of the Small Business Jobs Act of 2010, entitled ''Payment of Subcontractors,'' to contracts for the acquisition of commercial items:

A. Applicability to Contracts for the Acquisition of Commercial Items

41 U.S.C. 1906 governs the applicability of laws to the acquisition of commercial items (other than COTS items). This statute limits the applicability of laws to the acquisition of commercial items. However, section 1906 provides that the acquisition of commercial items will not be exempt from a provision of law if—

- The law contains criminal or civil penalties;
- The law specifically refers to 41 U.S.C. 1906 and states that the law applies to the acquisition of commercial items; or
- The FAR Council makes a written determination that it is not in the best interest of the Federal Government to exempt the acquisition of commercial items from the provision of law.

Section 1334 of the Small Business Jobs Act of 2010 is silent on the applicability of the requirements set forth above to contracts for commercial items and does not provide for criminal or civil penalties. Therefore, under 41 U.S.C. 1906, section 1334 does not apply to acquisitions for commercial items unless the FAR Council makes a written determination that such application is in the best interest of the Federal Government.

In making its initial determination of whether application of section 1334 to commercial items is in the best interest of the Federal Government, the FAR Council considered the following factors: (i) The benefits of the policy in furthering Administration goals, (ii) the extent to which the benefits of the policy would be reduced if an exemption is provided for commercial items, and (iii) the burden on contractors if the policy is applied to acquisitions for commercial items.

With respect to the first factor, this Administration has taken a number of steps to ensure that the government promptly and efficiently pays small businesses when they contract to provide goods and services to the government. These steps are part of the Administration's strong commitment to supporting small business growth and prosperity, as an engine to drive economic activity and job creation throughout the country. On September 14, 2011, the Office of Management and Budget (OMB) issued Memorandum M 11–32, titled: ''Accelerating Payments to Small Businesses for Goods and Services.'' That memorandum established ''the Executive Branch policy that, to the full extent permitted by law, agencies shall make their payments to small business contractors as soon as practicable, with the goal of making payments within 15 days'' of receipt of relevant documents. OMB explained that such acceleration helps to improve cash flow for small businesses, increases liquidity, unlocks capital for the purposes of investment and growth, and increases small business participation in Federal contracting. To further preserve and increase small business participation in all levels of federal contracting through improved cash flow, OMB broadened the policy to reach small business subcontractors. Memorandum M–12–16, ''Providing Prompt Payment to Small Business Subcontractors,'' established the Executive Branch policy that, to the full extent permitted by law, agencies shall take certain steps to accelerate payments to all prime contractors, in order to allow them to provide prompt payments to small business subcontractors. The policy was extended by OMB Memoranda M–13–15 and M–14–10. In 2014, the FAR Council finalized FAR changes to implement this policy and provide a clause (see FAR clause 52.232–40) to support the acceleration of payments to subcontractors.

By instilling accountability for untimely payment to subcontractors, section 1334, SBA's implementing regulation, and this rule further the benefits and policies goals described above. Specifically, the proposed rule helps to create greater cash flow certainty, which is critical for small business subcontractors and reduces a potential barrier to their participation in federal contracting.

With respect to the second factor (the impact of excluding commercial item acquisitions on the overall benefits of the underlying policy), the FAR Council believes based on an analysis of Fiscal Year 2014 Federal Procurement Data System (FPDS) data that less than one-third of spending on new contracts over $650,000 (*i.e.,* the threshold for the applicability of this rule) are for commercial item acquisitions, so exclusion could have a material impact on these benefits.

With respect to the third factor, burden on contractors selling commercial items, the initial analysis under the Paperwork Reduction Act (PRA) suggests that the total number of unique entities in Fiscal Year (FY) 2014 that are covered under this requirement (selling either commercial or non-commercial items) is 2,279 and the estimated reporting time per respondent is 2 hours. See the discussion on the PRA at Section VI, below. The FAR Council further estimates that the number of covered entities selling commercial items is not more than 40 percent of this stated total, and some of these entities may only sell COTs items, which as explained below are covered by the rule pursuant to the requirements of 41 U.S.C. 1907.

Based on the above benefit and burden considerations, the FAR Council has made a preliminary determination that it is in the best interest of the government to apply section 1334 to commercial item acquisitions: covering commercial items helps to further an important ongoing Administration initiative to help ensure effective cash flow to small business subcontractors, which in turn helps to strengthen their participation in federal contracting, whereas exclusion of commercial item acquisitions would remove a significant amount of contracting activity from the accountability that this rule imposes on prime contractors to meet their payment commitments to their small business subcontractors. The limited information currently available to the FAR Council on reporting in accordance with the requirements of this rule suggests the burdens are not expected to be significant. Moreover, the relief provided by an exemption would be limited, since COTS are covered for the reason explained below.

The Council welcomes public feedback on its initial analysis and preliminary determination to cover commercial items, including additional

insight on the need for and cost of retrofitting payment systems to meet the requirements in the rule. This feedback will be considered before the FAR Council finalizes its analysis of benefits and burdens and makes a final determination on the scope of the final rule.

B. Applicability to Contracts for the Acquisition of COTS Items

41 U.S.C. 1907 governs the applicability of laws to the acquisition of COTS items. This statute limits the applicability of laws when agencies are acquiring COTS items. However, section 1907 provides similar requirements for a law to be applied to COTS items where the law contains criminal or civil penalties, refers to section 1907 and states the law applies to COTS, or where the Administrator for Federal Procurement Policy determines it would not be in the best interest of the Federal Government to exempt the acquisition of COTS items from the provision of law. Of particular relevance to the instant rulemaking, section 1907 further provides that the acquisition of COTS items will not be exempt from a provision of law if the law concerns—

- Authorities or responsibilities under section 15 of the Small Business Act (15 U.S.C. 644); or
- Bid protest procedures developed under the authority of 31 U.S.C. 3551 *et seq.;* 10 U.S.C. 2305(e) and (f); or 41 U.S.C. 3706 and 3707.

Section 1334 amends section 8(d) of the Small Business Act (15 U.S.C. 637(d)) to establish the requirement for a prime contractor for a covered contract to provide written notification to the contracting officer if the contractor pays a reduced price to a subcontractor for goods and services upon completion of the responsibilities of the subcontractor or the payment to a subcontractor is more than 90 days past due for goods or services provided for the covered contract for which the Federal agency has paid the prime contractor.

Section 1334 requires a contracting officer of a covered contract to consider unjustified untimely or reduced payments to a small business subcontractor of the covered contract in the prime contractor's past performance evaluation. The statute defines a ''covered contract'' as a contract under which a prime contractor is required to develop a subcontracting plan. Pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)), as implemented at FAR 19.702(a), a small business subcontracting plan is required in acquisitions expected to exceed $700,000 that have subcontracting opportunities. Contracts for COTS items in amounts greater than $700,000 that have subcontracting opportunities meet the definition of a ''covered contract'' provided in the statute.

The law furthers the Administration's goal of supporting small business and advances the interests of small business subcontractors by encouraging prime contractors to comply with their stated subcontracting objectives. Increased compliance with subcontracting objectives will expand opportunities for small business subcontractors. Exclusion of a large segment of Federal contracting, such as acquisitions for COTS items, will limit the full implementation of these subcontracting-related objectives.

Further, one of the primary FAR clauses implementing Federal procurement policies governing subcontracting with small business, 52.219–9, Small Business Subcontracting Plan, are currently prescribed for use in solicitations for COTS items. This rule merely revises FAR clause 52.219–9 to implement the new requirements for a prime contractor for a covered contract to provide written notification to the contracting officer if the contractor pays a reduced price to a subcontractor for goods and services upon completion of the responsibilities of the subcontractor or the payment to a subcontractor is more than 90 days past due for goods or services provided for the covered contract for which the Federal agency has paid the prime contractor. A further example that the rule should apply to COTS items is FAR clause 52.232–40, Providing Accelerated Payments to Small Business Subcontractors, which is required in all solicitations and contracts. Exclusion of acquisitions for COTS items from these requirements would create confusion among contractors and the Federal contracting workforce.

The burden on contractors is not expected to increase significantly if the new requirements of section 1334 were applied to acquisitions for COTS items. Under the FAR clause 52.219–9, which is noted above, contractors are already required to commit to objectives for subcontracting with small business concerns under contracts for COTS items above the subcontracting plan threshold. The effort required for contractors to comply with the new requirements should be relatively small.

The Council welcomes public feedback on its initial analysis and preliminary determination to cover COTS items, including additional insight on the need for and cost of retrofitting payment systems to meet the requirements in the rule. This feedback will be considered before the FAR Council finalizes its analysis of benefits and burdens and makes a final determination on the scope of the final rule.

III. 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). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This proposed rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA expect that this proposed rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*. Therefore, an Initial Regulatory Flexibility Analysis (IRFA) has been prepared consistent with 5 U.S.C. 603 and is summarized as follows:

Section 1334 of the Small Business Jobs Act of 2010 (Public Law 111–240) and the Small Business Administration's final rule, Small Business Subcontracting, published in the **Federal Register** at 78 FR 42391, on July 16, 2013, require that the prime contractor self-report when the prime contractor makes reduced or untimely payments to small business subcontractors. Section 1334 also requires the contracting officer to record the identity of contractors with a history of unjustified reduced or untimely payments in FAPIIS.

This proposed rule implements the self-reporting requirements of section 1334 by amending FAR 42.1504 to require contracting officers to include FAR clause 52.242–XX, Payments to Small Business Subcontractors, in all solicitations and contracts containing the clause at 52.219–9, Small Business Subcontracting Plan. The new FAR clause requires prime contractors to notify the contracting officer of reduced or untimely payments to small business subcontractors.

The proposed rule also amends FAR 42.1503(h) to require contracting officers to report to FAPIIS a contractor that has a history of three or more reduced or untimely payments to small business subcontractors within a 12-month period under a single contract that are unjustified. Table 42–2 is also amended to include unjustified reduced or untimely payments to small business

subcontractors as part of the definition of ratings for the ''small business subcontracting'' past performance evaluation factors.

The proposed rule would apply to payments made to small businesses that are first-tier subcontractors to prime government contractors. There will be no burden on small businesses, as small businesses do not have subcontracting plans. This regulation will benefit small business subcontractors by encouraging large business prime contractors to pay small business subcontractors in a timely manner and the agreed upon contractual price.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

The specifics of the statutory requirement and the SBA final rule do not allow for alternative implementation strategies.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this proposed rule consistent with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2014–004) in correspondence.

V. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. Chapter 35) applies. The proposed rule contains information collection requirements. OMB has cleared this information collection requirement under OMB Control Number 9000–XXXX, titled: Payments to Small Business Subcontractors. FPDS for Fiscal Year (FY) 2014 lists 794 new commercial item contracts over $650,000 where the size determination was other than small and a subcontracting plan was required. FPDS for FY 2014 also lists 1,485 new non-commercial item contracts over $650,000 where the size determination was other than small and a subcontracting plan was required. It is estimated that no more than twenty percent of contractors with new commercial and non-commercial contracts where the size determination was other than small and where a subcontracting plan was required would have to notify the contracting officer that the prime contractor paid a reduced or an untimely payment to a small business subcontractor. It is also estimated that the average time required for a contractor to prepare the information for this collection is two hours. It is estimated also that the responses per respondent would be one.

The annual reporting burden is estimated as follows:

Respondents: *456.*

Responses per respondent: *1.*

Total annual responses: *456.*

Preparation hours per response: *2.*

Total response burden hours: *912.*

List of Subject in 48 CFR Parts 19, 42 and 52

Government procurement.

Dated: January 11, 2016.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, the DoD, GSA, and NASA propose amending 48 CFR parts 19, 42, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 19, 42, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 19—SMALL BUSINESS PROGRAMS

■ 2. Amend section 19.701 by adding, in alphabetical order, the definitions ''Reduced payment'' and ''Untimely payment'' to read as follows:

19.701 Definitions.

* * * * *

Reduced payment means a payment that is for less than the amount agreed upon in a subcontract in accordance with its terms and conditions, for supplies and services for which the Government has paid the prime contractor.

* * * * *

Untimely payment means a payment to a subcontractor that is more than 90 days past due under the terms and conditions of a subcontract, for supplies and services for which the Government has paid the prime contractor.

■ 3. Amend section 19.704 by removing the period from the end of paragraph (a)(11)and adding ''; and'' in its place; and adding paragraph (a)(12) to read as follows:

19.704 Subcontracting plan requirements.

(a) * * *

(12) Assurances that the offeror will pay its small business subcontractors on time and in accordance with the terms and conditions of the subcontract, and notify the contracting officer when the prime contractor pays a reduced or an untimely payment to a small business subcontractor.

* * * * *

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

■ 4. Amend section 42.1502 by revising paragraph (g) to read as follows:

42.1502 Policy.

* * * * *

(g) Past performance evaluations shall include an assessment of the contractor's—

(1) Performance against, and efforts to achieve, the goals identified in the small business subcontracting plan when the contract includes the clause at 52.219–9, Small Business Subcontracting Plan; and

(2) Reduced or untimely payments (see 19.701) determined by the Contracting Officer to be unjustified to small business subcontractors.

(i) The contracting officer shall consider and evaluate a contractor's written explanation for a reduced or an untimely payment when determining whether the reduced or untimely payment is justified.

(ii) The contracting officer determines that a history of unjustified reduced or untimely payments has occurred when the contractor has reported three or more occasions of unjustified reduced or untimely payments under a single contract within a 12 month period (see 42.1503(h)(1)(vi) and the evaluation factors in Table 42–2).

* * * * *

■ 5. Amend section 42.1503 by—

■ a. Revising paragraph (b)(2)(v);

■ b. Removing from paragraph (b)(2)(vi) the phrase ''late or nonpayment to subcontractors,'';

■ c. Revising the introductory text of paragraph (h)(1);

■ d. Removing from paragraph (h)(1)(iv) ''; or'' and adding a semicolon in its place;

■ e. Removing the period from the end of paragraph (h)(1)(v) and adding ''; or'' in its place;

■ f. Adding paragraph (h)(1)(vi); and

■ g. Revising table 42–2.

The revisions and additions reads as follows:

42.1503 Procedures.

* * * * *

(b) * * *

(2) * * *

(v) Small business subcontracting, including reduced or untimely payments to small business subcontractors when 19.702(a) requires

a subcontracting plan (as applicable, see Table 42–2).

* * * * *

(h) * * *

(1) Agencies shall ensure information is accurately reported in the FAPIIS or any successor thereto module of CPARS within 3 calendar days after a contracting officer—

* * * * *

(vi) Determines that a contractor has a history of three or more unjustified reduced or untimely payments to small business subcontractors within a 12 month period (see 42.1502(g)(2)).

* * * * *

TABLE 42–2—EVALUATION RATINGS DEFINITIONS

[For the Small Business Subcontracting Evaluation Factor, when 52.219–9 is used]

Rating	Definition	Note
(a) Exceptional	Exceeded all statutory goals or goals as negotiated. Had exceptional success with initiatives to assist, promote, and utilize small business (SB), small disadvantaged business (SDB), women-owned small business (WOSB), HUBZone small business, veteran-owned small business (VOSB), and service disabled veteran owned small business (SDVOSB). Complied with FAR 52.219–8, Utilization of Small Business Concerns. Exceeded any other small business participation requirements incorporated in the contract/order, including the use of small businesses in mission critical aspects of the program. Went above and beyond the required elements of the subcontracting plan and other small business requirements of the contract/order. Completed and submitted Individual Subcontract Reports and/or Summary Subcontract Reports in an accurate and timely manner. Did not have a history of three or more unjustified reduced or untimely payments to small business subcontractors within a 12 month period.	To justify an Exceptional rating, identify multiple significant events and state how they were a benefit to small business utilization. A singular benefit, however, could be of such magnitude that it constitutes an Exceptional rating. Small businesses should be given meaningful and innovative work directly related to the contract, and opportunities should not be limited to indirect work such as cleaning offices, supplies, landscaping, *etc.* Also, there should have been no significant weaknesses identified.
(b) Very Good	Met all of the statutory goals or goals as negotiated. Had significant success with initiatives to assist, promote and utilize SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB. Complied with FAR 52.219–8, Utilization of Small Business Concerns. Met or exceeded any other small business participation requirements incorporated in the contract/order, including the use of small businesses in mission critical aspects of the program. Endeavored to go above and beyond the required elements of the subcontracting plan. Completed and submitted Individual Subcontract Reports and/or Summary Subcontract Reports in an accurate and timely manner. Did not have a history of three or more unjustified reduced or untimely payments to small business subcontractors within a 12 month period.	To justify a Very Good rating, identify a significant event and state how it was a benefit to small business utilization. Small businesses should be given meaningful and innovative opportunities to participate as subcontractors for work directly related to the contract, and opportunities should not be limited to indirect work such as cleaning offices, supplies, landscaping, *etc.* There should be no significant weaknesses identified.
(c) Satisfactory	Demonstrated a good faith effort to meet all of the negotiated subcontracting goals in the various socio-economic categories for the current period. Complied with FAR 52.219–8, Utilization of Small Business Concerns. Met any other small business participation requirements included in the contract/order. Fulfilled the requirements of the subcontracting plan included in the contract/order. Completed and submitted Individual Subcontract Reports and/or Summary Subcontract Reports in an accurate and timely manner. Did not have a history of three or more unjustified reduced or untimely payments to small business subcontractors within a 12 month period.	To justify a Satisfactory rating, there should have been only minor problems, or major problems the contractor has addressed or taken corrective action. There should have been no significant weaknesses identified. A fundamental principle of assigning ratings is that contractors will not be assessed a rating lower than Satisfactory solely for not performing beyond the requirements of the contract/order.

TABLE 42–2—EVALUATION RATINGS DEFINITIONS—Continued

[For the Small Business Subcontracting Evaluation Factor, when 52.219–9 is used]

Rating	Definition	Note
(d) Marginal	Deficient in meeting key subcontracting plan elements. Deficient in complying with FAR 52.219–8, Utilization of Small Business Concerns, and any other small business participation requirements in the contract/order. Did not submit Individual Subcontract Reports and/or Summary Subcontract Reports in an accurate or timely manner. Failed to satisfy one or more requirements of a corrective action plan currently in place; however, does show an interest in bringing performance to a satisfactory level and has demonstrated a commitment to apply the necessary resources to do so. Required a corrective action plan. Did not have a history of three or more unjustified reduced or untimely payments to small business subcontractors within a 12 month period.	To justify Marginal performance, identify a significant event that the contractor had trouble overcoming and how it impacted small business utilization. A Marginal rating should be supported by referencing the actions taken by the Government that notified the contractor of the contractual deficiency.
(e) Unsatisfactory	Noncompliant with FAR 52.219–8 and 52.219–9, and any other small business participation requirements in the contract/order. Did not submit Individual Subcontract Reports and/or Summary Subcontract Reports in an accurate or timely manner. Showed little interest in bringing performance to a satisfactory level or is generally uncooperative. Required a corrective action plan. Had a history of three or more unjustified reduced or untimely payments to small business subcontractors within a 12 month period.	To justify an Unsatisfactory rating, identify multiple significant events that the contractor had trouble overcoming and state how it impacted small business utilization. A singular problem, however, could be of such serious magnitude that it alone constitutes an Unsatisfactory rating. An Unsatisfactory rating should be supported by referencing the actions taken by the Government to notify the contractor of the deficiencies. When an Unsatisfactory rating is justified, the contracting officer must consider whether the contractor made a good faith effort to comply with the requirements of the subcontracting plan required by FAR 52.219–9 and follow the procedures outlined in FAR 52.219–16, Liquidated Damages-Subcontracting Plan.

Note 1: Plus or minus signs may be used to indicate an improving (+) or worsening (−) trend insufficient to change the evaluation status.
Note 2: N/A (not applicable) should be used if the ratings are not going to be applied to a particular area for evaluation.

■ 6. Add section 42.1504 to Subpart 42.15—CONTRACTOR PERFORMANCE INFORMATION to read as follows:

42.1504 Contract clause.

Insert the clause at 52.242–XX, Payments to Small Business Subcontractors, in all solicitations and contracts containing the clause at 52.219–9, Small Business Subcontracting Plan.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 7. Amend section 52.212–5 by revising the date of the clause and paragraph (b)(17)(i) to read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items.

* * * * *

Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items (Date)

* * * * *

(b) * * *

__(17)(i) 52.219–9, Small Business Subcontracting Plan (DATE) (15 U.S.C. 637(d)(4)).

■ 8. Amend section 52.219–9 by—

■ a. Revising the date of the clause;

■ b. Adding to paragraph (b), in alphabetical order, the definitions ''Reduced payment'' and ''Untimely payment''; and

■ c. Adding paragraph (d)(12).

The revisions and additions read as follows:

52.219–9 Small Business Subcontracting Plan.

* * * * *

Small Business Subcontracting Plan (Date)

* * * * *

(b) * * *

Reduced payment means a payment that is for less than the amount agreed upon in a subcontract in accordance with its terms and conditions, for supplies and services for which the Government has paid the prime contractor.

* * * * *

Untimely payment means a payment to a subcontractor that is more than 90 days past due under the terms and conditions of a subcontract, for supplies and services for which the Government has paid the prime contractor.

* * * * *

(d) * * *

(12) The offeror shall provide assurances that the offeror will pay its small business subcontractors on time, make payments in accordance with the terms and conditions of the underlying subcontract, and notify the contracting officer when the prime contractor makes either a reduced or an untimely payment to a small business subcontractor (see 52.242–XX).

* * * * *

■ 9. Add section 52.242–XX to read as follows:

52.242–XX Payments to Small Business Subcontractors

As prescribed in 42.1504, insert the following clause:

Payments to Small Business Subcontractors (Date)

(a) *Definitions.*

Reduced payment means a payment that is for less than the amount agreed upon in a subcontract in accordance with its terms and conditions, for supplies and services for which the Government has paid the prime contractor.

Untimely payment means a payment to a subcontractor that is more than 90 days past due under the terms and conditions of a subcontract, for supplies

and services for which the Government has paid the prime contractor.

(b) *Notice.* The Contractor shall notify the Contracting Officer in writing if—

(1) A small business subcontractor is entitled to payment under the terms and conditions of the subcontract; and

(2) The Prime contractor makes a payment that is either reduced or untimely to the small business subcontractor, or if the Contractor failed to make a payment which is now untimely.

(c) *Content of Notice.* The Contractor shall include the reason(s) for making the reduced or untimely payment in any notice required under paragraph (b).

(End of clause)

[FR Doc. 2016–00950 Filed 1–19–16; 8:45 am]

BILLING CODE 6820–EP–P

Notices

Federal Register
Vol. 81, No. 12
Wednesday, January 20, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–TM–15–0082]

Local Food Directories and Survey: Notice of Request for Revision of a Currently Approved Information Collection and To Merge the Collection of National Farmers Market Directory and Survey With Modules and Local Food Directories and Survey

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget, for revision of two currently approved collections by merging them into a single information collection, titled ''Local Food Directories and Survey''. AMS intends to combine collection 0581–0169, National Farmers Market Directory and Survey with Modules, and collection 0581–0289, Local Food Directories and Survey, and title it ''Local Food Directories and Survey''. Merging the collections will allow for reduced input time for operators of multiple local food enterprises. All directories are national in scope and provide free advertising for producers of local agricultural products. The directories also assist customers to locate local food enterprises.

DATES: Comments on this notice must be received by March 21, 2016 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit comments concerning this notice. Comments should be submitted online at *www.regulations.gov* or sent to Edward Ragland, Marketing Services Division, Transportation and Marketing Program, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave. SW., Room 4509 South Building, Ag Stop 0269, Washington, DC 20250–0269.

All comments should be identified with the docket number (AMS–TM–15–0082), the date, and the page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, online at *http://www.regulations.gov* and will be made available for public inspection during regular business hours at the above physical address from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday, (except official Federal holidays). Persons wanting to visit the USDA South Building to view comments received are requested to make an appointment in advance by calling (202) 720–8317.

FOR FURTHER INFORMATION CONTACT: Edward Ragland, Marketing Services Division, Transportation and Marketing Program, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave. SW., Room 4509 South Building, Ag Stop 0269, Washington, DC 20250–0269; Tel. 202–720–8317 FAX 202–690–0031. Comments should reference Docket No. AMS–TM–15–0082.

SUPPLEMENTARY INFORMATION:

Title: Local Food Directories and Survey

OMB Number: 0581–0169

Expiration Date of Approval: April 30, 2016

Type of Request: Revision and merger of a currently approved information collection.

Abstract: Under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), AMS is responsible for conducting research to enhance market access for small and medium sized farmers. The role of the Marketing Services Division (MSD) of AMS is to facilitate distribution of U.S. agricultural products. The division identifies marketing opportunities, provides analysis to help take advantage of those opportunities, and develops and evaluates solutions, including improving farmers markets and other direct-to-consumer marketing activities. Various types of direct to customer local food enterprises serve different parts of the food marketing chain but all focus on the small-to medium-sized agricultural producers that have difficulty obtaining access to large scale commercial distribution channels. Information has been collected by the MSD periodically about the size and growth of markets, farmers served, products sold, sales, and management structure to better monitor how this marketing channel changes over time and the impact farmers markets have on the farming community nationwide.

Merging the two collection instruments would allow sharing of contact information across the two information collections which will reduce input time for operators of multiple local food enterprises. It will also allow AMS to more efficiently manage the collection and prevent duplication of burden. The definitions of on-farm market, community-supported agriculture, (CSA) and food hub are listed below.

Farmers market information collected serves dual purposes. This information is used to populate USDA's National Farmers Market Directory, and periodically, market managers are invited to participate in a comprehensive survey evaluating the farmers market sector. Collecting data for multiple purposes increases response rates, reduces duplicity in information collected by AMS, and adds convenience for AMS.

The collection incorporates advanced GIS mapping capability, which provides the ability to immediately stratify the respondents and direct them to the survey modules relevant to their characteristics. The data-driven nature of the collection and the use of modules minimizes the time necessary for respondents to complete the questionnaire. Topic areas in USDA's National Farmers Market Managers Survey include: characteristics and history of farmers markets, types of products sold, including fresh, locally-grown produce, location of the markets, programs to encourage healthy eating, special events, marketing methods, participation in federal programs designed to increase consumption of fresh fruits and vegetables, vendor retention and recruitment, market growth and enhancement, contribution to economic development, awareness and participation in grant and educational programs, what information farmers market managers have or how

they derive estimates of the number of customers, sales, number of vendors, and vendor characteristics.

An *on-farm market* is an area of a facility affiliated with a farm where transactions between a farm market operator and customers take place. An on-farm market may operate seasonally or year-round. On-farm markets are an important component of direct marketing, adding value by offering customers a visit to the farm and the opportunity to purchase products from the people who grew them.

A *CSA* is another type of food-production and direct marketing relationship between a farmer or farmers and a group of consumers who purchase ''shares'' of the season's harvest in advance of the growing season. The up-front working capital generated by selling shares reduces the financial risk to the farmer(s). Generally; farmers receive better prices for their crops and, have reduced marketing costs. Consumers benefit by receiving weekly delivery of fresh locally-grown fruits, vegetables, meats, eggs and other produce. They also benefit from the ability to collectively support the sustainability of local farmers.

A *Food hub* is a business or organization that actively manages the aggregation, distribution, and marketing of source-identified food products primarily from local and regional producers to strengthen their ability to satisfy wholesale, retail, and institutional demand. This marketing channel also allows farm operators to capture a larger share of consumers' food dollar.

On-farm markets, CSA, as well as food hubs, comprise an integral part of the urban/farm linkage and have continued to rise in popularity, mostly due to the growing consumer interest in obtaining fresh products directly from the farm. The use of these marketing channels has enabled farmers to receive a larger share of the consumer's food dollar. On-farm markets, CSA, and food hubs allow consumers to have access to locally grown, farm fresh produce, enable farmers the opportunity to develop a personal relationship with their customers, and cultivate consumer loyalty with the farmers. They are also providing greater access to fresh locally grown fruits and vegetables, as well as playing an increasing role in encouraging healthier eating.

For Merged Local Food Directories and Survey—0581–0169

Estimate of Burden: Public reporting burden for this combined collection of information is estimated to average 0.183 hours per response.

Respondents: Farmers market managers, farm operators that operate on-farm stores, operators of CSA, farm operations, and operators of food hubs.

Estimated Number of Respondents: 62,250

Estimated Total Annual Responses: 6,500

Estimated Number of Responses per Respondent: .104

Estimated Total Annual Burden on Respondents: 1,187 hours.

For Local Food Directories and Survey—0581–0289

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.167 hours per response.

Respondents: Farm operators that operate on-farm stores, operators of CSA, farm operations, and operators of food hubs.

Estimated Number of Respondents: 56,750 respondents

Estimated Total Annual Responses: 2,125 responses

Estimated Number of Responses per Respondent: .037 responses

Estimated Total Annual Burden on Respondents: 355 hours

Comments are invited on: (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 including the validity of the methodology and assumptions used; (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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: January 13, 2016.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2016–00859 Filed 1–19–16; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Commodity Credit Corporation

Information Collection Request; Noninsured Crop Disaster Assistance Program and Report of Acreage

AGENCY: Farm Service Agency, Commodity Credit Corporation, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is requesting comments from all interested individuals and organizations on a revision of a currently approved information collection in support of the Noninsured Crop Disaster Assistance Program (NAP). The revision adds the report of acreage for NAP in the information collection request. The report of acreage is not a new requirement for NAP; it was previously covered in a separate information collection request and FSA is merging it into the NAP information collection request. The information being collected is needed from producers to determine their eligibility for NAP assistance.

DATES: We will consider comments that we receive by March 21, 2016.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include date, OMB control number, volume, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Daniel McGlynn, Acting Division Director, Production, Emergencies, and Compliance Division, Farm Service Agency, USDA, Mail Stop 0517, 1400 Independence Avenue SW, Washington, DC 20250–0517.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jeannette Sutphin, (202) 720–3188. Persons with disabilities or who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Noninsured Crop Disaster Assistance Program.

OMB Control Number: 0560–0175.

Type of Request: Revision.

Abstract: NAP is authorized under 7 U.S.C. 7333 and implemented under regulations in 7 CFR part 1437. NAP is administered by FSA for the Commodity Credit Corporation. The information collected allows FSA to provide assistance through NAP for losses of commercial crops or other agricultural commodities (except livestock) that are produced for food, fiber, bioenergy conversion, and for which catastrophic coverage under section 508(b), or additional NAP coverage of sections 508(c) of 508(h) of the Federal Crop Insurance Act (7 U.S.C. 1508) is not available.

NAP coverage is available for crops expressly grown for food (excluding livestock and their by-products); crops planted and grown for livestock consumption; crops grown for fiber (excluding trees grown for lumber or paper products); aquaculture species crops (including ornamental fish); floriculture; ornamental nursery; Christmas tree crops; turf grass sod; industrial crops; seed crops; and sea grass and sea oats. The information is necessary to determine whether a producer and crop or commodity meet applicable conditions for assistance and to determine compliance with existing regulations.

Eligible producers must annually:

(1) Request NAP coverage by completing an application for coverage and paying a service fee by the FSA-established application closing date;

(2) File a report of acreage, inventory, or physical location of the operation, as applicable for the covered crop or commodity; and

(3) Certify harvested production of each covered crop or commodity.

When damage occurs to a covered crop or commodity, which is eligible for NAP, producers must file a notice of loss with the local FSA administrative county office within 15 calendar days of occurrence or 15 calendar days of the date damage to the crop or commodity becomes apparent. Producers must also file an application for payment by the FSA established deadline, and complete a certification of average adjusted gross income and consent for disclosure of tax information with the local FSA county office. The NAP application is also being used to provide a timelier, more accurate, and more reliable delivery of benefits to producers. Changes implemented by the Agricultural Act of 2014 (known as the 2014 Farm Bill) have authorized the availability of additional NAP coverage levels ranging from 50 to 65 percent of production at 100 percent of the average market price (NAP buy-up coverage), and expanded NAP coverage to sweet sorghum, biomass sorghum, and industrial crops grown as feedstock for renewable biofuel, renewable electricity, and biobased products. The 2014 Farm Bill also expanded a waiver of the NAP service fee, which was previously available only to limited resource farmers to also include beginning and socially disadvantaged farmers and ranchers.

As specified in 7 CFR 1437.7, producers that elect buy-up coverage are required to pay a premium, in addition to the service fee, equal to the lesser of:

The product obtained by multiplying:

- A 5.25-percent premium fee; and
- The applicable payment limit.

The sum of the premiums for each eligible crop, with the premium for each eligible crop obtained by multiplying:

- The producer's share of the eligible crop;
- The number of acres devoted to the eligible crop;
- The approved yield;
- The coverage level elected by the producer;
- The average market price; and
- A 5.25-percent premium fee; or
- For value loss crops, the premium calculation will be based on the maximum dollar value for which coverage is sought, subject to applicable payment limitation, times the 5.25 percent premium.

Premiums will be calculated separately for each crop, type, and intended use as reported on the acreage report and as specified in the basic provisions.

Beginning farmers and ranchers, limited resource farmers and ranchers, and socially disadvantaged farmers or ranchers may request a waiver of the service fee and a 50 percent premium reduction for any buy-up coverage elected by filing a certification of their status on or before the time the application for coverage is filed using the form specified by FSA.

Annual reports of acreage that are planted and prevented from being planted must be reported, as required by the Secretary, by the designated acreage reporting date for the crop and location as established by the Secretary. As specified in 7 CFR 1437.8(d), the report of acreage planted or intended but prevented from being planted must be provided to FSA at the administrative county office for the acreage no later than the date specified by FSA for each crop and location. Reports of acreage filed beyond the date specified by FSA for the crop and location may, however, be processed and used for determining acres devoted to the eligible crop if all the provisions of 7 CFR part 718 are met. In the case of a crop-share arrangement, all producers will be bound by the acreage report filed by the landowner or operator unless the producer files a separate acreage report by the date specified by FSA for the crop and location. Reports of acreage planted or intended and prevented from being planted must include all of the following information:

(1) Number of acres of the eligible crop in the administrative county (for each planting in the event of multiple planting) in which the producer has a share;

(2) Zero acres planted when the producer's crop for which an application for coverage was filed, is not planted;

(3) The producer's share of the eligible crop at the time an application for coverage was filed;

(4) The FSA farm serial number;

(5) The identity of the crop, practices, intended uses, and for forage crops, the predominant species or type and variety of the vegetation;

(6) For crops grown on organic acreage with an average market price established specified in § 1437.12(b), the identity of the crop planted on:

(i) Acreage using conventional farming practices;

(ii) Certified organic acreage;

(iii) Transitional acreage being converted to certified organic acreage;

(iv) Buffer zone acreage;

(7) The identity of all producers sharing in the crop;

(8) The date the crop was planted or planting was completed, including the age of the perennial crops; and

(9) The acreage intended but prevented from being planted.

Additionally, 7 CFR 1437.301(c) indicates that for those eligible crops and commodities for which it is impractical, as determined by CCC, to report crop acreage including, but not limited to, ornamental nursery and aquaculture, producers must provide a report of the crop, commodity, and facility to FSA for the acreage or facility, on a form prescribed by FSA, no later than the beginning of the crop year.

The report of acreage is not a new requirement for NAP; it was previously approved by OMB under control number 0560–0004. The report of acreage was covered in that separate information collection request and FSA is merging it into the NAP information collection request. The report of acreage information collection has been approved under a separate OMB control number because the report of acreage is also used for other programs and in the past, the other programs required approval under the Paperwork Reduction Act; however, due to

legislative exemptions related to the Paperwork Reduction Act for those other FSA programs, currently NAP is the only FSA program for which the report of acreage requires approval under the Paperwork Reduction Act. Therefore, FSA determined that instead of continuing 2 separate approvals, it would be better to consolidate the information collection requests into a single NAP approval. When FSA submits the information collection request to OMB, FSA will submit a consolidated request to revise the OMB approval for control number 0560–0175 and will discontinue OMB control number 0560–0004 when OMB approves the revised information collection request for control number 0560–0175.

FSA is revising the currently approved information collection because the total annual burden hours is expected to increase due to the merging the information collection request of Report of Acreage for NAP (0560–0004) with the information collection request of 0560–0175. FSA is also revising the estimates currently approved for OMB control number 0560–0175 to the numbers to reflect current respondents. The information collection request approved under OMB control number 0560–0004 will be discontinued upon the OMB approval of the revised information collection request for OMB control number 0560–0175.

The formula used to calculate the total burden hours is ''the estimated average time per response (including travel time)'' times ''the total estimated annual response.''

Type of Respondents: Producers of commercial crops or other agricultural commodities (except livestock).

Estimated Annual Burden: Public reporting burden for this information collection is estimated to average 1.63 hours per response. The average travel time, which is included in the total annual burden, is estimated to be 1 hour per respondent.

Estimated Annual Number of Respondents: 72,294.

Estimated Annual Number of Reponses per Respondent: 8.

Estimated Total Annual Responses: 574,402.

Estimated Total Annual Burden Hours: 933,528.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected;

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

Val Dolcini,

Executive Vice President, Commodity Credit Corporation, and Administrator, Farm Service Agency.

[FR Doc. 2016–00984 Filed 1–19–16; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Requested—Review of Child Nutrition Data and Analysis for Program Management

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

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This is a new collection to review and document State and School Food Authority (SFA) National School Lunch Program (NSLP) and School Breakfast Program (SBP) Management Information Systems (MIS) in order to provide FNS with a baseline assessment of the MIS system and to inform FNS regarding how States and SFAs use data systems beyond fulfilling FNS reporting requirements.

DATES: Written comments on this notice must be received on or before March 21, 2016.

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

Comments may be submitted through one of the following methods:

- *Preferred method:* Submit information through the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submissions.
- *Mail:* Submissions should be addressed to Dennis Ranalli, Social Science Policy Analyst, Office of Policy Support, FNS, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1014, Alexandria, VA 22302. Comments may also be emailed to *dennis.ranalli@fns.usda.gov.*

All information properly and timely submitted, using one of the methods described above, in response to this request will be included in the record and will be made available to the public on the Internet at *http://www.regulations.gov.* Please be advised that the substance of the information provided and the identity of the individuals or entities submitting it will be subject to public disclosure.

All written comments will be open for public inspection at the FNS office located at 3101 Park Center Drive, Alexandria, Virginia 22302, Room 1014, during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday). All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Dennis Ranalli at 703–305–2149 or *dennis.ranalli@fns.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Review of Child Nutrition Data and Analysis for Program Management.

Form Number: N/A.

OMB Number: Not yet assigned.

Expiration Date: Not yet determined

Type of Request: New collection.

Abstract: The Richard B. Russell National School Lunch Act of 1946 and Child Nutrition Act of 1966 provide the legislative authority for the National School Lunch Program (NSLP) and

School Breakfast Program (SBP). These programs provide federal financial assistance and USDA foods to public and non-profit private schools and residential childcare institutions to facilitate serving meals that meet nutritional standards. At the State level, State education agencies (SEAs) administer NSLP/SBP. At the local level, School Food Authorities (SFAs) operate these programs through agreements with SEAs. SFAs use Management Information Systems (MIS) of varying levels of sophistication to collect the range of information required to implement and manage school food service programs.

The information SFAs collect include meal production, labor cost, food cost, inventory and other data needed to manage their operations. SFAs also collect reimbursable meal counts and other information for obtaining NSLP/SBP reimbursements and meeting State reporting requirements. SFAs are accountable for meeting NSLP/SBP standards, maintaining food safety standards, ensuring proper use of funds, and managing meal services within a budget.

Current State and federal data collection requirements for the NSLP/SBP have grown from manual paper-based reporting and early computer eras that were characterized by concerns to minimize paperwork and reporting burden. While SFAs collect a wide array of data to enhance local administration, SEAs request and aggregate a subset of this data and ultimately report only a small part of it to the Food and Nutrition Service (FNS) as State data.

The purpose of this study is to review and document the management information systems of State education agencies and School Food Authorities. Specifically, the study will present a baseline assessment of the MIS systems based on data collected:

▪ Objective 1: Determine the baseline ''as is'' functionality of State education agencies (SEA) and School Food Authority (SFA) National School Lunch Program (NSLP)/School Breakfast Program (SBP) data management information systems.

▪ Objective 2: Assess when State and local NSLP/SBP data management information systems were developed, and the expected longevity of these systems.

▪ Objective 3: Determine the typical costs of developing, maintaining, modifying and replacing State and local NSLP/SBP data management information systems.

▪ Objective 4: Outline the data elements that State and SFA NSLP/SBP data management systems collect and generate, beyond those reported to FNS, to administer and manage the NSLP and SBP at the State and SFA levels.

▪ Objective 5: Assess what proportion of States and SFAs collect or generate NSLP/SBP management data that they do not report to FNS.

▪ Objective 6: Describe how long these data elements are retained and how frequently they are updated.

▪ Objective 7: Determine the functions that these data element serve. Describe the types of access, analysis, and standard or ad-hoc report generation supported by State and local NSLP/SBP data systems.

▪ Objective 8: Describe the technical and other challenges SFA and State administrators face in NSLP/SBP data collection, aggregation, and reporting. Describe the perceptions of these officials of the quality of the reported data.

The purpose of this project is to review and document SFA and State NSLP/SBP management information systems by conducting:

1. A census of all State agencies responsible for administering NSLP/SBP, and

2. A Web survey of a nationally representative sample of small, medium and large SFAs.

Affected Public: State, Local and Tribal Government. Respondent groups identified include: (1) Data managers from State agencies that administer school meal programs in all 50 States and the District of Columbia and (2) a sample of SFA administrators or data managers.

Estimated Number of Respondents: The total estimated number of unique respondents is 5,091. FNS expects that one representative from each State school meals agency will participate in the State agency survey. In addition, FNS expects that two respondents from each SFA will be needed to complete the SFA survey because this survey will seek information on a range of aspects of the MIS of SFAs. Based on this, FNS estimates that the total number of unique respondents for this study will include 51 representatives from State school meals agencies; 4,032 administrators and data managers from small, medium, and large SFAs; and 1,008 non-respondents. The study will contact 2,520 SFAs with an expected response rate of 80%, which will result in 2,016 completed Web surveys.

Estimated Frequency of Responses per Respondent: 3.16.

Estimated Total Annual Responses: 16,062.

Estimated Time per Response: 10 minutes (0.17 hours). The estimated response time varies from three minutes to one hour. The census of State school meal agencies will take 60 minutes (1 hour) to complete. All representatives will receive prior notification of the survey. The estimated burden of this notification is 5 minutes (0.08 hours). For the Web survey of SFAs, all potential respondents will receive prior notification, which will require 5 minutes (0.08 hours) to read. It is anticipated that two respondents from each SFA will respond—the administrator and data manager. Estimated time of response for SFA administrators is 12 minutes (0.2 hours). The estimated time of response for SFA data managers (or equivalent) is 48 minutes (0.8 hours). Estimated time for non-respondents is 3 minutes (0.05 hours). Non-respondents include those who attempt the survey but do not complete or decline to participate. There will be three follow-up activities for both the census and the Web survey. The estimated burden for each follow-up activity is 3 minutes (0.05 hours).

Estimated Total Annual Burden on Respondents: 2,743.09 hours.

See the table below for estimated total annual burden for each type of respondent.

Respondent	Estimated # respondent	Frequency of response (annually)	Total annual responses (Col. bxc)	Estimated avg. # of hours per response	Estimated total hours (Col. dxe)
Census					
Census Notification	51	1	51	0.08	4.08
Representative of State school meals agencies	51	1	51	1.00	51.00
Census Follow-up 1	36	1	36	0.05	1.79
Census Follow-up 2	28	1	28	0.05	1.40
Census Follow-up 3	20	1	20	0.05	1.02

Respondent	Estimated # respondent	Frequency of response (annually)	Total annual responses (Col. bxc)	Estimated avg. # of hours per response	Estimated total hours (Col. dxe)
Web Survey					
Survey Notification	2,520	1	2,520	0.08	201.60
School Food Authority Administrator	2,016	1	2,016	0.20	403.20
Survey Follow-up 1 (Administrator and Data Manager)	3,528	1	3,528	0.05	176.40
Survey Follow-up 2 (Administrator and Data Manager)	2,772	1	2,772	0.05	138.60
Survey Follow-up 3 (Administrator and Data Manager)	2,016	1	2,016	0.05	100.80
School Food Authority Data Manager (or equivalent)	2,016	1	2,016	0.80	1,612.80
School Food Authority Administrator (Attempted)—Non-Response	504	1	504	0.05	25.20
School Food Authority Data Manager (or equivalent)—Non-Response	504	1	504	0.05	25.20
Total Reporting Burden	5,091	3.16	16,062	0.17	2,743.09

Dated: January 13, 2016.

Audrey Rowe,

Administrator, Food and Nutrition Service.

[FR Doc. 2016–01005 Filed 1–19–16; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Forestry Research Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Forestry Research Advisory Council (FRAC) will meet in Washington, DC The Council is required by Section 1441 of the Agriculture and Food Act of 1981 to provide advice to the Secretary of Agriculture on accomplishing efficiently the purposes of the Act of October 10, 1962 (16 U.S.C. 582a, *et seq.*), commonly known as the McIntire-Stennis Act of 1962. The Council also provides advice relative to the Forest Service research program, authorized by the Forest and Rangeland Renewable Resources Research Act of 1978 (Pub. L. 95–307, 92 Stat. 353, as amended; 16 U.S.C. 1600 (note)). FRAC information can be found at the following Web site: *http://fs.fed.us/research/about/forestry-research-council/.*

DATES: The meeting will be held February 23–24, 2016, at the following times:

- February 23, 2016, from 8:30 a.m.–4:30 p.m.
- February 24, 2016, from 8:30 a.m.–11:30 a.m.

All FRAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held in the USDA Forest Service—Washington Office, Yates Building, Leopold Training Room (2SE01), 201 14th Street Southwest, Washington, DC.

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 USDA Forest Service—Washington Office. Please call ahead to 202–205–1665 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: W. Stephen Hart, FRAC Designated Federal Officer, by phone at 202–205–0844 or via email at *shart@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:

1. Discuss current and emerging forestry and natural resources research issues;

2. Provide a presentation and discussion on budget outlooks and program priorities of the USDA Forest Service Research and Development and USDA National Institute of Food and Agriculture; including the McIntire-Stennis Cooperative Forestry Research Program; and

3. Discuss anticipated matters that may include USDA engagement in natural resources-related research and education, partnerships with other agencies, indisciplinary research, research in urban forestry, wood products development, and landscape-scale forest management.

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 February 16, 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 W. Stephen Hart, FRAC Designated Federal Officer, USDA Forest Service, Research and Development, 1400 Independence Avenue SW., Mail Stop 1120, Washington, DC 20250–1120; via fascimile to 202–401–1189, or via email at *shart@fs.fed.us.*

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: January 12, 2016.

Carlos Rodriguez-Franco,

Acting Deputy Chief, Research & Development.

[FR Doc. 2016–00882 Filed 1–19–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Solicitation of Applications (NOSA) for the Section 533 Housing Preservation Grants for Fiscal Year 2016

AGENCY: Rural Housing Service, USDA.

ACTION: Notice; correction.

SUMMARY: This document corrects the closing deadline date that has changed since the initial Notice that appeared in the **Federal Register** on December 29, 2015, entitled ''Notice of Solicitation of

Applications (NOSA) for the 533 Housing Preservation Grants for Fiscal Year 2016''.

DATES: This document is effective January 20, 2016.

FOR FURTHER INFORMATION CONTACT: Jeaneane Shelton, *jeaneane.shelton@wdc.usda.gov,* (202) 720–5443, Finance and Loan Analyst, Multi-Family Housing Preservation and Direct Loan Division, STOP 0782, (Room 1263–S) U.S. Department of Agriculture, Rural Development, 1400 Independence Avenue SW., Washington, DC 20250–0782. All hard copy pre-applications and required documents (attachments) must be submitted to this address. *(Please note these telephone numbers are not a toll-free numbers.)*

SUPPLEMENTARY INFORMATION: In FR Doc. 2015–32784 of December 29, 2015 (80 FR 81279), make the following corrections:

1. On page 81279, the third column, second paragraph, fifth line and fourteenth line, under **DATES**: Remove closing deadline date February 12, 2016, and add closing deadline date March 15, 2016, in its place.

2. On page 81280, first column, the fourth paragraph, under Supplementary Information, Overview, eighth line for Dates, remove date February 12, 2016, and add date March 15, 2016.

Dated: January 13, 2016.

Tony Hernandez,

Administrator, Rural Housing Service.

[FR Doc. 2016–00957 Filed 1–19–16; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1993]

Grant of Authority; Establishment of a Foreign-Trade Zone Under the Alternative Site Framework; Central Pennsylvania

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the Pennsylvania Foreign-Trade Zone Corporation (the Grantee) has made application to the Board (B–7–2015, docketed February 5, 2015), requesting the establishment of a foreign-trade zone under the ASF with a service area of Bedford, Blair, Cambria, Centre, Fulton, Huntingdon and Somerset Counties, Pennsylvania, adjacent to the Pittsburgh and Harrisburg Customs and Border Protection ports of entry;

Whereas, notice inviting public comment has been given in the **Federal Register** (80 FR 8059, February 13, 2015) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied if approval of the service area is limited to Bedford, Blair and Cambria Counties;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone with a service area of Bedford, Blair and Cambria Counties, designated on the records of the Board as Foreign-Trade Zone No. 295, subject to the FTZ Act and the Board's regulations, including Section 400.13, and to the Board's standard 2,000-acre activation limit.

Signed at Washington, DC, this 4 day of January 2016.

Penny Pritzker,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

ATTEST:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–01035 Filed 1–19–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–02–2016]

Foreign-Trade Zone 243—Victorville, California; Application for Subzone Expansion; Subzone 243A; Black & Decker (U.S.) Inc.; Rialto, California

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the City of Victorville, California, grantee of FTZ 243, requesting an additional site within Subzone 243A on behalf of Black & Decker (U.S.) Inc., located in Rialto, California. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on January 14, 2016.

Subzone 243A was approved on May 20, 2005 (70 FR 32570, 06–03–2005) and currently consists of one site: *Site 1* (29 acres)—1590 N. Tamarind Avenue, Rialto, California. The applicant is now requesting authority to expand the subzone further to include an additional site: Proposed *Site 2* (39.43 acres)—15750 Jurupa Avenue, Fontana, California. No authorization for production activity has been requested at this time. The expanded subzone would be subject to the existing activation limit of FTZ 243.

In accordance with the FTZ Board's regulations, Christopher Kemp of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is February 29, 2016. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to March 15, 2016.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Kemp at *christopher.kemp@trade.gov* or (202) 482–0862.

Dated: January 14, 2016.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–01039 Filed 1–19–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–1–2016]

Notification of Proposed Production Activity; Klaussner Furniture Industries, Inc.; Subzone 230D; (Upholstered Furniture); Asheboro and Candor, North Carolina

Klaussner Furniture Industries, Inc. (KFI), operator of Subzone 230D,

submitted a notification of proposed production activity to the FTZ Board for its facilities in Asheboro and Candor, North Carolina. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on January 5, 2016.

KFI currently has authority to conduct cut-and-sew activity using certain foreign micro-denier suede upholstery fabrics to produce upholstered furniture and related parts (upholstery cover sets) on a restricted basis (see Board Order 1745, 76 FR 11426, March 2, 2011). Board Order 1745 authorized the production of upholstered furniture (sofas, sleep sofas, and recliners) for a five-year period, with a scope of authority that only provides FTZ savings on a limited quantity (5.79 million square yards per year) of foreign origin, micro-denier suede upholstery fabric finished with a hot caustic soda solution process (*i.e.,* authorized fabrics). All foreign upholstery fabrics other than micro-denier suede finished with a hot caustic soda solution process (*i.e.,* unauthorized fabrics) used in KFI's production within Subzone 230D are subject to full customs duties.

The current request seeks to extend KFI's existing FTZ authority indefinitely (with no increase in the company's annual quantitative limit of 5.79 million square yards) and to add foreign-status leather and certain polyurethane-type fabrics to the scope of authority. KFI has also requested that the authority under Board Order 1745 be revised by modifying Condition #2 to allow KFI to admit unauthorized fabrics to Subzone 230D in privileged foreign status (19 CFR 146.41), which would preclude any change in customs classification through transformation under FTZ procedures. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt KFI from customs duty payments on the foreign-status fabrics used in export production. On its domestic sales, KFI would be able to apply the finished upholstery cover set (*i.e.,* furniture part) or finished furniture duty rate (free) for the authorized fabrics and the additional fabrics (indicated below). Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

Authority to admit imported fabrics to Subzone 230D in non-privileged foreign status (19 CFR 146.42)—under which the fabrics' customs classification could change through transformation under FTZ procedures—would only involve micro-denier suede upholstery fabrics finished with a hot caustic soda solution process (classified within HTSUS Headings 5407, 5512, 5515, 5516, 5801, 5903, 6001, 6005, and 6006), polyurethane fabrics backed with ground leather (5903.20.2500), upholstery leather (Heading 4107), and wet coagulation process, 100 percent polyurethane coated fabrics (5903.20.2500), as detailed in the notification (duty rate ranges from free to 17.2%).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is February 29, 2016.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: January 13, 2016.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–01031 Filed 1–19–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–828]

Certain Uncoated Paper From Indonesia: Final Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (the Department) determines that certain uncoated paper (uncoated paper) from Indonesia is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is January 1, 2014, through December 31, 2014. The final dumping margins of sales at LTFV are listed below in the ''Final Determination'' section of this notice.

DATES: *Effective:* January 20, 2016.

FOR FURTHER INFORMATION CONTACT: Blaine Wiltse, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6345.

SUPPLEMENTARY INFORMATION:

Background

On August 26, 2015, the Department published the *Preliminary Determination* of this antidumping duty (AD) investigation.[1] The following events occurred since the *Preliminary Determination* was issued.

On October 30, 2015, we received case briefs from Petitioners[2] and PT Anugerah Kertas Utama/PT Riau Andalan Kertas/APRIL Fine Paper Macao Commercial Offshore Limited (collectively, APRIL). On November 4, 2015, we received rebuttal briefs from the same interested parties. On November 12, 2015, we held a public hearing at the request of Petitioners.

The Department is issuing a scope comments decision memorandum for the final determinations of the AD and countervailing duty (CVD) investigations of uncoated paper, which is incorporated by reference in, and hereby adopted by, this final determination.[3]

Scope of the Investigation and Scope Comments

The product covered by this investigation is uncoated paper from Indonesia. For a complete description of the scope of this investigation, *see* the ''Scope of the Investigation,'' in Appendix I of this notice, which incorporates changes made subsequent to the *Preliminary Determination.*

On October 2, 2015, Gartner Studios, Inc. submitted its case brief on the scope

[1] *See Certain Uncoated Paper From Indonesia: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 80 FR 51771 (August 26, 2015) (*Preliminary Determination*).

[2] Petitioners in this investigation are United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; Domtar Corporation; Finch Paper LLC; P.H. Glatfelter Company; and Packaging Corporation of America.

[3] *See* the Department's memorandum to the file titled, ''Less-Than-Fair-Value Investigations of Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal; and Countervailing Duty Investigations of Certain Uncoated Paper from the People's Republic of China and Indonesia: Scope Comments Decision Memorandum for the Final Determinations,'' dated January 8, 2016 (Final Scope Decision Memorandum).

of the investigations.[4] On October 19, 2015, American Greetings Corporation (American Greetings) submitted its case brief regarding the scope of the investigations.[5] On October 29, 2015, Petitioners submitted their rebuttal brief regarding the scope of the investigations.[6] The Department is issuing a scope comments decision memorandum for the final determinations of the AD and CVD investigations of uncoated paper, which is incorporated by reference in, and hereby adopted by, this final determination.[7] As explained in the Final Scope Decision Memorandum, to facilitate the scope's administrability and enforcement, we have clarified the scope language such that uncoated paper with ''final printed content'' is excluded from the scope of the investigations.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation that are not related to the scope of this investigation are addressed in the Issues and Decision Memorandum, which is incorporated by reference by, and hereby adopted by, this notice.[8] A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and it is available to all parties in the Central Records Unit, room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Act, in September 2015, the Department verified the sales and cost information submitted by APRIL for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by APRIL.[9]

Changes Since the Preliminary Determination

Based on our analysis of the comments received and findings at verification, we made certain changes to the margin calculations for APRIL. For a discussion of these changes, *see* the ''Margin Calculations'' section of the Issues and Decision Memorandum. In addition, we changed the dumping margin assigned to two additional mandatory respondents in this investigation, Great Champ Trading Limited (Great Champ) and Indah Kiat Pulp & Paper TBK/Pabrik Kertas Tjiwi Kimia/PT. Pindo Deli Pulp and Paper Mills (APP/SMG). Because these companies failed to respond to the Department's questionnaire, in the *Preliminary Determination,* we based the preliminary dumping margin for these companies on adverse facts available (AFA), in accordance with sections 776(a) and (b) of the Act and 19 CFR 351.308. As AFA, we preliminarily assigned a rate of 51.75 percent (*i.e.,* the highest transaction-specific dumping margin for APRIL). For the final determination, we assigned these companies an AFA margin of 17.39 percent, which is the highest transaction-specific dumping margin for APRIL. For further discussion, *see* the Issues and Decision Memorandum at Comment 1. We also revised the all-others rate.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act. For the *Final Determination,* the Department calculated the ''all-others'' rate based on APRIL's final dumping margin of 2.05 percent.

Final Determination

The Department determines that the final weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average dumping margin (percent)
Great Champ Trading Limited	17.39
Indah Kiat Pulp & Paper TBK/Pabrik Kertas Tjiwi Kimia/PT. Pindo Deli Pulp and Paper Mills (APP/SMG)	17.39
April Fine Paper Macao Limited/PT Anugerah Kertas Utama/PT Riau Andalan Kertas (APRIL)	2.05
All-Others	2.05

Disclosure

We will disclose the calculations performed to interested parties within five days of the public announcement of this final determination in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of uncoated paper from Indonesia, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after August 26, 2015, the date of publication of the preliminary determination of this investigation in the **Federal Register**.

[4] *See* Letter to Secretary Pritzker, from Gartner Studios, Inc., ''Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Case Brief'' (October 2, 2015).

[5] *See* Letter to Secretary Pritzker, from American Greetings, ''Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Case Brief of American Greetings Corporation'' (October 19, 2015).

[6] *See* Letter to Secretary Pritzker, from Petitioners, ''Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Scope Rebuttal Brief'' (October 29, 2015).

[7] *See* Final Scope Decision Memorandum.

[8] *See* Memorandum to Paul Piquado, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Uncoated Paper from Indonesia'' (January 8, 2016) (Issues and Decision Memorandum).

[9] *See* Memorandum to the File from Heidi K. Schriefer and Ji Young Oh, Senior Accountants, entitled ''Verification of the Cost Response of APRIL Fine Paper Macao Offshore Limited in the Antidumping Duty Investigation of Certain Uncoated Paper from Indonesia,'' dated October 20, 2015; and Memorandum to the File from Blaine Wiltse, Senior Analyst, entitled ''Verification of the Sales Response of PT Anugerah Kertas Utama (AKU), PT Riau Andalan Kertas (RAK), and APRIL Fine Paper Macao Commercial Offshore Limited (AFPM) (collectively, APRIL) in the Antidumping Duty Investigation of Certain Uncoated Paper from Indonesia,'' dated October 22, 2015.

Further, CBP shall require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price, as follows: (1) The rate for the mandatory respondents listed above will be the respondent-specific rates we determined in this final determination; (2) if the exporter is not a firm identified in this investigation, but the producer is, the rate will be the rate established for the producer of the subject merchandise; and (3) the rate for all other producers or exporters will be 2.05 percent.

Consistent with our practice,[10] where the product under investigation is also subject to a concurrent CVD investigation, we instruct CBP to require a cash deposit less the amount of the countervailing duty determined to constitute an export subsidy.[11] Therefore, in the event that a CVD order is issued and suspension of liquidation is resumed in the companion CVD investigation on uncoated paper from Indonesia, the Department will instruct CBP to require cash deposits adjusted for export subsidies, as appropriate, found in the final determination of the companion CVD investigation. Specifically, for cash deposit purposes, we will subtract from the applicable cash deposit rate that portion of the CVD rate attributable to the export subsidies found in the final affirmative countervailing duty determination for each respondent (*i.e.,* 57.78 percent for Great Champ and APP/SMG).[12] After this adjustment, the resulting cash deposit rates will be 0.00 percent for Great Champ and APP/SMG. Because the Department found no export subsidies for APRIL, the cash deposit rate for APRIL and firms covered by the all-others rate will remain 2.05 percent.

The instructions suspending liquidation will remain in effect until further notice.

[10] The Department terminated the suspension of liquidation associated with the CVD investigation effective October 27, 2015. *See* CBP message no. 5300305 dated October 27, 2015. Therefore, until and unless suspension of liquidation is resumed, we will not adjust the AD cash deposit rate for collection of duties associated with export subsidies.

[11] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 From India,* 69 FR 67306, 67307 (November 17, 2004); and *Notice of Final Determination of Sales at Less Than Fair Value and Negative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea,* 77 FR 17413 (March 26, 2012).

[12] *See* the Memorandum to the File, through Shawn Thompson, Program Manager, Office II, AD/CVD Operations, from Blaine Wiltse, Senior Analyst, Office II, AD/CVD Operations, entitled, ''Placing Information on the Record: Export Subsidies Calculated in the Countervailing Duty Final Determination of Certain Uncoated Paper from Indonesia,'' dated January 8, 2016.

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we will notify the ITC of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of uncoated paper from Indonesia no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders (APO)

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

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: January 8, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by the investigation includes uncoated paper in sheet form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white paper with a GE brightness level [1] of 85 or higher or is a colored paper; whether or not surface-decorated, printed (except as described below), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions (Certain Uncoated Paper).

Certain Uncoated Paper includes (a) uncoated free sheet paper that meets this scope definition; (b) uncoated ground wood paper produced from bleached chemi-thermo-mechanical pulp (BCTMP) that meets this scope definition; and (c) any other uncoated paper that meets this scope definition regardless of the type of pulp used to produce the paper.

Specifically excluded from the scope are (1) paper printed with final content of printed text or graphics and (2) lined paper products, typically school supplies, composed of paper that incorporates straight horizontal and/or vertical lines that would make the paper unsuitable for copying or printing purposes. For purposes of this scope definition, paper shall be considered ''printed with final content'' where at least one side of the sheet has printed text and/or graphics that cover at least five percent of the surface area of the entire sheet.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) categories 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000. Some imports of subject merchandise may also be classified under 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

[1] One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade.

''Colored paper'' as used in this scope definition means a paper with a hue other than white that reflects one of the primary colors of magenta, yellow, and cyan (red, yellow, and blue) or a combination of such primary colors.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum:

I. Summary
II. Background
III. Period of Investigation
IV. Margin Calculations
V. List of Comments
VI. Discussion of Comments
Comment 1: Selection and Corroboration of the AFA Rate for Great Champ and APP/SMG
Comment 2: Stock Lot Sales
Comment 3: Unreported Home Market Rebates
Comment 4: Additional Changes to APRIL's Margin Program
Comment 5: APRIL's Variable and Fixed Overhead Costs
Comment 6: APRIL's Costs Associated with Broke Paper
Comment 7: Adjustments to APRIL's Cost Reconciliation

Comment 8: Calculating APRIL's Financial Expenses
VII. Conclusion

[FR Doc. 2016–01023 Filed 1–19–16; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–560–829]

Certain Uncoated Paper From Indonesia: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of certain uncoated paper from Indonesia. For information on the estimated subsidy rates, *see* the ''Final Determination and Suspension of Liquidation'' section of this notice. The period of investigation (POI) is January 1, 2014, through December 31, 2014.

DATES: *Effective:* January 20, 2016.

FOR FURTHER INFORMATION CONTACT: David Goldberger or Brandon Custard, Office II, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–1823, respectively.

SUPPLEMENTARY INFORMATION:

Background

The events that occurred since the Department published the *Preliminary Determination* [1] on June 29, 2015, are discussed in the Issues and Decision Memorandum, which is hereby incorporated in this notice.[2] This memorandum also details the changes we made since the *Preliminary Determination* to the subsidy rates calculated for the mandatory respondents and all other producers/exporters. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is certain uncoated paper. For a complete description of the scope of the investigation, *see* Appendix I.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum, dated concurrently with this notice. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice as Appendix II.

Use of Facts Otherwise Available, Including Adverse Inferences

For purposes of this final determination, we continue to rely on facts available and to draw an adverse inference, in accordance with sections 776(a) and (b) of the Act, to determine the subsidy rates for Great Champ Trading Limited (Great Champ) and Indah Kiat Pulp & Paper TBK (IK) and Pabrik Kertas Tjiwi Kimia (TK) [3] because these companies failed to participate in this investigation and the Government of Indonesia (GOI) failed to provide requested information with respect to certain programs upon which we initiated an investigation.[4]

Final Determination and Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for PT Anugrah Kertas Utama (AKU) and APRIL Fine Paper Macao Commercial Offshore Limited (AFPM) (collectively, the APRIL companies). Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, we will determine an ''all-others'' rate equal to the weighted-average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act. Where the rates for investigated companies are zero or *de minimis,* or based entirely on facts otherwise available, section 705(c)(5)(A)(ii) of the Act instructs the Department to establish an ''all-others'' rate using ''any reasonable method.'' As discussed above, we determined Great Champ's and IK's/TK's rates based entirely on AFA in accordance with sections 776(a) and (b) of the Act. Therefore, we used the rate calculated for the APRIL companies as the ''all-others'' rate. We intend to disclose to parties the calculations performed in this proceeding within five days of the public announcement of this final determination in accordance with 19 CFR 351.224(b).

We determine the countervailable subsidy rates to be:

Company	Subsidy rate (percent)
APRIL Fine Paper Macao Commercial Offshore Limited/PT Anugrah Kertas Utama/PT Riau Andalan Kertas/PT Intiguna Primatama/PT Riau Andalan Pulp & Paper/PT Esensindo Cipta Cemerlang	21.22
Great Champ Trading Limited ..	104.00
Indah Kiat Pulp & Paper TBK/Pabrik Kertas Tjiwi Kimia/PT Pindo Deli Pulp and Paper Mills	109.15
All-Others	21.22

As a result of our affirmative *Preliminary Determination,* pursuant to sections 703(d)(1)(B) and (2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise from Indonesia which were entered or withdrawn from warehouse, for consumption on or after June 29, 2015, the date of the publication of the *Preliminary Determination* in the **Federal Register**.

[1] *See Certain Uncoated Paper From Indonesia: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination,* 80 FR 36971 (June 29, 2015) (*Preliminary Determination*), and accompanying Decision Memorandum for the Preliminary Affirmative Countervailing Duty Determination in the Countervailing Duty Investigation of Certain Uncoated Paper from Indonesia (Preliminary Decision Memorandum).

[2] *See* memorandum entitled, ''Countervailing Duty Investigation of Certain Uncoated Paper from Indonesia: Issues and Decision Memorandum for the Final Affirmative Determination,'' dated concurrently with this notice (Issues and Decision Memorandum).

[3] We found IK, TK, and PT Pindo Deli Pulp and Paper Mills to be cross-owned and, therefore, are assigning them a single countervailing duty rate. For further discussion, *see* Memorandum entitled, ''Cross-Ownership of Asia Pulp and Paper/Sinar Mas Group Companies: Countervailing Duty Investigation of Uncoated Paper from Indonesia,'' dated June 22, 2015.

[4] *See* Issues and Decision Memorandum, at pages 3–9.

In accordance with section 703(d) of the Act, we later issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after October 27, 2015, but to continue the suspension of liquidation of all entries from June 29, 2015, through October 26, 2015, as appropriate.

We will issue a CVD order and reinstate the suspension of liquidation in accordance with our final determination and under section 706(a) of the Act if the United States International Trade Commission (ITC) issues a final affirmative injury determination, and we will instruct CBP to require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited as a result of the suspension of liquidation will be refunded.

International Trade Commission (ITC) Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Return or Destruction of Proprietary Information

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

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: January 8, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by the investigation includes uncoated paper in sheet form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white paper with a GE brightness level [1] of 85 or higher or is a colored paper; whether or not surface-decorated, printed (except as described below), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions (Certain Uncoated Paper).

Certain Uncoated Paper includes (a) uncoated free sheet paper that meets this scope definition; (b) uncoated ground wood paper produced from bleached chemi-thermo-mechanical pulp (BCTMP) that meets this scope definition; and (c) any other uncoated paper that meets this scope definition regardless of the type of pulp used to produce the paper.

Specifically excluded from the scope are (1) paper printed with final content of printed text or graphics and (2) lined paper products, typically school supplies, composed of paper that incorporates straight horizontal and/or vertical lines that would make the paper unsuitable for copying or printing purposes. For purposes of this scope definition, paper shall be considered ''printed with final content'' where at least one side of the sheet has printed text and/or graphics that cover at least five percent of the surface area of the entire sheet.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) categories 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000. Some imports of subject merchandise may also be classified under 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Use of Facts Otherwise Available
IV. Subsidies Valuation
V. Analysis of Programs
VI. Analysis of Comments
1. Adverse Facts Available for Great Champ
2. Whether the Stumpage Program Meets the Specificity Requirement
3. Whether the Stumpage Program Applies to Purchases of Felled Trees
4. Whether To Include APRIL's Harvest of Mixed Hardwood Timber in Calculating Countervailable Benefits
5. Whether To Use Malaysian Stumpage Fees as a Benchmark
6. Whether the Log Export Ban Constitutes a Countervailable Subsidy
7. Selection of Timber Benchmark Values
8. Adjustments to Log Benchmark Values
9. Corrections and Revisions to APRIL's Log Harvesting and Purchase Data
10. Whether APRIL Received a Countervailable Debt Forgiveness Benefit
11. Whether APRIL Received a Countervailable Benefit for Preferential Loans
12. Uncreditworthiness
VII. Recommendation

[1] One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade. ''Colored paper'' as used in this scope definition means a paper with a hue other than white that reflects one of the primary colors of magenta, yellow, and cyan (red, yellow, and blue) or a combination of such primary colors.

[FR Doc. 2016–01026 Filed 1–19–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–471–807]

Certain Uncoated Paper From Portugal: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances

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

SUMMARY: The Department of Commerce (''the Department'') determines that certain uncoated paper (''uncoated paper'') from Portugal is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735(a) of the Tariff Act of 1930, as amended (''the Act''). The period of investigation (''POI'') is January 1, 2014, through December 31, 2014. The final dumping margins of sales at LTFV are listed below in the ''Final Determination'' section of this notice.

DATES: *Effective:* January 20, 2016.

FOR FURTHER INFORMATION CONTACT: Kabir Archuletta, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2593.

SUPPLEMENTARY INFORMATION:

Background

On August 26, 2015, the Department published the *Preliminary Determination* of this antidumping duty (''AD'') investigation.[1] The following events occurred since the *Preliminary Determination* was issued.

Between September and December 2015, the Department received supplemental questionnaire responses and revised databases from Portucel S.A. (''Portucel''), the sole mandatory respondent in this investigation.

On December 4, 2015, Petitioners[2] and Portucel submitted properly filed case briefs.[3] On December 9, 2015, Petitioners and Portucel submitted properly filed rebuttal briefs.[4]

Scope of the Investigation and Scope Comments

The product covered by this investigation is uncoated paper from Portugal. For a complete description of the scope of the investigation, *see* the ''Scope of the Investigation,'' in Appendix I of this notice, which incorporates changes made subsequent to the *Preliminary Determination.*

On October 2, 2015, Gartner Studios submitted a case brief regarding the scope of the investigations. On October 19, 2015, American Greetings Corporation (''American Greetings'') submitted a case brief regarding the scope of the investigations.[5] On October 29, 2015, Petitioners submitted a rebuttal brief regarding the scope of the investigations.[6] The Department is issuing a scope comments decision memorandum for the final determinations of the AD and countervailing duty investigations of uncoated paper, which is incorporated by reference in, and hereby adopted by, this final determination.[7] As explained in the Final Scope Decision Memorandum, to facilitate the scope's administrability and enforcement, we have clarified the scope language such that uncoated paper with ''final printed content'' is excluded from the scope of the investigations.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice.[8] A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *https://access.trade.gov* and it is available to all parties in the Central Records Unit, room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Act, in September and October 2015, the Department verified the sales and cost data reported by Portucel, pursuant to section 782(i) of the Act. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by Portucel.[9]

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for Portucel. For a discussion of these changes, *see* the ''Margin Calculations'' section of the Issues and Decision Memorandum. We have also revised the all-others rate.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act. Portucel is the only respondent for which the Department calculated a company-specific rate. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(A) of the Act, we are using the dumping margin calculated for Portucel, as referenced in the ''Final Determination'' section below.

Final Determination

The Department determines that the final weighted-average dumping margins are as follows:

[1] *See Certain Uncoated Paper From Portugal: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 80 FR 51777 (August 26, 2015) (''*Preliminary Determination*'').

[2] Petitioners are United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; Domtar Corporation; Finch Paper LLC; P.H. Glatfelter Company; and Packaging Corporation of America.

[3] *See* Letter to the Secretary of Commerce from Petitioners ''Case Brief Submitted on behalf of Petitioners'' (December 7, 2015, 2015) (''Petitioners' Case Brief''); Letter to the Secretary of Commerce from Portucel ''Case Brief of Portucel, S.A. and Portucel Soporcel N.A.'' (December 4, 2015) (''Portucel's Case Brief'').

[4] *See* Letter to the Secretary of Commerce from Petitioners ''Rebuttal Brief Submitted on behalf of Petitioners'' (December 9, 2015) (''Petitioners' Rebuttal Brief''); Letter to the Secretary of Commerce from Portucel ''Portucel's Rebuttal Brief'' (December 1, 2015) (''Portucel's Rebuttal Brief'').

[5] *See* Letter to the Secretary of Commerce from American Greetings ''Certain Uncoated Paper From Australia, Brazil, The People's Republic of China, Indonesia, and Portugal: Case Brief of American Greetings Corporation'' (October 19, 2015).

[6] *See* Letter to the Secretary of Commerce from Petitioners ''Certain Uncoated Paper From Australia, Brazil, The People's Republic of China, Indonesia, and Portugal: Scope Rebuttal Brief'' (October 20, 2015).

[7] *See* the Department's Memorandum to the File ''Less-Than-Fair-Value Investigations of Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal; and Countervailing Duty Investigations of Certain Uncoated Paper from the People's Republic of China and Indonesia: Scope Comments Decision Memorandum for the Final Determinations,'' dated January 8, 2016 (''Final Scope Decision Memorandum'').

[8] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations ''Issues and Decision Memorandum for the Final Determination of the Antidumping Duty Investigation of Certain Uncoated Paper from Portugal'' (January 8, 2016) (''Issues and Decision Memorandum'').

[9] *See* Memorandum to the File, through Neal Halper, Office Director, and Taija Slaughter, Lead Accountant, from Stephanie Arthur, Senior Accountant, ''Verification of the Cost Response of Portucel S.A. in the Antidumping Duty Investigation of Uncoated Paper from Portugal'' (November 12, 2015); Memorandum to the File, through Catherine Bertrand, Program Manager, Office V, from Kabir Archuletta and Frances Veith, Senior International Trade Analysts, ''Verification of Home Market Sales of Portucel S.A. ('Portucel') in the Antidumping Duty Investigation of Certain Uncoated Paper from Portugal'' (November 24, 2015); Memorandum to the File, through Catherine Bertrand, Program Manager, Office V, from Kabir Archuletta and Frances Veith, Senior International Trade Analysts, ''Verification of U.S. Sales of Portucel S.A. ('Portucel') in the Antidumping Duty Investigation of Certain Uncoated Paper from Portugal'' (November 24, 2015).

[10] In the *Preliminary Determination* we found that Portucel is affiliated with sales subsidiaries Portucel Soporcel Lusa, Unipessoal, Lda. (''Lusa''), and Portucel Soporcel Fine Paper, S.A. (''Fine Paper''), production subsidiaries About the Future, S.A. (''About the Future''), Portucel Papel Setubal, S.A. (''Setubal''), and Soporcel, Sociedade Portuguesa de Papel, S.A. (''Soporcel'') and U.S. subsidiary Portucel Soporcel North America, Inc., pursuant to sections 771(33)(B), (E) and (F) of the Act, and that Portucel, Fine Paper, Lusa, About the Future, Setubal and Soporcel are a single entity for purposes of the Department's analysis in this investigation, in accordance with 19 CFR 351.401(f). *See Preliminary Determination* and accompanying Decision Memorandum at 4–5;

Exporter/Manufacturer	Weighted-average dumping margin (percent)
Portucel S.A.[10]	7.80
All-Others	7.80

Disclosure

We will disclose the calculations performed to interested parties within five days of the public announcement of this final determination in accordance with 19 CFR 351.224(b).

Final Negative Determination of Critical Circumstances

On November 4, 2015, the Department found that critical circumstances exist with respect to imports of uncoated paper from Portugal from Portucel and all other exporters or producers.[11] Based on Portucel's final dumping margin and further analysis following the *Preliminary Critical Circumstances Determination,* we are modifying our findings for the final determination. For a complete discussion of this issue, *see* the ''Negative Finding of Critical Circumstances'' section of the Issues and Decision Memorandum.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (''CBP'') to continue to suspend liquidation of all appropriate entries of uncoated paper from Portugal, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after August 26, 2015, the date of publication of the *Preliminary Determination* of this investigation in the **Federal Register**.

Further, CBP shall require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price, as follows: (1) The rate for Portucel will be the rate we determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 7.80 percent. These instructions suspending liquidation will remain in effect until further notice.

Because of our negative determination of critical circumstances, we will instruct CBP to refund all cash deposits posted on merchandise under consideration from Portugal entered, or withdrawn from warehouse for consumption, prior to August 26, 2015 (*i.e.,* the date of publication of the *Preliminary Determination*).

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of uncoated paper from Portugal no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders (''APO'')

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

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: January 8, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by the investigation includes uncoated paper in sheet form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white paper with a GE brightness level[1] of 85 or higher or is a colored paper; whether or not surface-decorated, printed (except as described below), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions (''Certain Uncoated Paper'').

Certain Uncoated Paper includes (a) uncoated free sheet paper that meets this scope definition; (b) uncoated ground wood paper produced from bleached chemi-thermo-mechanical pulp (''BCTMP'') that meets this scope definition; and (c) any other uncoated paper that meets this scope definition regardless of the type of pulp used to produce the paper.

Specifically excluded from the scope are (1) paper printed with final content of printed text or graphics and (2) lined paper products, typically school supplies, composed of paper that incorporates straight horizontal and/or vertical lines that would make the paper unsuitable for copying or printing purposes. For purposes of this scope definition, paper shall be considered ''printed with final content'' where at least one side of the sheet has printed text and/or graphics that cover at least five percent of the surface area of the entire sheet.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) categories 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000. Some imports of subject merchandise may also be classified under 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Margin Calculations
V. List of Comments
VI. Discussion of Comments
Comment 1: Water Supplied by Portucel's Affiliated Pulp Mills
Comment 2: Purchases of Eucalyptus Pulp From Affiliates

Memorandum to the File from Kabir Archuletta, Senior International Trade Analyst, Office V, through Catherine Bertrand, Program Manager, Office V ''Preliminary Affiliation Memorandum'' (August 19, 2015). Because no interested parties submitted comments on this issue, the Department's determination remains unchanged for this final determination.

[11] *See Certain Uncoated Paper From Portugal: Preliminary Affirmative Determination of Critical Circumstances in the Antidumping Duty Investigation,* 80 FR 68293, 68294–5 (November 4, 2015) (''*Preliminary Critical Circumstances Determination*'').

[1] One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade. ''Colored paper'' as used in this scope definition means a paper with a hue other than white that reflects one of the primary colors of magenta, yellow, and cyan (red, yellow, and blue) or a combination of such primary colors.

Comment 3: Critical Circumstances
Comment 4: Advertising Expenses
Comment 5: Insurance Expenses
Comment 6: Other Data Revisions Based on Verification Findings
Comment 7: Minor Corrections Presented at Verification
Comment 8: Portucel's Transposition Error
VII. Negative Finding of Critical Circumstances

[FR Doc. 2016–01024 Filed 1–19–16; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–602–807]

Certain Uncoated Paper From Australia: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances, In Part

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

SUMMARY: The Department of Commerce (Department) determines that certain uncoated paper from Australia is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is January 1, 2014, through December 31, 2014. The final dumping margins of sales at LTFV are listed below in the ''Final Determination'' section of this notice.

DATES: *Effective:* January 20, 2016.

FOR FURTHER INFORMATION CONTACT: Eve Wang or George McMahon, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6231 or (202) 482–1167, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 26, 2015, the Department published the *Preliminary Determination* of this antidumping duty (AD) investigation.[1] The following events occurred since the *Preliminary Determination* was issued.

On August 27, 2015, sole respondent Paper Australia Pty. Ltd. (Australian Paper) withdrew its participation from this investigation, stating that ''due to the significant preliminary dumping margin,'' it was suspending its participation in the U.S. market ''pending the final determination on Injury.'' [2]

On August 28, 2015, the Department notified interested parties of a revised, accelerated briefing schedule due to the lack of participation from the sole respondent, Australian Paper, which resulted in the cancellation of verification of its questionnaire responses.[3] On September 24, 2015, the Department granted Petitioners' [4] request to extend the briefing schedule.[5] On October 2, 2015, Petitioners submitted a case brief.

Scope of the Investigation and Scope Comments

The product covered by this investigation is certain uncoated paper from Australia. For a complete description of the scope of the investigation, see the ''Scope of the Investigation,'' in Appendix I of this notice, which incorporates changes made subsequent to the *Preliminary Determination*.

On October 2, 2015, Gartner Studios submitted its case brief regarding the scope of the investigations.[6] On October 6, 2015, the Department revised the briefing schedule for scope comments and rebuttal comments.[7] On October 19, 2015, American Greetings Corporation (American Greetings) submitted its case brief regarding the scope of the investigations.[8] On October 29, 2015, Petitioners submitted their rebuttal brief regarding the scope of the investigations.[9] The Department is issuing a scope comments decision memorandum for the final determinations of the AD and countervailing duty investigations of certain uncoated paper, which is incorporated by reference in, and hereby adopted by, this final determination.[10] As explained in the Final Scope Decision Memorandum, to facilitate the scope's administrability and enforcement, we have clarified the scope language such that certain uncoated paper with ''final printed content'' is excluded from the scope of the investigations.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by interested parties in this investigation that are not related to the scope of this investigation are addressed in the Issues and Decision Memorandum, which is incorporated by reference by, and hereby adopted by, this notice.[11]

A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and it is available to all parties in the Central Records Unit, room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

[1] *See Certain Uncoated Paper From Australia: Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination,* 80 FR 51783 (August 26, 2015) (*Preliminary Determination*).

[2] *See* Australian Paper's letter titled, ''Respondents Paper Australia Pty Ltd and Paper Products Marketing (USA) Notification of Withdrawal,'' dated August 27, 2015 (Australian Paper's Letter of Withdrawal), at 2.

[3] *See* the Department's Memorandum titled, ''Antidumping Duty Investigation of Certain Uncoated Paper from Australia: Case Brief and Rebuttal Brief Schedule for Final Determination of the above referenced Investigation,'' dated August 28, 2015.

[4] Petitioners in this investigation are United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; Domtar Corporation; Finch Paper LLC; P.H. Glatfelter Company; and Packaging Corporation of America.

[5] *See* the Department's Memorandum titled, ''Certain Uncoated Paper From Australia: Antidumping Duty Investigation: Revised Briefing Schedule,'' dated September 24, 2015; *see also* Petitioners' letter titled, ''Petitioners' Request to Extend Briefing Schedule,'' dated September 24, 2015.

[6] Because there are multiple investigations of uncoated paper, the Department has considered collectively all comments regarding the scope of the investigations filed by the interested parties.

[7] *See* Memorandum titled, ''Revised Briefing Schedule for Scope Comments and Rebuttal Comments,'' dated October 6, 2015.

[8] *See* Letter from American Greetings titled, ''Certain Uncoated Paper From Australia, Brazil, The People's Republic of China, Indonesia, and Portugal: Case Brief of American Greetings Corporation,'' dated October 19, 2015.

[9] *See* Letter from Petitioners titled, ''Certain Uncoated Paper From Australia, Brazil, The People's Republic of China, Indonesia, and Portugal: Scope Rebuttal Brief,'' dated October 20, 2015.

[10] *See* the Department's memorandum to the file titled, ''Less-Than-Fair-Value Investigations of Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal; and Countervailing Duty Investigations of Certain Uncoated Paper from the People's Republic of China and Indonesia: Scope Comments Decision Memorandum for the Final Determinations,'' dated January 8, 2016 (Final Scope Decision Memorandum).

[11] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, titled ''Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Certain Uncoated Paper from Australia'' (Issues and Decision Memorandum), dated concurrently with this notice.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and Australian Paper's withdrawal of participation from this investigation, we have revised the margin for Australian Paper to reflect the application of facts available with an adverse inference pursuant to sections 776(a)(2)(C) and (D) and 776(b) of the Act. We have also revised the all-others rate. For a discussion of these changes, see the Issues and Decision Memorandum at Comments 1, 2, and 3.

All Others Rate

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or *de minimis,* or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated. Where the sole individually investigated respondent's margin is based on total AFA under section 776 of the Act, our practice under these circumstances has been to assign as the all-others rate the simple average of the margins in the petition,[12] which we have done in this final determination.[13]

Final Determination

The Department determines that the estimated final weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average dumping margin (percent)
Paper Australia Pty. Ltd	222.46
All Others	138.87

Disclosure

We will disclose the calculations performed to interested parties within five days of the public announcement of this final determination in accordance with 19 CFR 351.224(b).

[12] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube from Turkey,* 73 FR 5508, 5513–14 (January 30, 2008), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube from Turkey,* 73 FR 19814, 19815 (April 11, 2008); *see also Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Glycine from Japan,* 72 FR 67271, 67272 (November 28, 2007).

[13] *See* Issues and Decision Memorandum at Comment 3.

Final Affirmative Determination of Critical Circumstances, In Part

In the *Preliminary Determination,* the Department found that critical circumstances did not exist with respect to imports of uncoated paper from Australia from Australian Paper and all other exporters or producers.[14] Based on Australian Paper's withdrawal from this investigation, and upon further analysis following the *Preliminary Determination,* we are modifying our findings for the final determination.

Because we do not have verifiable shipment data from Australian Paper, we must base our ''massive imports'' determination on the facts available, pursuant to section 776(a) of the Act. Because Australian Paper failed to cooperate by not acting to the best of its ability to allow for verification of its sales and cost questionnaire responses, we are making an adverse inference in selecting from the facts available, pursuant to section 776(b) of the Act. Thus, in accordance with section 776(b) of the Act, we have used an adverse inference in applying facts available, and determine that there were massive imports from Australian Paper over a relatively short period pursuant to section 733(e)(1)(B) of the Act.[15] We also find that Australian Paper's dumping margin is sufficient to impute importer knowledge of sales at less than fair value, and the International Trade Commission's (ITC) preliminary injury determination is sufficient to impute the likelihood of material injury, in accordance with section 733(e)(1)(A)(ii) of the Act. For those reasons, we determine that critical circumstances exist for imports from Australia of uncoated paper produced by Australian Paper. For a discussion of these changes, see the Issues and Decision Memorandum at ''VI. Finding of Critical Circumstances, In Part.''

However, we have not inferred, as AFA, that massive imports exist for companies under the all-others category, because, unlike the uncooperative company in question, the all-others companies have not failed to cooperate in this investigation. Furthermore, the record indicates that the only known producer of uncoated paper from Australia is Australian Paper.[16] Therefore, an adverse inference with respect to finding a massive surge in imports by the all-others companies is not appropriate. Therefore, we determine that critical circumstances do not exist for imports of uncoated paper from Australia for companies in the all-others category. For further discussion of this analysis, see the Issues and Decision Memorandum at ''VI. Finding of Critical Circumstances, In Part.''

[14] *See Preliminary Determination,* 80 FR at 51784.

[15] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-To-Length Carbon-Quality Steel Plate Products from Japan,* 64 FR 73215 (December 29, 1999).

[16] *See Certain Uncoated Paper From Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 8614 (February 18, 2015); *see also* Initiation Checklist at 2.

Continuation of Suspension of Liquidation

As noted above, for this final determination, the Department found that critical circumstances exist with respect to imports of the subject merchandise from Australian Paper. However, the Department did not find that critical circumstances existed with respect to imports by Australian Paper in the *Preliminary Determination.*[17] Therefore, in accordance with section 735(c)(4)(B) of the Act, the Department is modifying the suspension of liquidation as announced in the *Preliminary Determination* for Australian Paper. The Department will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of uncoated paper from Australian Paper, as described in Appendix I of this notice, to apply to unliquidated entries that were entered, or withdrawn from warehouse, for consumption on or after May 28, 2015, 90 days prior to publication of the *Preliminary Determination* of this investigation in the **Federal Register**, and require a cash deposit for such entries equal to the estimated amount by which the normal value exceeds the U.S. price as noted above for such unliquidated entries.

Because we continue to find that critical circumstances do not exist with respect to all others, in accordance with section 735(c)(1)(B) of the Act, we will instruct CBP to continue to suspend liquidation of all appropriate entries of uncoated paper from all others, which were entered, or withdrawn from warehouse, for consumption on or after August 26, 2015, the date of publication of the *Preliminary Determination* in the **Federal Register**.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States

[17] *See Preliminary Determination,* 80 FR at 51784.

is materially injured, or threatened with material injury, by reason of imports of uncoated paper from Australia no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders (APO)

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

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: January 8, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by the investigation includes uncoated paper in sheet form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white paper with a GE brightness level [1] of 85 or higher or is a colored paper; whether or not surface-decorated, printed (except as described below), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions (Certain Uncoated Paper).

Certain Uncoated Paper includes (a) uncoated free sheet paper that meets this scope definition; (b) uncoated ground wood paper produced from bleached chemi-thermo-mechanical pulp (BCTMP) that meets this scope definition; and (c) any other uncoated paper that meets this scope definition regardless of the type of pulp used to produce the paper.

Specifically excluded from the scope are (1) paper printed with final content of printed text or graphics and (2) lined paper products, typically school supplies, composed of paper that incorporates straight horizontal and/or vertical lines that would make the paper unsuitable for copying or printing purposes. For purposes of this scope definition, paper shall be considered ''printed with final content'' where at least one side of the sheet has printed text and/or graphics that cover at least five percent of the surface area of the entire sheet.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) categories 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000. Some imports of subject merchandise may also be classified under 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. List of Comments
V. Discussion of Comments
  Comment 1: Whether Adverse Facts Available (AFA) are Warranted for Respondent Australian Paper
  Comment 2: Rate To Assign to Australian Paper Based on AFA
  Comment 3: Derivation of the All-Others Rate
VI. Finding of Critical Circumstances, In Part

[FR Doc. 2016–01019 Filed 1–19–16; 8:45 am]

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[1] One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade. ''Colored paper'' as used in this scope definition means a paper with a hue other than white that reflects one of the primary colors of magenta, yellow, and cyan (red, yellow, and blue) or a combination of such primary colors.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–023]

Certain Uncoated Paper From the People's Republic of China: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of certain uncoated paper (uncoated paper) from the People's Republic of China (PRC). For more information on the estimated subsidy rate, *see* the ''Final Determination and Suspension of Liquidation'' section of this notice. The period of investigation is January 1, 2014, through December 31, 2014.

DATES: *Effective:* January 20, 2016.

FOR FURTHER INFORMATION CONTACT: Patricia Tran or Joy Zhang, Office III, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1503 or (202) 482–1168, respectively.

SUPPLEMENTARY INFORMATION:

Background

The events that have occurred since the Department published the *Preliminary Determination* on June 29, 2015 and *Notice of Correction* on July 9, 2015,[1] are discussed in the Issues and Decision Memorandum, which is hereby incorporated in this notice.[2] This memorandum also details the changes we made since the *Preliminary Determination* to the subsidy rates calculated for the mandatory respondents and all other producers/exporters. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

[1] *See Certain Uncoated Paper From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination,* 80 FR 36968 (June 29, 2015) (*Preliminary Determination*), and *Certain Uncoated Paper From the People's Republic of China: Notice of Correction to Preliminary Affirmative Countervailing Duty Determination,* 80 FR 39409 (July 9, 2015) (*Notice of Correction*).

[2] *See* Memorandum to Paul Piquado, ''Issues and Decision Memorandum for the Final Affirmative Countervailing Duty Determination in the Countervailing Duty Investigation of Certain Uncoated Paper from the People's Republic of China'' (January 8, 2016) (Issues and Decision Memorandum).

Scope of the Investigation

The scope of the investigation covers uncoated paper. For a complete description of the scope of the investigation, *see* Appendix I.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum, dated concurrently with this notice. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice as Appendix II.

Use of Facts Otherwise Available, Including Adverse Inferences

As described in the *Preliminary Determination,* Shandong Sun Paper Industry Joint Stock Co., Ltd., and Sun Paper (Hong Kong) Co., Ltd. (collectively, Sun Paper Companies) and UPM (China) Co., Ltd. (UPM) each notified the Department that it would not participate in this investigation.[3] Thus, for the final determination, we are basing the countervailing duty (CVD) rate for Sun Paper Companies and UPM on facts otherwise available, pursuant to sections 776(a)(2)(C) and (D) of the Tariff Act of 1930, as amended (the Act). Further, because Sun Paper Companies and UPM did not cooperate to the best of their ability in this investigation, we also determine that an adverse inference is warranted, pursuant to section 776(b) of the Act. As adverse facts available (AFA), we have assigned Sun Paper Companies and UPM, each a rate of 185.25 percent. For a full discussion of this issue, *see* the Issues and Decision Memorandum.

Final Determination and Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for Asia Symbol (Guangdong) Paper Co., Ltd. (AS Guangdong), Asia Symbol (Shandong) Pulp & Paper Co., Ltd. (AS Shandong), Asia Symbol (Guangdong) Omya Minerals Co., Ltd. (AS Omya), and Greenpoint Global Trading (Macao Commercial Offshore) Limited (Greenpoint) (collectively, Asia Symbol Companies). Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, we will determine an ''all-others'' rate equal to the weighted-average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act. Where the rates for investigated companies are zero or *de minimis,* or based entirely on facts otherwise available, section 705(c)(5)(A)(ii) of the Act instructs the Department to establish an ''all-others'' rate using ''any reasonable method.'' As discussed above, we determined Sun Paper Companies and UPM rates based entirely on AFA in accordance with sections 776(a) and (b) of the Act. Therefore, we used the rate calculated for Asia Symbol Companies as the ''all-others'' rate. We intend to disclose to parties the calculations performed in this proceeding within five days of the public announcement of this final determination in accordance with 19 CFR 351.224(b).

We determine the total estimated net countervailable subsidy rates to be:

Company	Subsidy rate
Asia Symbol (Guangdong) Paper Co., Ltd. (AS Guangdong), Asia Symbol (Shandong) Pulp & Paper Co., Ltd. (AS Shandong), Asia Symbol (Guangdong) Omya Minerals Co., Ltd. (AS Omya), and Greenpoint Global Trading (Macao Commercial Offshore) Limited (Greenpoint) (collectively, Asia Symbol Companies).	7.23 percent.
Shandong Sun Paper Industry Joint Stock Co., Ltd. (Shandong Sun Paper), and Sun Paper (Hong Kong) Co., Ltd. (Sun Paper HK) (collectively, Sun Paper Companies).	176.75 percent.
UPM (China) Co. Ltd. (UPM)	176.75 percent.
All-Others	7.23 percent.

As a result of our affirmative *Preliminary Determination,* pursuant to sections 703(d)(1)(B) and (2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise from the PRC which were entered or withdrawn from warehouse, for consumption on or after June 29, 2015, the date of the publication of the *Preliminary Determination* in the **Federal Register**.

In accordance with section 703(d) of the Act, we later issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after October 27, 2015, but to continue the suspension of liquidation of all entries from June 29, 2015, through October 26, 2015, as appropriate.

We will issue a CVD order and reinstate the suspension of liquidation in accordance with our final determination and under section 706(a) of the Act if the United States International Trade Commission (ITC) issues a final affirmative injury determination, and we will instruct CBP to require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited as a result of the suspension of liquidation will be refunded.

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our final determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this

[3] *See* Letter from Sun Paper Companies, ''Certain Uncoated Paper from the People's Republic of China—Withdrawal of Participation in Investigation,'' (April 8, 2015) (Sun Paper Companies Withdrawal Letter) and UPM's submission, ''Uncoated Paper From the People's Republic of China (C–570–023) Investigation; UPM (China) Co. Ltd.'s Letter Regarding Questionnaire Responses,'' (May 6, 2015) (UPM Withdrawal Letter).

notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: January 8, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by the investigation includes uncoated paper in sheet form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white paper with a GE brightness level [4] of 85 or higher or is a colored paper; whether or not surface-decorated, printed (except as described below), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions (Certain Uncoated Paper).

Certain Uncoated Paper includes (a) uncoated free sheet paper that meets this scope definition; (b) uncoated ground wood paper produced from bleached chemi-thermo-mechanical pulp (BCTMP) that meets this scope definition; and (c) any other uncoated paper that meets this scope definition regardless of the type of pulp used to produce the paper.

Specifically excluded from the scope are (1) paper printed with final content of printed text or graphics and (2) lined paper products, typically school supplies, composed of paper that incorporates straight horizontal and/or vertical lines that would make the paper unsuitable for copying or printing purposes. For purposes of this scope definition, paper shall be considered ''printed with final content'' where at least one side of the sheet has printed text and/or graphics that cover at least five percent of the surface area of the entire sheet.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) categories 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000. Some imports of subject merchandise may also be classified under 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

[4] One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade. ''Colored paper'' as used in this scope definition means a paper with a hue other than white that reflects one of the primary colors of magenta, yellow, and cyan (red, yellow, and blue) or a combination of such primary colors.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Application of the Countervailing Duty Law to Imports From the PRC
V. Subsidies Valuation
VI. Benchmarks and Discount Rates
VII. Use of Facts Otherwise Available and Adverse Inferences
VIII. Analysis of Programs
IX. Analysis of Comments
  Comment 1: Whether To Reverse the Department's Government ''Authorities'' Determination
  Comment 2: Whether To Reverse the Department's Specificity Determination for the Provision of Calcium Carbonate and Caustic Soda for Less Than Adequate Remuneration (LTAR)
  Comment 3: Whether To Reverse the Department's Market Distortion Determination
  Comment 4: Whether To Exclude Policy Loan Observation 95 From the Final Determination Calculations
  Comment 5: Whether To Include Surcharges in International Freight Calculations for Calcium Carbonate and Caustic Soda Benchmarks
  Comment 6: Whether To Incorporate the Minor Corrections Into the Final Calculations
  Comment 7: Whether To Revise the Provision of Coal for Less Than Adequate Remuneration Benchmark
  Comment 8: Whether the Provision of Water for LTAR Confers a Benefit
  Comment 9: Whether the Provision of Land to State-Owned Enterprises (SOEs) for LTAR is Countervailable
X. Recommendation

[FR Doc. 2016–01013 Filed 1–19–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–022]

Certain Uncoated Paper From the People's Republic of China: Final Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (''Department'') determines that certain uncoated paper from the People's Republic of China (''PRC'') is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Tariff Act of 1930, as amended (''the Act''). The period of investigation (''POI'') is July 1, 2014, through December 31, 2014. The final weighted-average dumping margins of sales at LTFV are listed below in the ''Final Determination Margins'' section of this notice.

DATES: *Effective:* January 20, 2016.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3692.

SUPPLEMENTARY INFORMATION:

Background

On August 26, 2015, the Department published the *Preliminary Determination* of this antidumping duty (''AD'') investigation.[1] The following events occurred since the *Preliminary Determination* was issued.

Between September 21, 2015, and September 30, 2015, the Department conducted verifications of the sales and factors of production (''FOP'') information submitted by Greenpoint Global Trading (Macao Commercial Offshore) Ltd. (''Greenpoint''), Asia Symbol (Guangdong) Paper Co. Ltd. (''AS Guangdong''), and Asia Symbol (Shandong) Pulp and Paper Co. Ltd. (''AS Shandong'') (collectively, ''Asia Symbol'') [2] for use in the final

[1] *See Certain Uncoated Paper from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 80 FR 51768 (August 26, 2015) (''*Preliminary Determination*'') and accompanying Preliminary Decision Memorandum.

[2] The Department preliminarily collapsed AS Guangdong, AS Shandong, and Greenpoint, treating them as a single entity for the purposes of calculating a margin in this investigation. *See* Memorandum to the File, ''Investigation of Uncoated Paper from the People's Republic of

determination. We issued our verification report on November 10, 2015.[3]

Petitioners and Asia Symbol submitted case briefs on November 19, 2015,[4] and rebuttal briefs on November 24, 2015.[5] On December 9, 2015, Asia Symbol provided a revised FOP database and market-economy purchases (''MEP'') chart.[6] On December 15, 2015, Petitioners provided comments on that submission.[7]

Scope of the Investigation

The product covered by this investigation is certain uncoated paper from the PRC. For a full description of the scope of this investigation, see the ''Scope of the Investigation,'' in Appendix I of this notice, which incorporates changes made subsequent to the *Preliminary Determination.*

On October 2, 2015, Gartner Studios, Inc. submitted its case brief on the scope of the investigations.[8] On October 19, 2015, American Greetings Corporation (''American Greetings'') submitted its case brief regarding the scope of the investigations.[9] On October 29, 2015, Petitioners submitted their rebuttal brief regarding the scope of the investigations.[10] The Department is issuing a scope comments decision memorandum for the final determinations of the AD and countervailing duty investigations of uncoated paper, which is incorporated by reference in, and hereby adopted by, this final determination.[11] As explained in the Final Scope Decision Memorandum, to facilitate the scope's administrability and enforcement, we have clarified the scope language such that certain uncoated paper with ''final printed content'' is excluded from the scope of the investigations.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by interested parties in this investigation that are not related to the scope of this investigation are addressed in the Issues and Decision Memorandum, which is incorporated by reference by, and hereby adopted by, this notice.[12] The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *http://access.trade.gov.* The Issues and Decision Memorandum is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum is available at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Act, from September 21, 2015, to September 30, 2015, we conducted verification of the information submitted by Asia Symbol for use in the final determination.[13] We issued a verification report on November 10, 2015.[14] The Department used standard verification procedures, including an examination of relevant accounting and production records and original source documents provided by respondents.[15]

Changes Since the Preliminary Determination

Based on the Department's analysis of the comments received and our findings at verification, we made certain changes to Asia Symbol's margin calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Combination Rates

In the *Initiation Notice,*[16] the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.[17]

PRC-Wide Rate

For the final determination, we have determined to use, as the adverse facts available (''AFA'') rate applied to the PRC-wide entity, 149.00 percent, the highest transaction-specific dumping margin calculated in the final determination. Consistent with our practice, the Department selected Asia Symbol's highest transaction-specific

China: Preliminary Determination Regarding Affiliation and Collapsing of Asia Symbol (Guangdong) Paper Co., Ltd., Asia Symbol (Shandong) Pulp and Paper Co., Ltd., and Greenpoint Global Trading (Macao Commercial Offshore) Ltd.,'' dated August 19, 2015. No party provided further comment or subsequent challenge to this finding. Accordingly, the Department sustains this collapsing determination for the final determination.

[3] *See* Memorandum to the File, ''Verification of the Sales and Factors Responses of Greenpoint Global Trading (Macao Commercial Offshore) Ltd., Asia Symbol (Guangdong) Paper Co. Ltd., and Asia Symbol (Shandong) Pulp and Paper Co., Ltd. in the Antidumping Investigation of Uncoated Paper from the People's Republic of China,'' dated November 10, 2015 (''Asia Symbol Verification Report'').

[4] *See* Letter from Petitioners, ''Certain Uncoated Paper from the People's Republic of China: Petitioners Case Brief,'' dated November 19, 2015 (''Petitioners' Case Brief''). *See also* Letter from Asia Symbol, ''Certain Uncoated Paper from the People's Republic of China: Case Brief of the Asia Symbol Companies,'' dated November 19, 2015 (''Asia Symbol's Case Brief'').

[5] *See* Letter from Petitioners, ''Certain Uncoated Paper from the People's Republic of China: Petitioners' Rebuttal Brief,'' dated November 24, 2015 (''Petitioners' Rebuttal Brief''). *See also* Letter from Asia Symbol, ''Certain Uncoated Paper from the People's Republic of China: Rebuttal Brief of the Asia Symbol Companies,'' dated November 24, 2015 (''Asia Symbol's Rebuttal Brief'').

[6] *See* Letter from Asia Symbol, ''Certain Uncoated Paper from the People's Republic of China: Revised Database and MEP Chart,'' dated December 9, 2015 (''Revised Database Submission'').

[7] *See* Letter from Petitioners, ''Certain Uncoated Paper from the People's Republic of China: Petitioners' Response to Asia Symbol's Revised Database and MEP Chart,'' dated December 15, 2015.

[8] *See* Letter to Secretary Pritzker, from Gartner Studios, Inc., ''Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Case Brief'' (October 2, 2015).

[9] *See* Letter to Secretary Pritzker, from American Greetings, ''Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Case Brief of American Greetings Corporation'' (October 19, 2015).

[10] *See* Letter to Secretary Pritzker, from Petitioners, ''Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Scope Rebuttal Brief'' (October 29, 2015).

[11] *See* the Department's Memorandum to the File, ''Less Than Fair Value Investigations of Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal; and Countervailing Duty Investigations of Certain Uncoated Paper from the People's Republic of China and Indonesia: Scope Comments Decision Memorandum for the Final Determinations,'' dated January 8, 2016 (''Final Scope Decision Memorandum'').

[12] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Issues and Decision Memorandum for the Final Determination of Sales at Less than Fair Value in the Antidumping Duty Investigation of Certain Uncoated Paper from the People's Republic of China,'' dated concurrently with this notice (''Issues and Decision Memorandum'').

[13] *See* Memorandum to the File, ''Verification of the Sales and Factors Responses of Greenpoint Global Trading (Macao Commercial Offshore) Ltd., Asia Symbol (Guangdong) Paper Co. Ltd., and Asia Symbol (Shandong) Pulp and Paper Co., Ltd. in the Antidumping Investigation of Uncoated Paper from the People's Republic of China,'' dated November 10, 2015 (''Verification Report'').

[14] *See* Memorandum to the File, ''Verification of the Sales and Factors Responses of Greenpoint Global Trading (Macao Commercial Offshore) Ltd., Asia Symbol (Guangdong) Paper Co. Ltd., and Asia Symbol (Shandong) Pulp and Paper Co., Ltd. in the Antidumping Investigation of Uncoated Paper from the People's Republic of China,'' dated November 10, 2015 (''Verification Report'').

[15] *Id.*

[16] *See Certain Uncoated Paper From Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 8608 (February 18, 2015) (''*Initiation Notice''*).

[17] *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,'' dated April 5, 2005 (''Policy Bulletin 05.1''), available on the Department's Web site at *http://enforcement.trade.gov/policy/bull05–1.pdf.*

margin, as AFA, because this rate is higher than the other rates in this investigation and therefore, sufficiently adverse to serve the purposes of facts available.[18] Furthermore, there is no need to corroborate the selected margin because it is based on information submitted by Asia Symbol in the course of this investigation, *i.e.,* it is not secondary information.[19]

Final Determination

The Department determines that the estimated final weighted-average dumping margins are as follows:

Exporter	Producer	Weighted-average dumping margin (percent)
Greenpoint Global Trading (Macao Commercial Offshore) Ltd.	Asia Symbol (Guangdong) Paper Co., Ltd.; and Asia Symbol (Shandong) Pulp & Paper Co., Ltd.	84.05
PRC-Wide Entity		149.00

Disclosure

We intend to disclose to parties the calculations performed in this proceeding within five days of the public announcement of this final determination in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (''CBP'') to continue to suspend liquidation of all appropriate entries of certain uncoated paper from the PRC as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after August 26, 2015, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination*.

Further, pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the weighted-average amount by which the normal value exceeds U.S. price, adjusted where appropriate for export subsidies and estimated domestic subsidy pass-through,[20] as follows: (1) For the exporter/producer combination listed in the table above, the cash deposit rate will be equal to the dumping margin which the Department determined in this final determination; (2) for all combinations of PRC exporters/producers of merchandise under consideration which have not received their own separate rate above, the cash deposit rate will be equal to the dumping margin established for the PRC-wide entity; and (3) for all non-PRC exporters of merchandise under consideration which have not received their own separate rate above, the cash deposit rate will be equal to the cash deposit rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter.

As we stated in the *Preliminary Determination,* consistent with our practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct CBP to require a cash deposit equal to the amount by which the normal value exceeds the export price or constructed export price, less the amount of the countervailing duty determined to constitute an export subsidy.[21] In this LTFV investigation, export subsidies constitute 0.13 percent [22] of the final calculated countervailing duty rate in the concurrent countervailing duty investigation, and, thus, we will offset the calculated rates for Asia Symbol, the company receiving a separate rate, and the PRC-wide rate by the countervailing duty rate attributable to export subsidies (*i.e.,* 0.13 percent) to calculate the cash deposit rate for this LTFV investigation.[23] We are not adjusting the rates for estimated domestic subsidy pass-through because there is no cost-to-price linkage to a subsidized program and, thus, we have no basis upon which to make such an adjustment.[24]

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (''ITC'') of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain uncoated paper from the PRC, or sales (or the likelihood of sales) for importation, of certain uncoated paper from the PRC. If the ITC determines that such injury does not exist, this proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to the parties subject to administrative protective order (''APO'') of their

[18] *See* Issues and Decision Memorandum for a detailed discussion.

[19] *See* 19 CFR 351.308(c) and (d) and section 776(c) of the Act. *See also* Issues and Decision Memorandum at Comment 20.

[20] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011) and section 772(c)(1)(C) of the Act. Unlike in administrative reviews, the Department calculates the adjustment for export subsidies in investigations not in the margin calculation program, but in the cash deposit instructions issued to CBP. *See Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India,* 71 FR 45012 (August 8, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

[21] *See Preliminary Determination,* 80 FR at 51769–70.

[22] The following subsidy programs in the final determination of the concurrent countervailing duty investigation are export subsidies: City bonus for export activity from finance bureau (0.13 percent). *See Countervailing Duty Investigation of Certain Uncoated Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination* (''CVD Final''), and accompanying Issues and Decision Memorandum. The final determination in this companion CVD proceeding is being concurrently released on the same day as this final determination.

[23] The cash deposit rate reflecting the export subsidy offset will be in effect until the countervailing duty provisional measures expire (*i.e.* 120 days after the publication of the preliminary determination of the companion countervailing duty investigation).

[24] *See* Preliminary Decision Memorandum at the section, ''Adjustment Under Section 777A(f) of the Act.''

responsibility concerning the disposition of propriety information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: January 8, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by this investigation includes uncoated paper in sheet form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white paper with a GE brightness level [1] of 85 or higher or is a colored paper; whether or not surface-decorated, printed (except as described below), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions (Certain Uncoated Paper).

Certain Uncoated Paper includes (a) uncoated free sheet paper that meets this scope definition; (b) uncoated ground wood paper produced from bleached chemi-thermo-mechanical pulp (BCTMP) that meets this scope definition; and (c) any other uncoated paper that meets this scope definition regardless of the type of pulp used to produce the paper.

Specifically excluded from the scope are (1) paper printed with final content of printed text or graphics and (2) lined paper products, typically school supplies, composed of paper that incorporates straight horizontal and/or vertical lines that would make the paper unsuitable for copying or printing purposes. For purposes of this scope definition, paper shall be considered ''printed with final content'' where at least one side of the sheet has printed text and/or graphics that cover at least five percent of the surface area of the entire sheet.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) categories 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000. Some imports of subject merchandise may also be classified under 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigations is dispositive.

[1] One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade. ''Colored paper'' as used in this scope definition means a paper with a hue other than white that reflects one of the primary colors of magenta, yellow, and cyan (red, yellow, and blue) or a combination of such primary colors.

Appendix II—List of Topics Discussed in the Final Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Margin Calculations
V. List of Comments
VI. Discussion of Comments
Comment 1: Surrogate Country
Comment 2: Selection of Surrogate Value for Wood Chips
Comment 3: Selection of Surrogate Values for Sodium Hypochlorite, Citric Acid, and Aluminum Chloride
Comment 4: Selection of Surrogate Value for Bamboo Pulp
Comment 5: Selection of Surrogate Values for Cationic Starch, Whitening Materials, Calcium Carbonate Fillers, Hydrogen Peroxide, Ferrous Sulphate, and Sodium Sulphate
Comment 6: Selection of Surrogate Value for Fuel Inputs
Comment 7: Selection of Surrogate Value for Native Starches
Comment 8: Selection of Surrogate Values for Limestone, Antifoam Compound, Liquid Polymer, and Sodium Phosphate
Comment 9: Selection of Surrogate Value for LMSTONE80_ENE_MAT
Comment 10: Selection of Surrogate Value for Bailing Wire
Comment 11: Selection of Surrogate Value for Packing Cartons
Comment 12: Selection of Surrogate Value for Paper Cores
Comment 13: Selection of Surrogate Value for Packing Covers
Comment 14: Brokerage and Handling Surrogate Value
Comment 15: Conversion of Nitrogen Surrogate Value
Comment 16: Inland Insurance Surrogate Value
Comment 17: Water Treatment Chemical FOPs Comment
18: Minor Correction for Market Economy Purchases
Comment 19: Mondi's SG&A Ratio
Comment 20: PRC-Wide Rate
Comment 21: Minor Corrections and Inadvertent Errors
VII. Recommendation

[FR Doc. 2016–01020 Filed 1–19–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–842]

Certain Uncoated Paper From Brazil: Final Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (''the Department'') determines that certain uncoated paper (''uncoated paper'') from Brazil is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735(a) of the Tariff Act of 1930, as amended (''the Act''). The period of investigation (''POI'') is January 1, 2014, through December 31, 2014. The final dumping margins of sales at LTFV are listed below in the ''Final Determination'' section of this notice.

DATES: *Effective:* January 20, 2016.

FOR FURTHER INFORMATION CONTACT: Julia Hancock or Paul Walker, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202.482.1394 or 202.482.0413, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 26, 2015, the Department published the *Preliminary Determination* of this antidumping duty (''AD'') investigation.[1] The events occurring since the *Preliminary Determination* was issued are detailed in the Issues and Decision Memorandum.[2]

Scope of the Investigation and Scope Comments

The product covered by this investigation is uncoated paper from Brazil. For a complete description of the scope of the investigation, *see* the ''Scope of the Investigation,'' in Appendix I of this notice, which

[1] *See Certain Uncoated Paper from Brazil: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 80 FR 52029 (August 27, 2015) (''*Preliminary Determination*'').

[2] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Certain Uncoated Paper from Brazil'' (''Issues and Decision Memorandum''), dated concurrently with this notice.

incorporates changes made subsequent to the *Preliminary Determination.*

On October 2, 2015, Gartner Studios, Inc. submitted its case brief on the scope of the investigations.[3] On October 19, 2015, American Greetings Corporation (''American Greetings'') submitted its case brief regarding the scope of the investigations.[4] On October 29, 2015, Petitioners submitted their rebuttal brief regarding the scope of the investigations.[5] The Department is issuing a scope comments decision memorandum for the final determinations of the AD and countervailing duty investigations of uncoated paper, which is incorporated by reference in, and hereby adopted by, this final determination.[6] As explained in the Final Scope Decision Memorandum, to facilitate the scope's administrability and enforcement, we have clarified the scope language such that certain uncoated paper with ''final printed content'' is excluded from the scope of the investigations.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by interested parties in this investigation that are not related to the scope of this investigation are addressed in the Issues and Decision Memorandum, which is incorporated by reference by, and hereby adopted by, this notice.[7] A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *https://access.trade.gov* and it is available to all parties in the Central Records Unit, room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Act, in September and October 2015, the Department verified the sales and cost data reported by International Paper [8] and Suzano,[9] respectively, pursuant to section 782(i) of the Act. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by International Paper and Suzano.[10]

Changes Since the Preliminary Determination

Based on our analysis of the comments received and findings at verification, we made certain changes to the margin calculations for International Paper and Suzano. For a discussion of these changes, *see* the ''Margin Calculations'' section of the Issues and Decision Memorandum.[11] We have also revised the all-others rate.[12]

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act. For the *Final Determination,* the Department calculated the ''all-others'' rate based on a weighted-average of International Paper's and Suzano's margins using publicly-ranged quantities for their sales of subject merchandise.[13]

Final Determination

The Department determines that the final weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average dumping margin (percent)
International Paper do Brasil Ltda. and International Paper Exportadora Ltda.[14]	41.39
Suzano Papel e Celulose S.A.	22.16
All-Others	26.95

Disclosure

We will disclose the calculations performed to interested parties within five days of the public announcement of this final determination in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (''CBP'') to continue to suspend liquidation of all appropriate entries of uncoated paper from Brazil, as described in Appendix I of this notice, which were entered, or withdrawn from

[3] *See* Letter to Secretary Pritzker, from Gartner Studios, Inc., ''Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Case Brief'' (October 2, 2015).

[4] *See* Letter to Secretary Pritzker, from American Greetings, ''Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Case Brief of American Greetings Corporation'' (October 19, 2015).

[5] *See* Letter to Secretary Pritzker, from Petitioners, ''Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Scope Rebuttal Brief'' (October 29, 2015).

[6] *See* the Department's Memorandum to the File, ''Less Than Fair Value Investigations of Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal; and Countervailing Duty Investigations of Certain Uncoated Paper from the People's Republic of China and Indonesia: Scope Comments Decision Memorandum for the Final Determinations,'' dated January 8, 2016 (''Final Scope Decision Memorandum'').

[7] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Certain Uncoated Paper from Brazil'' (''Issues and Decision Memorandum''), dated concurrently with this notice.

[8] International Paper do Brasil Ltda. (''IP Brasil''), and International Paper Exportadora Ltda. (''IPEX'') (collectively ''International Paper'').

[9] Suzano Papel e Celulose S.A./Suzano Pulp and Paper America, Inc. (collectively ''Suzano'').

[10] *See* IP Brasil Cost Verification Report at 1–2; Suzano Cost Verification Report at 1–2; International Paper Home Market Verification Report at 1–2; Suzano Home Market Verification Report at 1–2; Suzano U.S. Sales Verification Report at 1–2.

[11] *See* Issues and Decision Memorandum.

[12] *See* Memorandum to the File from Julia Hancock, Senior International Trade Compliance Analyst, ''Certain Uncoated Paper from Brazil: Calculation of the Final Margin for All Other Companies,'' dated concurrently with this memorandum (''All Others Calculation Memorandum'').

[13] *Id.* at 1–2. With two respondents, we normally calculate: (A) a weighted-average of the dumping margins calculated for the mandatory respondents; (B) a simple average of the dumping margins calculated for the mandatory respondents; and (C) a weighted-average of the dumping margins calculated for the mandatory respondents using each company's publicly-ranged values for the merchandise under consideration. We compare (B) and (C) to (A) and select the rate closest to (A) as the most appropriate rate for all other companies. *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010).

[14] In the *Preliminary Determination,* we determined that International Paper do Brasil Ltda. and International Paper Exportadora Ltda. constituted a single entity. *See* Memorandum to James C. Doyle, Director, Office V, through Paul Walker, Acting Program Manager, from Julia Hancock, Senior International Trade Compliance Analyst, Office V, ''Antidumping Duty Investigation of Certain Uncoated Paper from Brazil: Preliminary Determination of Affiliation/Single Entity Treatment of International Paper do Brasil Ltda, International Paper Exportadora Ltda, *et al.*'' (August 19, 2015). Because no interested parties submitted comments on this issue, the Department's determination that IP Brasil and IPEX are affiliated, pursuant to sections 771(33)(E) and (F) of the Act, and is considered a single entity, pursuant to 19 CFR 351.401(f), remains unchanged for this final determination.

warehouse, for consumption on or after August 27, 2015, the date of publication of the preliminary determination of this investigation in the **Federal Register**.

Further, CBP shall require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price, as follows: (1) The rate for International Paper and Suzano will be the rate we determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 26.95 percent. The instructions suspending liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of uncoated paper from Brazil no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders (''APO'')

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

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: January 8, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by the investigation includes uncoated paper in sheet form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white paper with a GE brightness level [1] of 85 or higher or is a colored paper; whether or not surface-decorated, printed (except as described below), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions (Certain Uncoated Paper).

Certain Uncoated Paper includes (a) uncoated free sheet paper that meets this scope definition; (b) uncoated ground wood paper produced from bleached chemi-thermo-mechanical pulp (BCTMP) that meets this scope definition; and (c) any other uncoated paper that meets this scope definition regardless of the type of pulp used to produce the paper.

Specifically excluded from the scope are (1) paper printed with final content of printed text or graphics and (2) lined paper products, typically school supplies, composed of paper that incorporates straight horizontal and/or vertical lines that would make the paper unsuitable for copying or printing purposes. For purposes of this scope definition, paper shall be considered ''printed with final content'' where at least one side of the sheet has printed text and/or graphics that cover at least five percent of the surface area of the entire sheet.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) categories 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000. Some imports of subject merchandise may also be classified under 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. List of Comments
V. Discussion of Comments
Comment 1: Treatment of Re-Exported Sales to Company X [15]
Comment 2: Biological Asset Fair Value Adjustment (''BAFVA'') and Cost of Production
Comment 3: International Paper's Level of Trade (''LOT'')
Comment 4: Suzano's LOT
Comment 5: Treatment of IPI and ICMS ST Taxes
Comment 6: Treatment of INSS Taxes
Comment 7: Inland Insurance
Comment 8: Bank Charges
Comment 9: Late Payment Fees, Rebate Expenses, and Other Expenses for Home Market Sales
Comment 10: Interest Income and Calculation of Financial Expense Rate
Comment 11: Corrections to U.S. Selling Expenses and Movement Expenses
Comment 12: U.S. Indirect Selling Expenses
VI. Conclusion

[FR Doc. 2016–01028 Filed 1–19–16; 8:45 am]

BILLING CODE 3510–DS–P

[1] One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade. ''Colored paper'' as used in this scope definition means a paper with a hue other than white that reflects one of the primary colors of magenta, yellow, and cyan (red, yellow, and blue) or a combination of such primary colors.

[15] Because the identity of Company X is business proprietary information, for further discussion, please *see* International Paper's Case Brief at 2–8, and Suzano's Case Brief at 24–5.

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Advisory Committee on Earthquake Hazards Reduction Meeting

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Earthquake Hazards Reduction (ACEHR or Committee), will meet on Thursday, March 3, 2016 from 8:30 a.m. to 5:00 p.m. Eastern Time and Friday, March 4, 2016, from 8:30 a.m. to 2:30 p.m. Eastern Time. The primary purpose of this meeting is to review the National Earthquake Hazards Reduction Program (NEHRP) agency updates on their latest activities, receive the NEHRP agency responses to the Committee's 2015 report, and gather information for the Committee's 2017 Report on the Effectiveness of the NEHRP. The agenda may change to accommodate Committee business. The final agenda will be posted on the NEHRP Web site at *http://nehrp.gov/.*

DATES: The ACEHR will meet on Thursday, March 3, 2016, from 8:30 a.m. until 5:00 p.m. Eastern Time. The meeting will continue on Friday, March 4, 2016, from 8:30 a.m. until 2:30 p.m.

Eastern Time. The meeting will be open to the public.

ADDRESSES: The meeting will be held in the Heritage Room, Administration Building, National Institute of Standards and Technology (NIST), 100 Bureau Drive, Gaithersburg, Maryland 20899. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Tina Faecke, Management and Program Analyst, National Earthquake Hazards Reduction Program, Engineering Laboratory, NIST, 100 Bureau Drive, Mail Stop 8604, Gaithersburg, Maryland 20899–8604. Ms. Faecke's email address is *tina.faecke@nist.gov* and her phone number is (301) 975–5911.

SUPPLEMENTARY INFORMATION: The Committee was established in accordance with the requirements of Section 103 of the NEHRP Reauthorization Act of 2004 (Pub. L. 108–360). The Committee is composed of 12 members appointed by the Director of NIST, who were selected for their established records of distinguished service in their professional community, their knowledge of issues affecting NEHRP, and to reflect the wide diversity of technical disciplines, competencies, and communities involved in earthquake hazards reduction. In addition, the Chairperson of the U.S. Geological Survey (USGS) Scientific Earthquake Studies Advisory Committee (SESAC) serves as an ex-officio member of the Committee. The Committee assesses:

- Trends and developments in the science and engineering of earthquake hazards reduction;
- the effectiveness of NEHRP in performing its statutory activities;
- any need to revise NEHRP; and
- the management, coordination, implementation, and activities of NEHRP.

Background information on NEHRP and the Advisory Committee is available at *http://nehrp.gov/.*

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the ACEHR will hold an open meeting on Thursday, March 3, 2016 from 8:30 a.m. to 5:00 p.m. Eastern Time and Friday, March 4, 2016, from 8:30 a.m. to 2:30 p.m. Eastern Time. The meeting will be held in the Heritage Room, Administration Building, NIST, 100 Bureau Drive, Gaithersburg, Maryland 20899. The primary purpose of this meeting is to review the NEHRP agency updates on their latest activities, receive the NEHRP agency responses to the Committee's 2015 report, and gather information for the Committee's 2017 Report on the Effectiveness of the NEHRP. The agenda may change to accommodate Committee business. The final agenda will be posted on the NEHRP Web site at *http://nehrp.gov/.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's affairs are invited to request a place on the agenda. On March 4, 2016, approximately one-half hour will be reserved near the conclusion of the meeting for public comments, and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about three minutes each. Questions from the public will not be considered during this period. All those wishing to speak must submit their request by email to the attention of Ms. Tina Faecke, *tina.faecke@nist.gov*, by 5:00 p.m. Eastern time, Thursday, February 25, 2016.

Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to ACEHR, National Institute of Standards and Technology, 100 Bureau Drive, MS 8604, Gaithersburg, Maryland 20899–8604, via fax at (301) 975–4032, or electronically by email to *tina.faecke@nist.gov.*

All visitors to the NIST site are required to pre-register to be admitted. Anyone wishing to attend this meeting must register by 5:00 p.m. Eastern Time, Thursday, February 25, 2016, in order to attend. Please submit your full name, email address, and phone number to Jennifer Horning. Non-U.S. citizens must submit additional information; please contact Ms. Horning. Ms. Horning's email address is *Jennifer.horning@nist.gov,* and her phone number is (301) 975–6707. Also, please note that federal agencies, including NIST, can only accept a state-issued driver's license or identification card for access to federal facilities if such license or identification card is issued by a state that is compliant with the REAL ID Act of 2005 (Pub. L. 109–13), or by a state that has an extension for REAL ID compliance. NIST currently accepts other forms of federal-issued identification in lieu of a state-issued driver's license. For detailed information please contact Ms. Horning at (301) 975–6707 or visit: *http://www.nist.gov/public_affairs/visitor/.*

Kevin Kimball,

Chief of Staff.

[FR Doc. 2016–00959 Filed 1–19–16; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE389

Nominations for the General Advisory Committee and the Scientific Advisory Subcommittee to the United States Delegation to the Inter-American Tropical Tuna Commission

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

ACTION: Notice; request for nominations.

SUMMARY: NMFS, on behalf of the Secretary of Commerce, is seeking nominations for the General Advisory Committee to the U.S. delegation to the Inter-American Tropical Tuna Commission (IATTC or Commission), as well as to a Scientific Advisory Subcommittee of the General Advisory Committee. The purpose of the General Advisory Committee and its Scientific Advisory Subcommittee is to provide public input and advice to the United States delegation to the IATTC in the formulation of U.S. policy and positions at meetings of the IATTC and its subsidiary bodies. The Scientific Advisory Subcommittee shall also function as the National Scientific Advisory Committee provided for in the Agreement on the International Dolphin Conservation Program (AIDCP).

DATES: Nominations must be received no later than February 19, 2016.

ADDRESSES: Nominations should be directed to William W. Stelle, Jr., Regional Administrator, NMFS West Coast Region, and may be submitted by any of the following means:

- *Email: RegionalAdministrator.WCRHMS@noaa.gov.* Include in the subject line the following document identifier: ''General Advisory Committee and Scientific Advisory Subcommittee nominations''
- *Mail:* Rachael Wadsworth, NMFS West Coast Region Long Beach Office, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Rachael Wadsworth, NMFS West Coast Region; email: *rachael.wadsworth@noaa.gov*; telephone: 562–980–4036.

SUPPLEMENTARY INFORMATION:

General Advisory Committee

The Tuna Conventions Act (16 U.S.C. 951 *et seq.*), as amended on November 5, 2015, by title II of Public Law 114–81, provides that the Secretary of Commerce, in consultation with the Secretary of State, shall appoint a ''General Advisory Committee'' to advise the U.S. delegation to the IATTC. The General Advisory Committee shall be composed of no more than 25 individuals who shall be representative of the various groups concerned with the fisheries covered by the IATTC, including non-governmental conservation organizations, providing an equitable balance among such groups to the maximum extent practicable. Members of the General Advisory Committee shall be invited to attend all non-executive meetings of the U.S. delegation to the IATTC and at such meetings shall be given the opportunity to examine and be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission.

The Chair of the Pacific Fishery Management Council's (Pacific Council's) Advisory Subpanel for Highly Migratory Fisheries and the Chair of the Western Pacific Fishery Management Council's (Western Pacific Council's) Advisory Committee shall be ex-officio members of the General Advisory Committee by virtue of their positions advising those Councils. The General Advisory Committee will be eligible to participate as members of the United States delegation to the Commission and its working groups to the extent the Commission rules and space for delegations allow. Additionally, NMFS may appoint the Executive Directors of the Pacific and Western Pacific Councils to serve on the General Advisory Committee.

At its next meeting, the General Advisory Committee is expected to determine its organization and prescribe its practices and procedures for carrying out its functions under the Tuna Conventions Act, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), the 1949 Convention for the Establishment of an Inter-American Tropical Tuna Commission, and the Convention for the Strengthening of the IATTC Established by the 1949 Convention between the United States of America and the Republic of Costa Rica (Antigua Convention). Meetings of the General Advisory Committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in timely fashion. In accordance with Public Law 114–81, the General Advisory Committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

Individuals appointed to serve as a member of the General Advisory Committee shall serve without pay. While away from their homes or regular places of business to attend meetings of the General Advisory Committee, they shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently by the Federal Government are allowed expenses under 5 U.S.C. 5703. In addition, individuals appointed to serve as a member of the General Advisory Committee shall not be considered Federal employees except for the purposes of injury compensation or tort.

Scientific Advisory Subcommittee

The Tuna Conventions Act, as amended, also provides that the Secretary of Commerce, in consultation with the Secretary of State, shall appoint individuals as members of the subcommittee of the General Advisory Committee, referred to here as the ''Scientific Advisory Subcommittee.'' The Scientific Advisory Subcommittee shall be composed of no fewer than 5 or no more than 15 qualified scientists with balanced representation from the public and private sectors, including non-governmental conservation organizations.

The Scientific Advisory Subcommittee will be expected to determine its own organization and prescribe its practices and procedures for carrying out its functions under the Tuna Conventions Act, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), the 1949 Convention for the Establishment of an Inter-American Tropical Tuna Commission, the Antigua Convention, and the AIDCP.

National Scientific Advisory Committee

The Scientific Advisory Subcommittee shall also function as the National Scientific Advisory Committee established pursuant to Article IX of the AIDCP. In this regard, the Scientific Advisory Subcommittee shall perform the functions of the National Scientific Advisory Committee as specified in Annex VI of the AIDCP which include, but are not limited to: (1) Receiving and reviewing relevant data, including data provided to NMFS by IATTC staff; (2) advising and recommending measures and actions to the U.S. Government that should be undertaken to conserve and manage stocks of living marine resources in the eastern Pacific Ocean; (3) making recommendations to the U.S. Government regarding research needs related to the eastern Pacific Ocean tuna purse seine fishery; (4) promoting the regular and timely full exchange of data among the AIDCP Parties on a variety of matters related to the implementation of the AIDCP; and (5) consulting with other experts, as necessary, in order to achieve the objectives of the AIDCP.

Members of the Scientific Advisory Subcommittee/National Scientific Advisory Committee shall receive no compensation for their service and members will not be compensated for travel or other expenses associated with their participation.

General Provisions

Each appointed member of the General Advisory Committee shall be appointed for a term of 3 years and may be reappointed.

The Secretary of Commerce and the Secretary of State shall provide the General Advisory Committee with relevant information concerning fisheries and international fishery agreements. The Secretary of Commerce shall provide to the General Advisory Committee such administrative and technical support services that are necessary for its effective functioning in a timely manner.

Procedures for Submitting Applications/Nominations

Applications/nominations for the General Advisory Committee and the Scientific Advisory Subcommittee/ National Scientific Advisory Committee should be submitted to NMFS West Coast Region (See **ADDRESSES**). This request for nominations is for both first time nominees and previous members. Self-nominations are acceptable. Nominations should include the information listed below:

(1) Full name, address (home and business, if different), telephone, and email address of applicant (*i.e.*, for self-nomination) or nominee;

(2) Specify whether applying or nominating for the General Advisory Committee or the Scientific Advisory Committee/National Scientific Advisory Committee (applicants may specify both);

(3) Applicant's or nominee's organization(s) or professional affiliation(s) serving as the basis for the application/nomination;

(4) Background statement describing the applicant's or nominee's qualifications and experience, especially as related to fisheries for tuna and tuna-like species in the eastern Pacific Ocean or other factors relevant to the implementation of the Convention

Establishing the IATTC or the AIDCP; and

(5) A written statement from the applicant or nominee of intent to participate actively and in good faith in the meetings and activities of either the General Advisory Committee or the Scientific Advisory Subcommittee/ National Scientific Advisory Committee, or both.

Applicants or nominees who submitted material in response to the **Federal Register** Notice published by the Department of State on March 25, 2013 (78 FR 17993), or prior, should resubmit their applications pursuant to this notice.

Authority: 16 U.S.C. 951 *et seq.*

Dated: January 13, 2016.

Emily H. Menashes,

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

[FR Doc. 2016–00906 Filed 1–19–16; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No: CFPB–2016–0002]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau) is proposing to extend a collection currently approved by the Office of Management and Budget (OMB) titled ''Home Mortgage Disclosure Act (Regulation C) 12 CFR 1003.''

DATES: Written comments are encouraged and must be received on or before February 19, 2016 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

• *Electronic: http://www.regulations.gov*. Follow the instructions for submitting comments.

• *OMB:* Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503 or fax to (202) 395–5806. Mailed or faxed comments to OMB should be to the attention of the OMB Desk Officer for the Bureau of Consumer Financial Protection.

Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or social security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.reginfo.gov* (this link active on the day following publication of this notice). Select ''Information Collection Review,'' under ''Currently under review'', use the dropdown menu ''Select Agency'' and select ''Consumer Financial Protection Bureau'' (recent submissions to OMB will be at the top of the list). The same documentation is also available at *http://www.regulations.gov*. Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435-9575, or email: *PRA@cfpb.gov. Please do not submit comments to this email box*.

SUPPLEMENTARY INFORMATION:

Title of Collection: Home Mortgage Disclosure Act (Regulation C) 12 CFR 1003.

OMB Control Number: 3170–0008.

Type of Review: Extension with change of a currently approved collection.

Affected Public: For-profit businesses.

Estimated Number of Respondents: 145.

Estimated Total Annual Burden Hours: 690,000.

Abstract: The Home Mortgage Disclosure Act (HMDA) requires certain depository institutions and for-profit nondepository institutions to collect, report, and disclose data about originations and purchases of mortgage loans, as well as mortgage loan applications that do not result in originations (for example, applications that are denied or withdrawn). The Bureau's Regulation C, 12 CFR part 1003, implements HMDA. The purpose of the information collection is: (i) To help determine whether financial institutions are serving the housing needs of their communities; (ii) to assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and (iii) to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes. The information collection will also assist the CFPB's examiners, and examiners of other federal supervisory agencies, in determining that the financial institutions they supervise comply with applicable provisions of HMDA.

In accordance with 5 CFR 1320.11(f) and 1320.11(h), this information collection request (ICR) is being submitted to OMB in association with the final rule for Regulation C (RIN 3170–AA10), 80 FR 66127 published October 28, 2015. Further, since the information collection requirements as contained in current Regulation C are currently scheduled to expire on January 31, 2016, and the information collection requirements as contained in the final rule for Regulation C will generally not become effective until January 1, 2018, this ICR is also contemporaneously being submitted to OMB under 5 CFR 1320.12, *Clearance of collections of information in current rules*. The Bureau is requesting OMB to extend for an additional three years its approval of the information collection requirements as contained in current Regulation C.

Request For Comments: The Bureau issued a 60-day **Federal Register** notice on November 10, 2015, (80 FR 69646). Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Dated: January 13, 2016.

Darrin A. King,

Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2016–01006 Filed 1–19–16; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2014–0044]

Proposed Collection; Comment Request

AGENCY: Army & Air Force Exchange Service (Exchange), DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Army & Air Force Exchange Service announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by March 21, 2016.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

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

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Army and Air Force Exchange Service, Office of the General Counsel, Compliance Division, Attn: Teresa Schreurs, 3911 South Walton Walker Blvd., Dallas, TX 75236–1598 or call the Exchange Compliance Division at 800–967–6067.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Exchange Accounts Receivable Files; Exchange Form 6450–002 ''Military Star Card Application, Exchange Form 6450–005 ''Exchange Credit Program''; OMB Control Number 0702–XXXX.

Needs and Uses: The information collection requirement is necessary to process, monitor, and post audit accounts receivables to the Army and Air Force Exchange Service; to administer the Federal Claims Collection act and to answer inquiries pertaining thereto as well as collection of indebtedness and determination of customer's eligibility to cash checks at Exchange facilities.

Affected Public: Individuals or Households

Annual Burden Hours: 23,920

Number of Respondents: 239,201

Responses per Respondent: 1

Average Burden per Response: 6 minutes

Frequency: On Occasion

Respondents are Exchange patrons, potential patrons or past patrons who are indebted to the Exchange. This may include dishonored checks, deferred payment plans, home layaway, pecuniary liability claims and credit cards.

Dated: January 14, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–01003 Filed 1–19–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

U.S. Court of Appeals for the Armed Forces Code Committee Meeting

ACTION: Notice of public meeting.

SUMMARY: This notice announces the forthcoming public meeting of the Code Committee.

FOR FURTHER INFORMATION CONTACT: William A. DeCicco, Clerk of Court, United States Court of Appeals for the Armed Forces, 450 E Street Northwest, Washington, DC 20442–0001, telephone (202) 761–1448.

SUPPLEMENTARY INFORMATION: The Code Committee was established by Article 146(a), Uniform Code of Military Justice, 10 U.S.C. 946(a), which requires the Committee to meet at least annually. This year's meeting will be held at the Courthouse of the United States Court of Appeals for the Armed Forces, 450 E Street NW., Washington, DC 20442–0001, at 10:00 a.m. on Tuesday, March 1, 2016. The agenda for this meeting will include consideration of proposed changes to the Uniform Code of Military Justice and the Manual for Courts-Martial, United States, and other matters relating to the operation of the Uniform Code of Military Justice throughout the Armed Forces.

Dated: January 14, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–00995 Filed 1–19–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2015–OS–0005]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by February 19, 2016.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form And OMB Number: Department of Defense Education Activity (DoDEA) Non-Sponsored Research Program—Research Study Request Form; DoDEA Form 2071.3–F1; OMB Control Number 0704–0457.

Type of Request: Extension.

Number of Respondents: 50.

Responses per Respondent: 1.

Annual Responses: 50.

Average Burden per Response: 1 hour.

Annual Burden Hours: 50.

Needs And Uses: The DoDEA receives requests from researchers to conduct non-DoDEA sponsored research studies in DoDEA schools, districts, and/or areas. To review the proposed research

requests, DoDEA is seeking renewal for the DoDEA Administrative Instruction 2071.3 (DoDEA AI 2071.3) that includes Form 1, ''Research Study Request.'' The DoDEA ''Research Study Request'' collects information about the researcher, the research project, audience, timeline, and the statistical analyses that will be conducted during the proposed research study. This information is needed to ensure that the proposed non-DoDEA sponsored research does not unduly interfere with the classroom instructional process or the regular operations of the school, district, and/or areas.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

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

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: January 14, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–00999 Filed 1–19–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

National Energy Technology Laboratory; Notice of Intent to Grant Exclusive Licenses

AGENCY: National Energy Technology Laboratory, DOE.

ACTION: Notice of Intent to Grant Exclusive Licenses.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i). The National Energy Technology Laboratory (NETL) hereby gives notice that the Department of Energy (DOE) intends to grant exclusive licenses to practice the inventions described and claimed in U.S. Patent Number 8,907,105, ''1,2,3-Triazolium ionic liquids''; U.S. Patent Number 8,906,135, ''Method of Purifying a Gas Stream Using 1,2,3-Tirazolium ionic liquids''; U.S. Patent Application Number 14/951,210, ''Synthesis and Polymerization of vinyl triazolium ionic liquids'', and International Patent Application Number PCT/US2015/057769, ''Ionic, 1,2,3-Triazolium-based, cross linked polymeric films for gas separation'' to Liquid Ion Solutions, a small business, having its principal place of business in Pittsburgh, PA. The inventions and patents are owned by United States of America, as represented by DOE. The prospective exclusive licenses comply with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: Written comments, objections, or nonexclusive license applications must be received at the address listed below no later than fifteen (15) days after the date of this published Notice. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Comments, applications for nonexclusive licenses, or objections relating to the prospective exclusive license should be submitted to Jessica Sosenko, Technology Transfer Program Manager, U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 10940, Pittsburgh, PA 15236–0940 or via facsimile to (412) 386–4183.

FOR FURTHER INFORMATION CONTACT: Jessica Sosenko, Technology Transfer Program Manager, U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 10940, Pittsburgh, PA 15236; Telephone (412) 386–7417; Email: *jessica.sosenko@netl.doe.gov.*

SUPPLEMENTARY INFORMATION: Section 209(c) of title 35 of the United States Code gives DOE the authority to grant exclusive or partially exclusive licenses in Department-owned inventions where a determination is made, among other things, that the desired practical application of the invention has not been achieved, or is not likely to be achieved expeditiously, under a nonexclusive license. The statute and implementing regulations (37 CFR 404) require that the necessary determinations be made after public notice and opportunity for filing written comments and objections.

Liquid Ion Solutions, a small business, has applied for exclusive licenses to practice the inventions and patents and has plans for commercialization of the inventions and patents. DOE intends to grant the licenses, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 15 days of publication of this notice, NETL's Technology Transfer Manager (contact information listed above), receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

(ii) An application for a nonexclusive license to the invention, in which applicant states that it already has brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The proposed licenses would be exclusive, subject to a license and other rights retained by the United States, and subject to a negotiated royalty. DOE will review all timely written responses to this notice, and will grant the licenses if, after expiration of the 15-day notice period, and after consideration of any written responses to this notice, a determination is made in accordance with 35 U.S.C. 209(c) that the licenses are in the public interest.

Grace M. Bochenek,

Director, National Energy Technology Laboratory.

[FR Doc. 2016–00890 Filed 1–19–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–722–000]

Current Power & Gas Inc.; 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 Current Power & Gas Inc.'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 February 2, 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: January 13, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–00970 Filed 1–19–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL11–66–000]

Notice of Filing

Martha Coakley, Massachusetts Attorney General; Connecticut Public Utilities Regulatory Authority; Massachusetts Department of Public Utilities; New Hampshire Public Utilities Commission; Connecticut Office of Consumer Counsel; Maine Office of the Public Advocate; George Jepsen, Connecticut Attorney General; New Hampshire Office of Consumer Advocate; Rhode Island Division of Public Utilities and Carriers; Vermont Department of Public Service; Massachusetts Municipal Wholesale Electric Company; Associated Industries of Massachusetts; The Energy Consortium; Power Options, Inc.; and the Industrial Energy Consumer Group, v. Bangor Hydro-Electric Company; Central Maine Power Company; New England Power Company d/b/a National Grid; New Hampshire Transmission LLC d/b/a NextEra; NSTAR Electric and Gas Corporation; Northeast Utilities Service Company; The United Illuminating Company; Unitil Energy Systems, Inc. and Fitchburg Gas and Electric Light Company; Vermont Transco, LLC

Take notice that on January 11, 2016, The United Illuminating Company submitted a Supplement to December 31, 2015 tariff filing per: Refund Report to be effective N/A, pursuant to the Commission's Opinion No. 531–A, issued on October 16, 2014.[1]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

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 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.

Comment Date: 5:00 p.m. Eastern Time on February 1, 2016.

Dated: January 13, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–00965 Filed 1–19–16; 8:45 am]

BILLING CODE 6717–01–P

[1] *Martha Coakley, Mass. Attorney Gen., et al.* v. *Bangor Hydro-Elec. Co., et al.,* Opinion No. 531, 147 FERC ¶ 61,234 (2014) (Opinion No. 531), *order on paper hearing,* Opinion No. 531–A, 149 FERC ¶ 61,032 (2014) (Opinion No. 531–A).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting Notice

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: January 21, 2016, 10:00 a.m.

PLACE: Room 2C, 888 First Street NE., Washington, DC 20426.

STATUS: OPEN.

MATTERS TO BE CONSIDERED: Agenda.

* NOTE—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All

public documents, however, may be viewed on line at the Commission's Web site at *http://www.ferc.gov* using the eLibrary link, or may be examined in the Commission's Public Reference Room.

1023RD—MEETING, REGULAR MEETING

[January 21, 2016 10:00 a.m.]

Item No	Docket No.	Company
	ADMINISTRATIVE	
A–1	AD16–1–000	Agency Administrative Matters
A–2	AD16–7–000	Customer Matters, Reliability, Security and Market Operations
	ELECTRIC	
E–1	RM16–5–000	Offer Caps in Markets Operated by Regional Transmission Organizations and Independent System Operators
E–2	RM15–14–000	Revised Critical Infrastructure Protection Reliability Standards
E–3	ER14–1174–000	Southwest Power Pool, Inc.
	EL11–34–002	Midwest Independent Transmission System Operator, Inc.
	EL14–21–000	Southwest Power Pool, Inc. v. Midcontinent Independent System Operator, Inc.
	EL14–30–000	Midcontinent Independent System Operator, Inc. v. Southwest Power Pool, Inc.
E–4	ER14–1174–001	Southwest Power Pool, Inc.
	EL11–34–003	Midwest Independent Transmission System Operator, Inc.
	EL14–21–001	Southwest Power Pool, Inc. v. Midcontinent Independent System Operator, Inc.
	EL14–30–001	Midcontinent Independent System Operator, Inc. v. Southwest Power Pool, Inc.
E–5	ER16–56–000	Midcontinent Independent System Operator, Inc.
E–6	QM14–3–000	Entergy Services, Inc. Entergy Arkansas, Inc. Entergy Gulf States Louisiana, L.L.C. Entergy Louisiana, LLC Entergy Mississippi, Inc. Entergy New Orleans, Inc. Entergy Texas, Inc.
E–7	QM15–3–000	Arkansas Electric Cooperative Corporation
E–8	ER15–2418–001	Pacific Gas and Electric Company
	EL15–30–001 (Consolidated)	San Francisco Bay Area Rapid Transit District v. Pacific Gas and Electric Company
E–9	OMITTED.	
E–10	ER15–1783–001	California Independent System Operator Corporation
E–11	EL15–96–000	Backyard Farms Energy LLC Devonshire Energy LLC
	MISCELLANEOUS	
M–1	RM15–26–000	Instant Final Rule Transferring Certain Dispute Resolution Service Matters to the Commission's Landowner Helpline
	GAS	
G–1	RP16–302–000	Columbia Gulf Transmission, LLC
G–2	RP16–301–000	Iroquois Gas Transmission System, L.P.
G–3	RP16–300–000	Empire Pipeline, Inc.
G–4	RP16–299–000	Tuscarora Gas Transmission Company
	HYDRO	
H–1	P–2114–276	Public Utility District No. 2 of Grant County, Washington
	CERTIFICATES	
C–1	OMITTED.	
C–2	CP15–105–000	Texas Gas Transmission, Inc.

Dated: January 14, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

A free Web cast of this event is available through *www.ferc.gov.* Anyone with Internet access who desires to view this event can do so by navigating to *www.ferc.gov's* Calendar of Events and locating this event in the Calendar. The event will contain a link to its Web cast. The Capitol Connection provides technical support for the free Web casts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *www.CapitolConnection.org* or contact Danelle Springer or David Reininger at 703–993–3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated

overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. 2016–01113 Filed 1–15–16; 4:15 pm]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP16–375–000.

Applicants: Gas Transmission Northwest LLC.

Description: Interruptible Transportation Revenue Refund Report for the Coyote Springs Lateral of Gas Transmission Northwest LLC under RP16–375.

Filed Date: 1/11/16.

Accession Number: 20160111–5190.

Comments Due: 5 p.m. ET 1/25/16.

Docket Numbers: RP16–376–000.

Applicants: Equitrans, L.P.

Description: Section 4(d) Rate Filing: Assignment Update to be effective 2/11/2016.

Filed Date: 1/11/16.

Accession Number: 20160111–5295.

Comments Due: 5 p.m. ET 1/25/16.

Docket Numbers: RP16–377–000.

Applicants: Equitrans, L.P.

Description: Section 4(d) Rate Filing: Negotiated Capacity Release Agreements—01/11/2016 to be effective 1/11/2016.

Filed Date: 1/11/16.

Accession Number: 20160111–5320.

Comments Due: 5 p.m. ET 1/25/16.

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: January 12, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–00932 Filed 1–19–16; 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: ER16–724–000.

Applicants: Midcontinent Independent System Operator, Inc., ITC Midwest LLC.

Description: § 205(d) Rate Filing: 2016–01–13_SA 2883 ITC Midwest-MidAmerican FSA (H009) to be effective 3/13/2016.

Filed Date: 1/13/16.

Accession Number: 20160113–5132.

Comments Due: 5 p.m. ET 2/3/16.

Docket Numbers: ER16–725–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Service Agreement No. 4332; Queue AA1–139; SA No. 4216 Cancellation to be effective 12/14/2015.

Filed Date: 1/13/16.

Accession Number: 20160113–5133.

Comments Due: 5 p.m. ET 2/3/16.

Docket Numbers: ER16–726–000.

Applicants: Midcontinent Independent System Operator, Inc., Duke Energy Indiana, LLC.

Description: § 205(d) Rate Filing: 2016–01–13_SA 1893 Duke Energy-Hoosier Energy 1st Rev. IA to be effective 3/13/2016.

Filed Date: 1/13/16.

Accession Number: 20160113–5134.

Comments Due: 5 p.m. ET 2/3/16.

Docket Numbers: ER16–727–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Exelon Generation NITSA Rev 1 to be effective 1/1/2016.

Filed Date: 1/13/16.

Accession Number: 20160113–5149.

Comments Due: 5 p.m. ET 2/3/16.

Docket Numbers: ER16–728–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2016–01–13_Cancellation of RS 44 ORCA to be effective 2/1/2016.

Filed Date: 1/13/16.

Accession Number: 20160113–5196.

Comments Due: 5 p.m. ET 2/3/16.

Docket Numbers: ER16–729–000.

Applicants: AEP Texas Central Company.

Description: § 205(d) Rate Filing: TCC-San Roman Wind I Interconnection Agreement-2nd Amendment to be effective 12/17/2015.

Filed Date: 1/13/16.

Accession Number: 20160113–5208.

Comments Due: 5 p.m. ET 2/3/16.

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: January 13, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–00964 Filed 1–19–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–39–001]

Kingbird Solar B, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Kingbird Solar B, 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 February 2, 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: January 13, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–00969 Filed 1–19–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL11–66–000]

Notice of Filing

Martha Coakley, Massachusetts Attorney General; Connecticut Public Utilities Regulatory Authority; Massachusetts Department of Public Utilities; New Hampshire Public Utilities Commission; Connecticut Office of Consumer Counsel; Maine Office of the Public Advocate; George Jepsen, Connecticut Attorney General; New Hampshire Office of Consumer Advocate; Rhode Island Division of Public Utilities and Carriers; Vermont Department of Public Service; Massachusetts Municipal Wholesale Electric Company; Associated Industries of Massachusetts; The Energy Consortium; Power Options, Inc.; and the Industrial Energy Consumer Group, v. Bangor Hydro-Electric Company; Central Maine Power Company; New England Power Company d/b/a National Grid; New Hampshire Transmission LLC d/b/a NextEra; NSTAR Electric and Gas Corporation; Northeast Utilities Service Company; The United Illuminating Company; Unitil Energy Systems, Inc. and Fitchburg Gas and Electric Light Company; Vermont Transco, LLC

Take notice that on January 13, 2016, Vermont Transco LLC submitted tariff filing per: Refund Report to be effective N/A, pursuant to the Commission's Opinion No. 531–A, issued on October 16, 2014.[1]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

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 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.

Comment Date: 5:00 p.m. Eastern Time on February 3, 2016.

Dated: January 13, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–00966 Filed 1–19–16; 8:45 am]

BILLING CODE 6717–01–P

[1] *Martha Coakley, Mass. Attorney Gen., et al.* v. *Bangor Hydro-Elec. Co., et al.,* Opinion No. 531, 147 FERC ¶ 61,234 (2014) (Opinion No. 531), *order on paper hearing,* Opinion No. 531–A, 149 FERC ¶ 61,032 (2014) (Opinion No. 531–A).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL16–6–001, ER16–121–000]

PJM Interconnection, L.L.C.; Notice of Technical Conference

By order dated December 28, 2015,[1] the Commission directed its staff to convene a technical conference in this proceeding, based on its finding that the issues raised by PJM Interconnection, L.L.C. (PJM) in its filing, regarding the allocation of Auction Revenue Rights (ARR) and Financial Transmission Rights (FTR), required the development of a more complete record. As directed by the December 28 Order, the technical conference will focus on whether PJM's existing ARR/FTR tariff provisions are unjust and unreasonable and whether PJM's proposed revisions to its tariff addressing these matters are just and reasonable. As further specified by the Commission, issues to be addressed at the technical conference will include, but are not limited to: (i) PJM's ARR modeling and allocation processes; (ii) treatment of portfolio positions in allocating underfunding or surplus among FTR holders and the potential for market manipulation; and (iii) balancing congestion in ARR/FTR product design.

Take notice that the technical conference will be held on February 4, 2016, in the Commission Meeting Room, at 888 First Street NE., Washington, DC 20426, between 9:30 a.m. and 5:00 p.m. (Eastern Standard Time).[2] The Chairman and Commissioners may attend and participate in the technical conference.

The technical conference will be led by Commission staff. All interested participants are invited to attend, and participants who wish to contribute are invited to nominate themselves to speak at the conference by contacting a member of the staff listed below and

[1] *PJM Interconnection, L.L.C.,* 153 FERC ¶ 61,344 (2015) (December 28 Order).

[2] If the technical conference cannot be held on February 4, 2016 due to unavoidable circumstances, including inclement weather, February 9, 2016 is reserved as the back-up date.

submitting a speaker nomination form.[3] Due to time constraints, we may not be able to accommodate all those interested in speaking. Further details and a formal agenda will be issued prior to the technical conference. The technical conference will be open for the public to attend. Advanced registration is not required, but we encourage those planning to attend the conference to register through the Commission's Web site.[4] We will provide nametags for those who register on or before January 28, 2016. Attendees should allow time to pass through building security procedures before the 9:30 a.m. (EST) start time of the technical conference.

Information regarding the technical conference will be posted on the Calendar of Events on the Commission's Web site, prior to the event.[5] The technical conference will also be webcast, via the Calendar of Events, and transcribed. Transcripts will be available for a fee from Ace-Federal Reports, Inc.[6] The webcast will remain available on the Commission's Web site for three months following the technical conference. The Capitol Connection provides technical support for the webcast and offers the option of listening to the technical conference via phone-bridge for a fee.[7] The webcast will allow persons to listen to the technical conference, but not participate.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–502–8659 (TTY); or send a fax to 202–208–2106 with the required accommodations.

For more information about this technical conference, please contact:

Sarah McKinley (Logistical Information), Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8004, *Sarah.McKinley@ferc.gov*

Pamela Quinlan (Technical Information), Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6179, *Pamela.Quinlan@ferc.gov*

Kent Carter (Legal Information), Office of General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8604, *Kent.Carter@ferc.gov*

Daniel Kheloussi (Technical Information), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6391, *Daniel.Kheloussi@ferc.gov*

Dated: January 13, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–00968 Filed 1–19–16; 8:45 am]

BILLING CODE 6717–01–P

[3] The speaker nomination form is located at *https://www.ferc.gov/whats-new/registration/02-04-16-speaker-form.asp.*

[4] The registration form is located at *https://www.ferc.gov/whats-new/registration/02-04-16-form.asp.*

[5] The FERC Calendar of Events site may be accessed at: *www.ferc.gov/EventCalendar/EventsList.aspx?View=monthview.*

[6] The Web site for ACE-Federal Reports, Inc. is *www.acefederal.com* and the phone number is 202–347–3700.

[7] If you have any questions, visit Capitol Connection's Web site at *www.CapitolConnection.org,* or call 703–993–3100.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR16–11–000.

Applicants: ONEOK WesTex Transmission, L.L.C.

Description: Tariff filing per 284.123(b)(1) + (g): Petition for Firm 311 Service to be effective 1/1/2016; Filing Type: 1300.

Filed Date: 1/11/2016.

Accession Number: 201601115266.

Comments Due: 5 p.m. ET 2/1/16.

284.123(g) Protests Due: 5 p.m. ET 3/11/16.

Docket Numbers: RP16–378–000.

Applicants: Gulf Crossing Pipeline Company LLC.

Description: § 4(d) Rate Filing: Amendment to Neg Rate Agmt (Devon 10–15) to be effective 1/12/2016.

Filed Date: 1/12/16.

Accession Number: 20160112–5084.

Comments Due: 5 p.m. ET 1/25/16.

Docket Numbers: RP16–379–000.

Applicants: Transcontinental Gas Pipe Line Company.

Description: § 4(d) Rate Filing: Update List of Non-Confroming Service Agreements (Leidy Southeast) to be effective 2/12/2016.

Filed Date: 1/12/16.

Accession Number: 20160112–5228.

Comments Due: 5 p.m. ET 1/25/16.

Docket Numbers: RP16–380–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) Rate Filing: 01/12/16 Negotiated Rates—Mercuria Energy Gas Trading LLC (HUB) 7540–89 to be effective 1/11/2016.

Filed Date: 1/12/16.

Accession Number: 20160112–5230.

Comments Due: 5 p.m. ET 1/25/16.

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 dates. 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 January 13, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–00967 Filed 1–19–16; 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: ER15–1250–000.

Applicants: ITC Midwest LLC.

Description: Formal Challenge of Interstate Power and Light Company to Inputs into Formula Rate of ITC Midwest, LLC.

Filed Date: 12/18/15.

Accession Number: 20151218–5279.

Comments Due: 5 p.m. ET 2/3/16.

Docket Numbers: ER16–193–001.

Applicants: PacifiCorp.

Description: Tariff Amendment: WECC Unscheduled Flow Mitigation Plan Rev 2b Deficiency Filing to be effective 1/1/2016.

Filed Date: 1/12/16.

Accession Number: 20160112–5229.

Comments Due: 5 p.m. ET 2/2/16.

Docket Numbers: ER16–206–002.

Applicants: Midcontinent Independent System Operator, Inc., ITC Midwest LLC.

Description: Tariff Amendment: 2016–01–12_SA 2862 Deficiency Response ITCM–WPL FSA (G870) to be effective 11/1/2015.

Filed Date: 1/12/16.

Accession Number: 20160112–5083.

Comments Due: 5 p.m. ET 2/2/16.

Docket Numbers: ER16–487–001.

Applicants: Pacific Gas and Electric Company.

Description: Tariff Amendment: Errata Filing for the Transmission Access Charge Balancing Account Adjustment to be effective 3/1/2016.

Filed Date: 1/12/16.

Accession Number: 20160112–5247.

Comments Due: 5 p.m. ET 2/2/16.

Docket Numbers: ER16–696–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2016–01–12_Amendment to Attachment X Funding Options Filing to be effective 8/1/2015.

Filed Date: 1/12/16.

Accession Number: 20160112–5176.

Comments Due: 5 p.m. ET 2/2/16.

Docket Numbers: ER16–721–000.

Applicants: Deseret Generation & Transmission Co-operative, Inc.

Description: § 205(d) Rate Filing: Attachment K eTariff Record Cleanup Filing to be effective 1/1/2016.

Filed Date: 1/12/16.

Accession Number: 20160112–5220.

Comments Due: 5 p.m. ET 2/2/16.

Docket Numbers: ER16–722–000.

Applicants: Current Power & Gas Inc.

Description: Baseline eTariff Filing: Current Power & Gas Inc. FERC Tariff Filing to be effective 1/13/2016.

Filed Date: 1/13/16.

Accession Number: 20160113–5006.

Comments Due: 5 p.m. ET 2/3/16.

Docket Numbers: ER16–723–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original Service Agreement No. 4331; Queue AA1–015 (ISA) to be effective 12/14/2015.

Filed Date: 1/13/16.

Accession Number: 20160113–5090.

Comments Due: 5 p.m. ET 2/3/16.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH16–3–000.

Applicants: Consolidated Edison, Inc.

Description: Consolidated Edison, Inc. submits FERC 65–B Material Change in Facts of Waiver Notification.

Filed Date: 1/13/16.

Accession Number: 20160113–5088.

Comments Due: 5 p.m. ET 2/3/16.

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: January 13, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–00963 Filed 1–19–16; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0316; FRL–9940–81]

Tetrachlorvinphos Registration Review; Draft Human Health and Ecological Risk Assessment; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's draft human health and ecological risk assessment for the registration review of tetrachlorvinphos and opens a public comment period on this document. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed a comprehensive draft human health and ecological risk assessment for all tetrachlorvinphos uses. After reviewing comments received during the public comment period, EPA will issue a revised risk assessment, explain any changes to the draft risk assessment, and respond to comments and may request public input on risk mitigation before completing a proposed registration review decision for tetrachlorvinphos. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

DATES: Comments must be received on or before March 21, 2016.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2008–0316, by one of the following methods:

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

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

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information contact:* James Parker, Chemical Review Manager, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 306–0469; email address: *parker.james@*epa.gov.

For general questions on the registration review program, contact: Richard Dumas, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8005; email address: *dumas.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions

regarding the applicability of this action to a particular entity, consult James Parker listed under **FOR FURTHER INFORMATION CONTACT**.

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.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

II. Authority

EPA is conducting its registration review of tetrachlorvinphos pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registration for tetrachlorvinphos to ensure that it continues to satisfy the FIFRA standard for registration—that is, that tetrachlorvinphos can still be used without unreasonable adverse effects on human health or the environment. Tetrachlorvinphos is an organophosphate (OP) insecticide used to control nuisance pests (*e.g.* fleas and ticks) on domestic cats and dogs, in addition to livestock, their premises, kennels, poultry houses, barns, and outdoor perimeter treatments. EPA has completed a comprehensive draft human health and ecological risk assessment, including an endangered species assessment, for all tetrachlorvinphos uses.

Pursuant to 40 CFR 155.53(c), EPA is providing an opportunity, through this notice of availability, for interested parties to provide comments and input concerning the Agency's draft human health and ecological risk assessment for tetrachlorvinphos. Such comments and input could address, among other things, the Agency's risk assessment methodologies and assumptions, as applied to this draft risk assessment. The Agency will consider all comments received during the public comment period and make changes, as appropriate, to the draft human health and ecological risk assessment. EPA will then issue a revised risk assessment, explain any changes to the draft risk assessment, and respond to comments. In the **Federal Register** notice announcing the availability of the revised risk assessment, if the revised risk assessment indicates risks of concern, the Agency may provide a comment period for the public to submit suggestions for mitigating the risk identified in the revised risk assessment before developing a proposed registration review decision on tetrachlorvinphos.

The Agency issued a Final Work Plan (FWP) for tetrachlorvinphos in December 2008, and data were called in. The reviews of those data are incorporated into the draft risk assessments. The draft ecological risk assessment identifies potential risks of concern for mammals, birds/reptiles/terrestrial-phase amphibians, and freshwater invertebrates. The draft human health risk assessment identifies potential non-cancer risks for residential and occupational handlers and for certain post-application exposure scenarios. In addition, there is a potential cancer risk for residential post-application exposure scenarios and for occupational handlers. Tetrachlorvinphos was also previously evaluated for its potential to affect endocrine systems in mammals and wildlife and the results of the agency's review are found in the Weight of Evidence review in this registration review docket.

1. *Other related information.* Additional information on tetrachlorvinphos is available on the Pesticide Registration Review Status Web page for this pesticide, *http://iaspub.epa.gov/apex/pesticides/f?p=CHEMICALSEARCH:1.* Information on the Agency's registration review program and its implementing regulation is available at *http://www.epa.gov/oppsrrd1/registration_review.*

2. *Information submission requirements.* Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.
- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision

on the registration review case have been completed.

Authority: 7 U.S.C. 136 *et seq.*

Dated: January 8, 2016.

Michael Goodis,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2016–00849 Filed 1–19–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9941–45–OARM]

Good Neighbor Environmental Board; Notification of Public Advisory Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Public Advisory Committee Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Good Neighbor Environmental Board will hold a public meeting on Wednesday, February 10 and Thursday, February 11, 2016 in Brownsville, TX. The meeting is open to the public.

DATES: The Good Neighbor Environmental Board will hold an open meeting on Wednesday, February 10 from 9:00 a.m. (registration at 8:30 a.m.) to 5:30 p.m. The following day, Thursday, February 11, the Board will meet from 8:30 a.m. (registration at 8:00 a.m.) until 2:00 p.m.

SUPPLEMENTARY INFORMATION:

Background: The Good Neighbor Environmental Board (Board) is a federal advisory committee chartered under the Federal Advisory Committee Act, PL 92463. By statute, the Board is required to submit an annual report to the President and Congress on environmental and infrastructure issues along the U.S. border with Mexico.

Purpose of Meeting: The purpose of this meeting is to begin discussion on the Good Neighbor Environmental Board's Seventeenth Report. The report will focus on climate change resiliency in the U.S.-Mexico border region.

ADDRESSES: The meeting will be held at the Ringgold Civic Pavilion, 501 E Ringgold St., Brownsville, TX 78520. The number is (956) 547–6850. The meeting is open to the public, with limited seating on a first-come, first-serve basis.

General Information: The agenda will be available at *http://www2.epa.gov/faca/gneb.* General information about the Board can be found on its Web site at *http://www2.epa.gov/faca/gneb.* If you wish to make oral comments or submit written comments to the Board, please contact Ann-Marie Gantner at least five days prior to the meeting. Written comments should be submitted Ann-Marie Gantner at *gantner.ann-marie@epa.gov.*

Meeting Access: For information on access or services for individuals with disabilities, please contact Ann-Marie Gantner at (202) 564–4330 or email at *gantner.ann-marie@epa.gov.* To request accommodation of a disability, please contact Ann-Marie Gantner at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

Dated: January 11, 2016.

Ann-Marie Gantner,

Acting Designated Federal Officer.

[FR Doc. 2016–01018 Filed 1–19–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1185]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before March 21, 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, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1185.

Title: Annual Report for Mobility Fund Phase I Support, FCC Form 690 and Record Retention Requirements.

Form Number: FCC Form 690.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local or tribal government.

Number of Respondents and Responses: 34 respondents; 880 responses.

Estimated Time per Response: 1–18 hours.

Frequency of Response: Annual reporting requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in 47 U.S.C. 154, 254 and 303(r) of the Communications Act of 1934, as amended.

Total Annual Burden: 15,874 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality. The information collected on FCC Form 690 will be made available for public inspection. Applicants may request materials or information submitted to the Commission be given confidential treatment under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission uses the information contained in this collection to ensure that each winning bidder is meeting its obligations for receiving Mobility Fund Phase I support. On November 18, 2011, the Federal Communications Commission released a Report and Order in the Universal Service Fund & Intercarrier Compensation Transformation Order

(USF/ICC) proceeding, WC Docket Nos. 10–90, 07–135, 05–337, 03–109; GN Docket No. 09–51; CC Docket Nos. 01–92, 96–45; WT Docket No. 10–208; FCC 11–161. On May 14, 2012, the Commission released the Third Order on Reconsideration of the USF/ICC Report and Order which revised certain Mobility Fund Phase 1 rules. In adopting the rules, the Commission provided for one-time support to immediately accelerate deployment of networks for mobile broadband services in unserved areas. Thus, the information is being collected to meet the objectives of the Universal Service Fund program.

Federal Communications Commission.

Marlene H. Dortch,

Secretary. The Office of the Secretary.

[FR Doc. 2016–00926 Filed 1–19–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1044]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before March 21, 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, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1044.

Title: Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01–338 and WC Docket No. 04–313, Order on Remand.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions and state, local or tribal government.

Number of Respondents: 645 respondents; 645 responses.

Estimated Time per Response: 8 hours.

Frequency of Response: Recordkeeping requirement, third party disclosure requirement and on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 251 of the Telecommunications Act of 1996.

Total Annual Burden: 5,160 hours.

Total Annual Cost: No Cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit or disclose confidential information. However, in certain circumstances, respondents may voluntarily choose to submit confidential information pursuant to applicable confidentiality rules.

Needs and Uses: In the Order on Remand, the Commission imposed unbundling obligations in a more targeted manner where requesting carriers have undertaken their own facilities-based investments and will be using UNEs (unbundled network elements) in conjunction with self-provisioned facilities. The Commission also eliminated the subdelegation of authority to state commissions adopted in the previous order. Prior to the issuance of the Order, the Commission sought comment on issues relating to combinations of UNEs, called ''enhanced extended links'' (EELs), in order to effectively tailor access to EELs to those carriers seeking to provide significant local usage to end users. In the Order, the Commission adopted three specific service eligibility criteria for access to EELs in accordance with Commission rules.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, The Office of the Secretary.

[FR Doc. 2016–00928 Filed 1–19–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-xxxx, 3060–0386, 3060–0837, 3060–0928, 306–0932]

Information Collections Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the

PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before February 19, 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, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: *OMB Control No.:* 3060–xxxx.

Title: Media Bureau Incentive Auction Implementation, Sections 73.3700(b)(4)(i)–(ii), (c), (d), (h)(5)–(6) and (g)(4).

Form No.: N/A.

Type of Review: New information collection.

Respondents: Business or other for-profit entities; Not for profit institutions.

Number of Respondents and Responses: 1,950 respondents and 174,219 responses.

Estimated Time per Response: .004–15 hours.

Frequency of Response: One-time reporting requirement; on occasion reporting requirement; recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in 47 U.S.C. 151, 154, 301, 303, 307, 308, 309, 310, 316, 319, 325(b), 332, 336(f), 338, 339, 340, 399b, 403, 534, 535, 1404, 1452, and 1454.

Total Annual Burden: 24,932 hours.

Annual Cost Burden: $1,214,400.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection.

Needs and Uses: The collection is being made to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's Incentive Auction Order, FCC 14–50, which adopted rules for holding an Incentive Auction, as required by the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). The information gathered in this collection will be used to require broadcasters transitioning to a new station following the Incentive Auction, or going off the air as a result of a winning bid in the Incentive Auction, to notify their viewers of the date the station will terminate operations on its pre-Auction channel by running public service announcements, and allow these broadcasters to inform MVPDs of their relinquishment or change in channel. It requires channel sharing agreements enter into by television broadcast licensees to contain certain provisions regarding access to facilities, financial obligations and to define each party's rights and responsibilities; the Commission will review each channel sharing agreement to ensure it comports with general rules and policies regarding license agreements. The provisions contained in this collection also require wireless licensees to notify low-power television and TV translator stations commence wireless operations and the likelihood of receiving harmful interference from the low power TV or TV translator station to such operations within the wireless licensee's licensed geographic service area. Finally, it requires license relinquishment stations and channel sharing stations to comply with notification and cancellation procedures as they terminate operations on their pre-Auction channel.

OMB Control No.: 3060–0386.

Title: Special Temporary Authorization (STA) Requests; Notifications; and Informal Filings; Sections 1.5, 73.1615, 73.1635, 73.1740 and 73.3598; CDBS Informal Forms; Section 74.788; Low Power Television, TV Translator and Class A Television Digital Transition Notifications; Section 73.3700(b)(5), Post Auction Licensing; Section 73.3700(f), Service Rule Waiver; FCC Form 337.

Form No.: FCC Form 337.

Type of Review: Revision of a currently information collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 6,609 respondents and 6,609 responses.

Estimated Time per Response: .50–4.0 hours.

Frequency of Response: One-time reporting requirement and on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 151, 154(i), 157 and 309(j) as amended; Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, §§ 6402 (codified at 47 U.S.C. 309(j)(8)(G)), 6403 (codified at 47 U.S.C. 1452), 126 Stat. 156 (2012) (Spectrum Act); and Sections 1, 4(i) and (j), 7, 301, 302, 303, 307, 308, 309, 312, 316, 318, 319, 324, 325, 336, and 337 of the Communications Act of 1934, as amended.

Total Annual Burden: 5,475 hours.

Annual Cost Burden: $2,156,510.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The collection is being made to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's Incentive Auction Order, FCC 14–50, which adopted rules for holding an Incentive Auction, as required by the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). The information gathered in this collection will be used to allow television broadcast stations to request special temporary authority (STA) to operate, seek an extension of time to complete construction, request a waiver of the Commission's service rules following the Incentive Auction, and make other informal requests and submissions.

OMB Control No.: 3060–0837.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule B (Former FCC Form 302–DTV).

Form No.: FCC Form 2100, Schedule B.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit entities; Not for profit institutions.

Number of Respondents and Responses: 955 respondents and 955 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: One-time reporting requirement and on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i), 307, 308, 309, and 319 of the Communications Act of 1934, as amended; the Community Broadcasters Protection Act of 1999, Public Law 106–113, 113 Stat. Appendix I at pp. 1501A–594–1501A–598 (1999) (codified at 47 U.S.C. 336(f)); and the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, §§ 6402 (codified at 47 U.S.C. 309(j)(8)(G)), 6403 (codified at 47 U.S.C. 1452), 126 Stat. 156 (2012) (Spectrum Act).

Total Annual Burden: 1,910 hours.

Annual Cost Burden: $460,070.00.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The collection is being made to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's Incentive Auction Order, FCC 14–50, which adopted rules for holding an Incentive Auction, as required by the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). The information gathered in this collection will be used to allow full-power television broadcast stations to file a license to cover an authorized construction permit once facilities have been constructed. In addition, full-power television broadcast stations that enter into channel sharing agreements following the Commission's Incentive Auction will use FCC Form 2100, Schedule B to file an application for a license for the shared channel sharing, and will allow a full-power station, upon termination of its channel sharing agreement, to file an application to change its license to non-shared status using FCC Form 2100, Schedule B.

OMB Control No.: 3060–0928.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule F (Formerly FCC 302–CA); 47 CFR 73.3572(h) and 47 CFR 73.3700(b)).

Form No.: FCC Form 2100, Schedule F.

*Type of Rev*iew: Revision of a currently approved information collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal Government.

Number of Respondents and Responses: 955 respondents and 955 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: One-time reporting requirement and on occasion reporting requirement.

Total Annual Burden: 1,910 hours.

Annual Cost Burden: $300,825.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The collection is being made to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's Incentive Auction Order, FCC 14–50, which adopted rules for holding an Incentive Auction, as required by the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). The information gathered in this collection will be used by Class A stations seeking a license to cover their authorized construction permit facilities and Class A stations entering into a channel sharing agreement.

OMB Control No.: 3060–0932.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule E (Former FCC Form 301–CA); 47 CFR Sections 73.3700(b)(1)(i)–(v) and (vii), (b)(2)(i) and (ii); 47 CFR Section 74.793(d).

Form No.: FCC Form 2100, Schedule E (Application for Media Bureau Audio and Video Service Authorization) (Former FCC Form 301–CA).

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 725 respondents and 725 responses.

Estimated Time per Response: 2.25 hours–6 hours (for a total of 8.25 hours).

Frequency of Response: One-time reporting requirement; On occasion reporting requirement; Third party disclosure requirement; Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 151, 154(i), 157 and 309(j) as amended; Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, §§ 6402 (codified at 47 U.S.C. 309(j)(8)(G)), 6403 (codified at 47 U.S.C. 1452), 126 Stat. 156 (2012) (Spectrum Act) and the Community Broadcasters Protection Act of 1999.

Total Annual Burden: 5,981 hours.

Annual Cost Burden: $3,949,550.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The collection is being made to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's Incentive Auction Order, FCC 14–50, which adopted rules for holding an Incentive Auction, as required by the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). The information gathered in this collection will be used allow Class A television stations to make changes in their authorized facilities. Specifically, Class A stations assigned to a new channel following the Incentive Auction must file a minor change application on FCC Form 2100, Schedule E following release of the Channel Reassignment Public Notice. Under certain circumstances, licensees of stations reassigned to a new channel within their existing band to propose transmission facilities in their construction permit applications that will extend their coverage contours. In addition, there will be a priority processing window for licensees of reassigned stations, UHF-to-VHF stations, or High-VHF-to-Low-VHF stations that, for reasons beyond their control, are unable to construct facilities that meet the technical parameters specified in the Channel Reassignment Public Notice, or the permissible contour coverage variance from those technical parameters specified in section 73.3700(b)(1)(ii) or (iii). Channel sharee stations file a minor change application for a construction permit for the channel on which the channel sharer operates at least sixty (60) days prior to the date by which it must terminate operations on its pre-auction channel and must include a copy of the channel sharing agreement. In addition, subject to limitations set out in the rules, a Class A licensee of a reassigned station, a UHF-to-VHF station, or a High-VHF-to-Low-VHF station may file a minor change application for a construction permit on FCC Form 2100 Schedule E during a filing window to be announced by the Media Bureau by public notice, in order to request a change in the technical parameters specified in the Channel Reassignment Public Notice with respect to height above average terrain (HAAT), effective radiated power (ERP), or transmitter location that would be considered a minor change under sections 73.3572(a)(1), (2) or 74.787(b). FCC

Form 2100, Schedule E is also being modified to accommodate new channel sharing provisions.

The Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2016–00927 Filed 1–19–16; 8:45 am]

BILLING CODE 6712–01–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 February 3, 2016.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Gerald O'Neill Norman, Lois Ann Garrard Norman, Deborah Norman Lewis, Gerald O'Neill Norman Jr., Caleb Michael Free, Derek Norman Free, all of Washington, Georgia; and Joyce M. Norman, Dacula, Georgia;* to retain shares of Washington Wilkes Holding Company, and thereby retain shares of F & M Bank, both of Washington, Georgia.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Mr. James J. Dolan, Naples, Florida as an individual and as trustee of Royston Road Trust and JJD 2012 Family Trust; and SAMAC, LLC, as a group acting in concert;* to acquire shares of Northwest Bancorporation of Illinois, and thereby indirectly acquire control of First Bank and Trust Company of Illinois, both in Palatine, Illinois.

C. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Notice by Janice A. Hendrix, Horatio, Arkansas, as trustee of the Janice A. Hendrix Revocable Trust, and as a member of the Hendrix family control group;* to retain voting shares of Pioneer Bancshares, Inc. of Horatio, Arkansas, and thereby retain shares of Horatio State Bank, both of Horatio, Arkansas.

Board of Governors of the Federal Reserve System, January 14, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–00973 Filed 1–19–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice of Meeting

TIME AND DATE: 8:30 a.m. (Eastern Time) January 25, 2016.

PLACE: 10th Floor Board Meeting Room, 77 K Street NE., Washington, DC 20002.

STATUS: Parts will be open to the public and parts closed to the public.

MATTERS TO BE CONSIDERED:

Parts Open to the Public

1. Approval of the Minutes of the December 14, 2015 Board Member Meeting
2. Monthly Reports
   (a) Participant Activity Report
   (b) Legislative Report
3. Quarterly Reports
   (a) Investment Policy Report
   (b) Vendor Financials
   (c) Budget Review
   (d) Project Activity
   (e) Audit Status
4. Audit Report
5. Annual Expense Ratio Review
6. 2016 Calendar Review

Parts Closed to the Public

7. Semi-Annual OGC Litigation Review
8. Security
9. Personnel

CONTACT PERSON FOR MORE INFORMATION: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: January 14, 2016.

Megan Grumbine,

Deputy General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2016–01105 Filed 1–15–16; 11:15 am]

BILLING CODE 6760–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0027; Docket 2015–0055; Sequence 22]

Submission for OMB Review; Value Engineering Requirements

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension of a previously existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Value Engineering Requirements. A notice was published in the **Federal Register** at 80 FR 60684 on October 7, 2015. No comments were received.

DATES: Submit comments on or before February 19, 2016.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0027, Value Engineering Requirements''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0027, Value Engineering Requirements'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0027, Value Engineering Requirements.

Instructions: Please submit comments only and cite Information Collection 9000–0027, Value Engineering Requirements, in all correspondence

related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, Contract Policy Division, GSA, 202–501–1448 or email at *curtis.glover@gsa.gov*.

A. Purpose

Per Federal Acquisition Regulation Part 48, value engineering is the technique by which contractors (1) voluntarily suggest methods for performing more economically and share in any resulting savings or (2) are required to establish a program to identify and submit to the Government methods for performing more economically. These recommendations are submitted to the Government as value engineering change proposals (VECP's) and they must include specific information. This information is needed to enable the Government to evaluate the VECP and, if accepted, to arrange for an equitable sharing plan.

B. Annual Reporting Burden

Respondents: 3,200.
Responses per Respondent: 2.
Annual Responses: 3,200.
Hours per Response: 15.
Total Burden Hours: 48,000.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0027, Value Engineering Requirements, in all correspondence.

Dated: January 13, 2016.

Lorin S. Curit,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2016–00988 Filed 1–19–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0132; Docket 2016–0053; Sequence 1]

Information Collection; Contractors' Purchasing Systems Reviews

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning contractors' purchasing systems reviews.

DATES: Submit comments on or before March 21, 2016.

ADDRESSES: Submit comments identified by Information Collection 9000–0132, Contractors' Purchasing Systems Reviews, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0132, Contractors' Purchasing Systems Reviews''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0132, Contractors' Purchasing Systems Reviews'' on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0132, Contractors' Purchasing Systems Reviews.

Instructions: Please submit comments only and cite Information Collection 9000–0132, Contractors' Purchasing Systems Reviews, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Mahruba Uddowla, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, 703–605–2868 or email at *mahruba.uddowla@gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The objective of a contractor purchasing system review (CPSR), as discussed in Part 44 of the FAR, is to evaluate the efficiency and effectiveness with which the contractor spends Government funds and complies with Government policy when subcontracting. The review provides the administrative contracting officer (ACO) a basis for granting, withholding, or withdrawing approval of the contractor's purchasing system.

B. Annual Reporting Burden

Number of Respondents: 1,580.
Responses per Respondent: 1.
Total Responses: 1,580.
Average Burden per Response: 25.
Total Burden Hours: 39,500.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulation (FAR), and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration,

Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0132, Contractors' Purchasing Systems Reviews, in all correspondence.

Dated: January 13, 2016.

Lorin S. Curit,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2016–00989 Filed 1–19–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–16–1076; Docket No. CDC–2016–0009]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on the proposed revision of the information collection entitled ''Division of Community Health (DCH) Training and Technical Assistance: Needs Assessment and Satisfaction Surveys''.

DATES: Written comments must be received on or before March 21, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0009 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

Division of Community Health (DCH) Training and Technical Assistance: Needs Assessment and Satisfaction Surveys (OMB No. 0920–1076, exp. 7/31/2017)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC), Division of Community Health (DCH), requests OMB approval to revise an ongoing information collection. The original information collection plan was based on two needs assessments conducted with DCH awardees at two different time points. In the proposed Revision, CDC describes plans to assess awardee satisfaction with the training and technical assistance (TA) being provided to them, in lieu of conducting the second needs assessment. The project title is being revised to reflect changes in the information collection plan. The original project title was ''DCH Awardee Training Needs Assessment.''

In 2014, DCH announced the availability of funding for two cooperative agreement programs authorized by the Public Health Service Act: Partnerships for Community Health (PICH) and Racial and Ethnic Approaches to Community Health (REACH). The REACH cooperative agreement is financed in part by the Prevention and Public Health Fund of the Affordable Care Act. The cooperative agreements are designed to address chronic diseases and risk factors for chronic diseases, including physical inactivity, poor diet, obesity, and tobacco use. These risk factors contribute to chronic conditions such as heart disease, cancer, diabetes, and obesity. Over three-year funding periods, PICH and REACH awardees are providing support for implementation of broad, evidence- and practice-based policy and environmental improvements in large and small cities, urban and rural areas, tribes, multi-sector community coalitions, and racial and ethnic communities experiencing chronic disease disparities. PICH and REACH awardees include a mix of state,

local, and tribal government entities as well as organizations based in the private sector.

DCH engaged contractors to provide training and TA services to PICH and REACH awardees on a variety of topics. ICF International provides training and TA on program implementation and sustainability (ICF–P), and also on evaluation (ICF–E); and FHI 360 provides training and TA related to communications (*e.g.,* public education campaigns, social marketing, and using digital and social media). Services are provided in a variety of formats including in-person TA, phone-based TA, and in-person and online training.

The original information collection plan involved two needs assessments designed to inform the delivery of training and TA services. The first needs assessment was conducted in 2015 and the second was scheduled for fall 2016. CDC has since determined that program management will be better informed by an assessment of awardee satisfaction with the training and TA services being provided than an additional needs assessment. As a result, the needs assessment scheduled for fall 2016 will be replaced with new surveys designed to assess the extent to which training and TA provided through the ICF–P, ICF–E and FHI 360 contracts are being delivered as intended; to assess DCH awardees' satisfaction with the services they receive and the usefulness of provided services; and to inform improvement to training and TA services.

The two questions guiding this assessment of training and TA are: (1) How satisfied are DCH awardees with the TA services they receive?; and (2) Do the customers of DCH, who receive TA services, consider these services to be beneficial to them as they develop capacity to move forward in implementing their community health interventions? Survey instruments include questions to assess the following dimensions of training and TA:

- Accessibility—awardees' experience with acquiring training and TA in the various formats (*e.g.,* in-person, phone-based, Web-based);
- Usefulness—perceptions about the relevance of provided training and TA, and whether it provides helpful guidance for implementing and/or evaluating community health interventions and fits with the unique contexts in which awardees work;
- Utilization—whether and how awardees have actually used available training and TA services, or whether awardees plan to apply the training and TA received to their community health work.
- Quality—opinions about the clarity, organization, visible appeal, credibility, and user-friendliness of training and TA services; and
- Areas for Improvement—recommendations for enhancing the content, delivery and format of training and TA, suggestions for increasing awareness about available services, and recommendations for addressing training and TA gaps.

Three web-based survey instruments have been developed to support revised goals. The questions on each instrument are tailored to the type of training or TA service provided to DCH awardees (in-person technical assistance, phone-based technical assistance, or in-person or online training). Information collection will be open for approximately three months in spring/summer 2016. Respondents will be a convenience sample of REACH and PICH awardees who receive training and TA within the data collection period. Based on DCH records of the training and TA services provided to date, CDC estimates up to 40 respondents per survey.

Completion of the training and TA surveys will provide a rich set of information that can be used for planning purposes and to ensure that DCH is responsive to the training needs of awardees, is proactive in improving support, and provides support in the format(s) most useful to awardees. Findings will help DCH ensure that it provides support that awardees perceive to be accessible, useful, and of high quality. The information will be used by DCH in aggregate.

OMB approval is requested until the current expiration date of July 31, 2017. The revised information collection plan will result in reductions in the number of responses and burden hours. Participation is voluntary and there are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hr)	Total burden (in hr)
Private Sector Respondents Associated with PICH or REACH Awards.	In-Person Technical Assistance Survey.	20	1	20/60	7
	Phone Technical Assistance Survey.	20	1	20/60	7
	In-Person/Online Training Survey.	20	1	20/60	7
State/Local/Tribal Government Sector Respondents Associated with PICH or REACH Awards.	In-Person Technical Assistance Survey.	20	1	20/60	7
	Phone Technical Assistance Survey.	20	1	20/60	7
	In-Person/Online Training Survey.	20	1	20/60	7
Total					42

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. 2016–00940 Filed 1–19–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–16–0850]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Background and Brief Description

Laboratory Response Network, (OMB Control Number 0920–0850, expires April 30, 2016)—Extension—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Laboratory Response Network (LRN) was established by the Department of Health and Human Services (HHS), Centers for Disease Control and Prevention (CDC) in accordance with Presidential Decision Directive 39, which outlined national anti-terrorism policies and assigned specific missions to Federal departments and agencies. The LRN's mission is to maintain an integrated national and international network of laboratories that can respond to suspected acts of biological, chemical, or radiological threats and other public health emergencies.

When Federal, State and local public health laboratories voluntarily join the LRN, they assume specific responsibilities and are required to provide information to the LRN Program Office at CDC. Each laboratory must submit and maintain complete information regarding the testing capabilities of the laboratory. Biennially, laboratories are required to review, verify and update their testing capability information. Complete testing capability information is required in order for the LRN Program Office to determine the ability of the Network to respond to a biological or chemical threat event. The sensitivity of all information associated with the LRN requires the LRN Program Office to obtain personal information about all individuals accessing the LRN Web site. In addition, the LRN Program Office must be able to contact all laboratory personnel during an event so each laboratory staff member that obtains access to the restricted LRN Web site must provide his or her contact information to the LRN Program Office.

As a requirement of membership, LRN Laboratories must report all biological and chemical testing results to the LRN Program at CDC using a CDC developed software tool called the LRN Results Messenger. This information is essential for surveillance of anomalies, to support response to an event that may involve multiple agencies and to manage limited resources. LRN Laboratories must also participate in and report results for Proficiency Testing Challenges or Validation Studies. LRN Laboratories participate in multiple Proficiency Testing Challenges, Exercises and/or Validation Studies every year consisting of five to 500 simulated samples provided by the LRN Program Office. It is necessary to conduct such challenges in order to verify the testing capability of the LRN Laboratories. The rarity of biological or chemical agents perceived to be of bioterrorism concern prevents some LRN Laboratories from maintaining proficiency as a result of day-to-day testing. Simulated samples are therefore distributed to ensure proficiency across the LRN. The results obtained from testing these simulated samples must also be entered into Results Messenger for evaluation by the LRN Program Office.

During a surge event resulting from a bioterrorism or chemical terrorism attack, LRN Laboratories are also required to submit all testing results using LRN Results Messenger. The LRN Program Office requires these results in order to track the progression of a bioterrorism event and respond in the most efficient and effective way possible and for data sharing with other Federal partners involved in the response. The number of samples tested during a response to a possible event could range from 10,000 to more than 500,000 samples depending on the length and breadth of the event. Since there is potentially a large range in the number of samples for a surge event, CDC estimates the annualized burden for this event will be 2,250,000 hours or 625 responses per respondent.

The requalification occurred between October 24, 2014 and November 7, 2014. We had 122 domestic LRN labs tasked with completing the requalification. We had a 90% response rate.

We conducted LRN proficiency testing (PT). The purpose of PT is to simulate real samples for labs that would not have regularly performed some of the LRN procedures. Having the ability to conduct LRN PTs under OMB approval has led to improved laboratory performance and better preparedness. In FY13, the PT passing rate was 89%, which improved to 96% in FY14 and 97% in FY15.

There is no cost to the respondents other than their time. The total estimated annualized burden is 2,382,300 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Average number of responses per respondent	Average burden per response (hours)
Public Health Laboratories	Biennial Requalification	150	1	2
Public Health Laboratories	General Surveillance Testing Results	150	25	24
Public Health Laboratories	Proficiency Testing/Validation Testing Results.	150	5	56
Public Health Laboratories	Surge Event Testing Results	150	625	24

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. 2016–00955 Filed 1–19–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–16–1074; Docket No. CDC–2016–0006]

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 information collection project entitled ''Colorectal Cancer Control Program CRCCP) Monitoring Activities''. CDC is requesting a reinstatement with change of OMB No. 0920–1074 to include a redesigned survey and a new clinic-level data collection.

DATES: Written comments must be received on or before March 21, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0006 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

Colorectal Cancer Control Program (CRCCP) Monitoring Activities—(OMB No. 0920–1074, exp. 12/31/2015)—Reinstatement with Change—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is requesting a reinstatement with change of the information collection with the OMB Control number 0920–1074, formerly entitled ''Annual Survey of Colorectal Cancer Control Activities Conducted by States and Tribal Organizations.'' In the previous OMB approval period, information collection consisted of an annual grantee survey. In the next OMB approval period, information collection will consist of a redesigned survey and a new clinic-level data collection. The number of respondents will increase and the total estimated annualized burden will increase.

Among cancers that affect both men and women, colorectal cancer (CRC) is

the second leading cause of death from cancer in the United States. CRC screening has been shown to reduce incidence of and death from the disease. Screening for CRC can detect disease early when treatment is more effective and prevent cancer by finding and removing precancerous polyps. Of individuals diagnosed with early stage CRC, more than 90% live five or more years. Despite strong evidence supporting screening, only 65% of adults currently report being up-to-date with CRC screening as recommended by the U.S. Preventive Services Task Force, with more than 22 million age-eligible adults estimated to be untested. To reduce CRC morbidity, mortality, and associated costs, use of CRC screening tests must be increased among age-eligible adults with the lowest CRC screening rates.

CDC's Colorectal Cancer Control Program (CRCCP) currently provides funding to 31 grantees under ''Organized Approaches to Increase Colorectal Cancer Screening'' (CDC–RFA–DP15–1502). CRCCP grantees include state governments or bona-fide agents, universities, and tribal organizations. The purpose of the new cooperative agreement program is to increase CRC screening rates among an applicant defined target population of persons 50–75 years of age within a partner health system serving a defined geographical area or disparate population.

The CRCCP was significantly redesigned in 2015 and has two components. Under Component 1, all 31 CRCCP grantees receive funding to support partnerships with health systems to implement up to four priority evidence-based interventions (EBIs) described in the Guide to Community Preventive Services, as well as other supporting strategies. Grantees must implement at least two EBIs in each partnering health system. Under Component 2, 6 of the 31 CRCCP grantees will provide direct screening and follow-up clinical services for a limited number of individuals aged 50–64 in the program's priority population who are asymptomatic, at average risk for CRC, have inadequate or no health insurance for CRC screening, and are low income

Based on the redesigned CRCCP, the information collection plan has also been redesigned to address the two program components. The new cooperative agreement program (CDC–RFA–DP15–1502) requires that CDC monitor and evaluate the CRCCP and individual grantee performance using both process and outcome evaluation. Two forms of data collection are proposed. First, the CRCCP grantee survey was redesigned to align with new CRCCP goals. The grantee survey will be submitted to CDC annually. Second, CDC proposes to collect clinic-level data to assess changes in CDC's primary outcome of interest, *i.e.,* CRC screening rates within partner health systems. Each grantee will complete a clinic-level data template once per month. All information will be reported to CDC electronically.

The information collection will enable CDC to gauge progress in meeting CRCCP program goals and to monitor implementation activities, evaluate outcomes, and identify grantee technical assistance needs. In addition, findings will inform program improvement and help identify successful activities that need to be maintained, replicated, or expanded.

OMB approval is requested for three years. Participation is required for CRCCP awardees. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hr)	Total burden (in hr)
CRCCP Grantees	CRCCP Annual Grantee Survey.	31	1	45/60	23
	CRCCP Clinic-level Data Collection Template.	31	12	30/60	186
Total					209

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. 2016–00939 Filed 1–19–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–16–1061; Docket No. CDC–2016–0008]

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 Behavioral Risk Factor Surveillance System (BRFSS), a state-level survey of health risk behaviors and chronic health conditions. Survey questions are updated each year. The information collection is being revised to incorporate an annual field test of proposed changes prior to their implementation on a broad scale.

DATES: Written comments must be received on or before March 21, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0008 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

Behavioral Risk Factor Surveillance System (BRFSS) (OMB No. 0920–1061, exp. 3/31/2018)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Behavioral Risk Factor Surveillance System (BRFSS) is a CDC-sponsored system of cross-sectional telephone health surveys concerning individual health risk behaviors, health conditions, and preventive health practices that are associated with chronic diseases, infectious diseases, and injury. The BRFSS is administered annually by health departments in states, territories, and the District of Columbia (collectively referred to as states). An independent sample of respondents is drawn for each state. The system is designed to produce information that is specific to the public health needs of each participating jurisdiction, and for many is the only source of health risk data amenable to their uses. Although national estimates of some health risk behaviors are available, the methods used to produce national estimates do not typically produce the type of detailed information needed to plan and implement public health programs; moreover, national estimates provide only limited insight into regional or state-specific variability in health status and risk factors. Over time the BRFSS has developed into an important data collection system that federal agencies rely on for state and local health information and to track national health objectives such as Healthy People. Through the BRFSS partnership, CDC has established standard protocols for BRFSS data collection which all states are encouraged to adopt. These standards allow for state-to-state data comparisons as well as comparisons over time.

The BRFSS questionnaire is based on modular design principles to accommodate a variety of state-specific needs within a common framework. All participating states are required to administer a standardized core questionnaire which provides a set of shared health indicators for all BRFSS partners. The BRFSS core questionnaire consists of fixed core, rotating core, and emerging core questions. Fixed core questions are asked every year. Rotating core questions cycle on and off the core questionnaire during even or odd years, depending on the question. Emerging core questions are included in the core questionnaire as needed to collect data on urgent or emerging health topics such as influenza.

In addition, the BRFSS includes a series of optional modules on a variety of topics. In off-years when the rotating questions are not included in the core questionnaire, they are offered to states as an optional module. This framework allows each state to produce a customized BRFSS survey by appending selected optional modules to the core survey. States may select which, if any, optional modules to administer. As needed, CDC provides technical and methodological assistance to state BRFSS coordinators in the construction of their state-specific surveys.

The CDC and BRFSS partners produce a new set of state-specific BRFSS questionnaires each calendar year (*i.e.,* 2016 BRFSS questionnaires, 2017 BRFSS questionnaires, etc.). CDC submits an annual Change Request to OMB outlining updates to the BRFSS core survey and optional modules that have occurred since the previous year. Each state administers its BRFSS questionnaire throughout the calendar year. The BRFSS partnership thus results in a flexible, coordinated information collection system that is adaptive to national and state-specific needs.

The current estimated average burden for the core BRFSS interview is 15 minutes. For the optional modules, the estimated average burden per response varies by state and year, but is currently estimated at an additional 15 minutes. Finally, the BRFSS allows states to customize some portions of the questionnaire through the addition of state-added questions, which are neither reviewed nor approved by the CDC. State-added questions are not included in CDC's burden estimates.

CDC periodically updates the BRFSS core survey and optional modules as new modules or emerging core

questions are adopted. The purpose of this Revision request is to incorporate field testing into the approved information collection plan.

Field testing is the final check of changes in the questionnaire which have occurred in the preceding year. Field testing is conducted in a manner that mimics the full-scale project protocol, to the degree that is feasible. Field testing is the final means by which changes are made in data collection methods and data collection software is tested. Field tests are used to identify problems with instrument documentation or instructions, problems with conditional logic (*e.g.,* skip patterns), software errors or other implementation and usability issues. Field testing is conducted with all new modules, emerging core questions, sections which precede and/or follow any new or changed items and extant sections which are topically related. This testing is conducted to ensure that questions are not perceived as redundant or overlapping. Extant sections of the questionnaire unrelated to new items do not require testing. The demographic questions on the core BRFSS survey are included on each field test.

Since the field test instrument changes annually, it will be submitted to OMB for approval as an additional Change Request prior to implementation. Field tests are typically conducted in a single state with appropriate computer-assisted telephone interview (CATI) capability. Individuals who participate in field testing are drawn from a different sample than individuals who participate in the BRFSS surveys.

The BRFSS was initially approved with annualized estimates of 1,643,227 responses and 255,915 burden hours inclusive of the core survey and optional modules. CDC is requesting an additional allocation of 900 responses and 9,210 burden hours to conduct the annual field test. After a brief screening interview, approximately 400 respondents per year will be determined ineligible or will decline to participate. The estimated burden per response for these respondents is one minute. An additional 500 respondents will participate in both the screening interview and the actual field test. The estimated burden for these respondents is 45 minutes. In years when fewer new questions and/or changes are proposed to the BRFSS questionnaire, field testing will impose a lesser burden. The revised total annualized estimates are 1,644,127 responses and 265,125 burden hours.

Information collection is conducted primarily to support state and local health departments, which plan and evaluate public health programs at the state or sub-state level. Information collected through the BRFSS is also used by the federal government and other entities. Participation in the BRFSS and its field test is voluntary and 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	Average burden per response (in hr)	Total burden (in hr)
U.S. General Population	Landline Screener	440,486	1	1/60	7,341
	Cell Phone Screener	223,334	1	1/60	3,722
	Field Test Screener	400	1	1/60	7
Annual Survey Respondents(Adults >18 Years).	BRFSS Core Survey	494,650	1	15/60	123,662
	BRFSS Optional Modules	484,757	1	15/60	121,189
Field Test Respondents(Adults >18 Years)	Field Test Survey	500	1	45/60	375
Total					256,296

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. 2016–00938 Filed 1–19–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–16–16JO; Docket No. CDC–2016–0005]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on the proposed information collect project entitled ''The Pregnancy Risk Assessment Surveillance System''.

DATES: Written comments must be received on or before March 21, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0005 by any of the following methods:

Federal eRulemaking Portal: Regulation.gov. Follow the instructions for submitting comments.

Mail: Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to Regulations.gov, including any personal information provided. For access to the docket to read background documents or comments received, go to Regulations.gov.

Please note: All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov*.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

The Pregnancy Risk Assessment Monitoring System (PRAMS)—Existing Collection in Use without an OMB Control Number—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) seeks OMB approval to collect information through the Pregnancy Risk Assessment Monitoring System (PRAMS) for three years. The PRAMS is a customized mail and telephone survey currently conducted by 41 sites (40 states and New York City) collectively called ''states'' or ''jurisdictions'' in this document. In 2016 PRAMS intends to expand to all 50 states.

PRAMS supplements vital records data by providing state-specific information on maternal behaviors and experiences. Respondents are pregnant or postpartum women. Every month, in each participating state, a sample of 100 to 300 women who have recently given birth to a live infant is selected from birth certificates. The sample is stratified based on the state's population of interest to ensure high-risk populations are represented in the data. Information is collected by self-administered mail survey with telephone follow-up for non-responders. Because PRAMS uses standardized data collection methods, it allows data to be compared among states.

The PRAMS survey instrument is based on a core set of questions common across all states. Core questions request information that is not available from vital records; information about health conditions, prenatal care, postpartum care, access to care, or health insurance status; information about contraception, health habits or risk behaviors; and information about other topics such as breastfeeding. In addition, CDC provides participating states with standard but optional questions that states may use to customize survey content for their specific needs. These questions can be used to address state-specific priorities, or address special topics such history of breast and ovarian cancer. States not intending to implement the survey on an ongoing basis, can instead employ a point-in-time survey consisting of core and standard questions. Increasingly, PRAMS infrastructure is used to support emerging needs and special-purpose information collection relevant to the core mission of improving maternal and child health. For example, pregnant or postpartum women may have unique needs in some circumstances, such as disease outbreaks or natural disasters. Because PRAMS infrastructure was developed to access a specific and vulnerable subpopulation, the PRAMS infrastructure can be rapidly adapted for targeted information collection that would not be feasible with other surveillance methods.

States submit their PRAMS data sets to CDC for cleaning and weighting, and CDC returns the data sets to the respective state of origin for its use. CDC has implemented a Web-based data collection and management system that enhances authorized users' ability to monitor and improve survey operations in real time and survey participants to complete a survey online via mobile devices. The system also enhances the ability of CDC and states to conduct additional information collection related to surveillance of a vulnerable population, emerging needs for maternal and child health program planning, or special purpose studies designed to elucidate factors that influence material and child health.

PRAMS data are used by state governments to plan and review preconception and perinatal health programs and policies aimed at reducing health problems among mothers and babies, and by researchers to investigate emerging issues in the field of reproductive health.

The burden estimate for PRAMS includes two types of information collection: (1) Information collection associated with the standard PRAMS core questions, and (2) information collection associated with supplemental activities. Participation is voluntary and 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	Average burden per response (in hrs)	Total burden (in hrs)
Women of child-bearing age who recently delivered a live born infant.	PRAMS Core and Standard Phase 8 Questions (English).	50,150	1	25/60	20,896

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs)	Total burden (in hrs)
	PRAMS Core and Standard Phase 8 Questions (Spanish).	6,054	1	34/60	3,431
	PRAMS Point in Time Core and Standard Phase 8 Questions.	5,200	1	24/60	2,080
	PRAMS Supplemental Questions on Family History of Breast and Ovarian Cancer.	8,000	1	15/60	2,000
Total					28,407

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. 2016–00936 Filed 1–19–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–16–0853; Docket No. CDC–2016–0007]

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 revision of the ''Asthma Information Reporting System (AIRS)'' information collection plan. The purpose of AIRS is to collect performance measure and surveillance data spreadsheets designed to increase the efficiency and effectiveness of state asthma programs and to monitor the impact of the state and national programs.

DATES: Written comments must be received on or before March 21, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0007 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

Asthma Information and Reporting System (AIRS)—(OMB Control No. 0920–0853; exp. 05/31/2016)—Revision—National Center for Environmental Health (NCEH), Centers

for Disease Control and Prevention (CDC).

Background and Brief Description

In 1999, the CDC began its National Asthma Control Program (NACP), a population-based public health approach to address the burden of asthma. The program supports the goals and objectives of ''Healthy People 2010'' for asthma and is based on the public health principles of surveillance, partnerships, interventions, and evaluation. The CDC requests to revise the ''Asthma Information and Reporting System (AIRS)'' (OMB Control No. 0920–0853; expiration date 5/31/2016). The goal of this data collection is to provide NCEH with routine information about the activities and performance of the state and territorial awardees funded under the NACP through an annual reporting system. As regular reporting of this information is a requirement of the cooperative agreement mechanism utilized to fund state asthma control programs, a three-year extension for PRA clearance is requested.

This data collection was first approved by OMB in 2010 to collect data in a Web-based system to monitor and guide participating state health departments. Since implementation in 2010, AIRS and the technical assistance provided by CDC staff have provided states with uniform data reporting methods and linkages to other states' asthma programs and data. Thus, AIRS has saved state resources and staff time when asthma programs embark on asthma activities similar to those done elsewhere. Furthermore, access to standardized surveillance and programmatic data allows CDC to provide timely and accurate responses to the public and Congress regarding the NACP (*e.g.,* trends in rates of hospital discharges and emergency department visits, how many states have asthma interventions targeting schools or day care facilities, etc.). In the past three-years, AIRS data were used to:

- Serve as a resource to the branch, division, and center when addressing congressional, departmental and institutional inquiries;
- Help the branch align its current interventions with CDC goals and allowed the monitoring of progress toward these goals;
- Allow the NACP and the state asthma programs to make more informed decisions about activities to achieve objectives;
- Facilitate communication about interventions across states, and enable inquiries regarding interventions by populations with a disproportionate burden, age groups, geographic areas and other variables of interest.

Aggregated data from AIRS was presented at the 2015 State Asthma Grantee in Atlanta for the purposes of providing feedback to the state programs, clarifying CDC's expectations of the awardees and obtaining feedback from the awardees to CDC on the measures and the process of submitting information. Also, a presentation about the performance measurement development and implementation process was given in Chicago at the 2015 American Evaluation Association (AEA) annual meeting.

A revision is necessary because: (1) The Web-based reporting platform is no longer supported by CDC; (2) in collaboration with state asthma programs, reporting requirements have been prioritized to provide specific information on the two main strategies in the FOA: Services (home visits and school-based self-management education) and services strategies (improving quality of medical management, improving referrals to and communication with school and home-based providers and increasing provision or reimbursement for non-clinical asthma services by health plans); and (3) CDC now endorses limiting state program reporting to once a year. AIRS also includes forms to collect aggregate emergency department (ED) visit and hospital discharge (HD) data from awardees. As in the previous version of AIRS, NACP requires awardees to report hospital discharge and emergency department visit counts by 19 age groups to permit age adjusted rates and thus monitor the state programs' performance in reducing the burden of asthma. Specifically, CDC seeks to make the following changes:

- Rather than using the web-based system, state awardees will use AIRS Excel spreadsheets to report CDC-developed outcome performance measures.
- The performance measures will be collected annually, rather than biannually as previously approved.

There will be no cost for respondents other than the time taken to complete the 3 three AIRS spreadsheets. With this revision, the number of awardees has been reduced from 34 to 23 states, and the total estimated annual burden hours are reduced from 288 to 82 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
State Asthma Program Awardees	AIRS Reporting Spreadsheets.	23	1	2.5	58
	Emergency Department Visits Reporting Forms.	23	1	30/60	12
	Hospital Discharge Reporting Forms.	23	1	30/60	12
Total					82

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. 2016–00937 Filed 1–19–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10333 and CMS–10526]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by *February 19, 2016.*

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR,* Email: *OIRA_submission@omb.eop.gov*.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

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. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Consumer Assistance Program Grants; *Use:* Section 1002 of the Affordable Care Act provides for the establishment of consumer assistance (or ombudsman) programs, starting in FY 2010. Federal grants will support these programs. These programs will assist consumers with filing complaints and appeals, assist consumers with enrollment into health coverage, collect data on consumer inquiries and complaints to identify problems in the marketplace, educate consumers on their rights and responsibilities, and with the establishment of the new Exchange marketplaces, resolve problems with premium credits for Exchange coverage. Importantly, these programs must provide detailed reporting on the types of problems and questions consumers may experience with health coverage, and how these problems and questions are resolved. In order to strengthen oversight, the law requires programs to report data to the Secretary of the Department of Health and Human Services (HHS) ''As a condition of receiving a grant under subsection (a), an office of health insurance consumer assistance or ombudsman program shall be required to collect and report data to the Secretary on the types of problems and inquiries encountered by consumers'' (Sec. 2793 (d)). Analysis of this data reporting will help identify patterns of practice in the insurance marketplaces and uncover suspected patterns of noncompliance. HHS must share program data reports with the Departments of Labor and Treasury, and State regulators. Program data also can offer CCIIO one indication of the effectiveness of State enforcement, affording opportunities to provide technical assistance and support to State insurance regulators and, in extreme cases, inform the need to trigger federal enforcement. *Form Number:* CMS–10333 (OMB Control Number: 0938–1097); *Frequency:* Annually, Quarterly; *Affected Public:* Private Sector: State, Local, or Tribal Governments; *Number of Respondents:* 51; *Total Annual Responses:* 459; *Total Annual Hours:* 9,588. (For policy questions regarding this collection contact Lateefa Dawkins at 301–492–4262.)

2. *Type of Information Collection Request:* Revision of a previously approved collection of information; *Title of Information Collection:* Cost Sharing Reduction Reconciliation; *Use:* Under established Department of Health and Human Services (HHS) regulations, qualified health plan (QHP) issuers will receive estimated advance payments of cost-sharing reductions throughout the year. Each issuer will then be subject to a reconciliation process at the end of the benefit year to ensure that each issuer is reimbursed only for cost sharing reductions provided. This revised collection establishes the data elements that a QHP issuer would be required to report to HHS in order to establish the cost-sharing reductions provided on behalf of enrollees for the benefit year. Comments submitted during the 60-day comment period were addressed in a Response to Comments document. *Form Number:* CMS–10526 (OMB Control Number: 0938–1266); *Frequency:* Annually; *Affected Public:* Private Sector (business or other for-profits); *Number of Respondents:* 295; *Total Annual Responses:* 4,000,000; *Total Annual Hours:* 2,470. (For policy

questions regarding this collection contact Patricia Meisol at 410–786–1917.)

Dated: January 14, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–00994 Filed 1–19–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: National Medical Support Notice.

OMB No.: 0970–0222.

Description: The National Medical Support Notice (NMSN) is a two-part document completed by state child support enforcement agencies, employers, and health plan administrators to enforce health care coverage provisions in a child support order. The Department of Health and Human Services (DHHS) developed and maintains Part A of the NMSN, which is sent to an obligor's employer for completion; the Department of Labor (DOL) developed and maintains Part B of the NMSN, which is provided to health care administrators following completion of Part A.

The Administration for Children and Families is resubmitting an unchanged information collection package and requesting an extension to the current OMB approval of NMSN Part A. The NMSN Part A expiration dates will be synchronize with the expiration date of NMSN Part B.

Respondents: State child support enforcement agencies, employers, and health plan administrators.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
National Medical Support Notice—Part A—Notice to Withhold for Health Care Coverage	54	97,775	0.17	897,574.50
Estimated Total Annual Burden Hours:				897,574.50

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington DC 20201. Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments 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) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2016–00889 Filed 1–19–16; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.676]

Announcement of the Award a Single-Source Program Expansion Supplement Grant to BCFS Health and Human Services in San Antonio, TX

AGENCY: Office of Refugee Resettlement, ACF, HHS.

ACTION: Notice of award of a single-source program expansion supplement grant to BCFS Health and Human Services (BCFS) in San Antonio, TX.

SUMMARY: The Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR), announces the award of a single-source program expansion supplement grant for $12,860,855 to BCFS Health and Human Services (BCFS) in San Antonio, TX, under the Unaccompanied Children's (UC) Program to support a program expansion supplement.

The expansion supplement grant will support the need to increase shelter capacity to accommodate the increasing numbers of UCs being referred by DHS. BCFS has a network of trained, qualified emergency staff able to bring on board and operate emergency beds in short timeframe. BCFS provides residential services to UC in the care and custody of ORR, as well as services to include counseling, case management, and additional support services to the family or to the UC and their sponsor when a UC is released from ORR's care and custody.

DATES: Supplemental award funds will support activities from October 1, 2015 through September 30, 2016.

FOR FURTHER INFORMATION CONTACT: Jallyn Sualog, Director, Division of Children's Services, Office of Refugee Resettlement, 901 D Street SW., Washington, DC 20447. Email: *DCSProgram@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: While the number of referrals, to the Unaccompanied Children Program in FY 2015, was below the total referrals from FY 2014, ORR has seen a change to recent referral trends. The UC program has seen an increase in the numbers of UC referred for placement since January 2015. FY15 was the first fiscal year, in the history of the UC program, in which there were eight (8) consecutive months of steadily

increasing referrals. ORR has experienced a steadily increasing census of UC in care, with longer average length of stay. This increase, in UC referred for placement, has increased the need for additional shelter beds.

ORR has specific requirements for the provision of services. Award recipients must have the infrastructure, licensing, experience, and appropriate level of trained staff to meet the service requirements and the urgent need for expansion of services. The program's ability to avoid a buildup of children waiting, in Border Patrol stations, for placement in shelters, can only be accommodated through the expansion of the existing program and its services through the supplemental award.

Statutory Authority: This program is authorized by—

(A) Section 462 of the Homeland Security Act of 2002, which in March 2003, transferred responsibility for the care and custody of Unaccompanied Alien Children from the Commissioner of the former Immigration and Naturalization Service (INS) to the Director of ORR of the Department of Health and Human Services (HHS).

(B) The Flores Settlement Agreement, Case No. CV85–4544RJK (C.D. Cal. 1996), as well as the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Pub. L. 110–457), which authorizes post release services under certain conditions to eligible children. All programs must comply with the Flores Settlement Agreement, Case No. CV85–4544–RJK (C.D. Cal. 1996), pertinent regulations and ORR policies and procedures.

Christopher Beach,

Senior Grants Policy Specialist, Division of Grants Policy, Office of Administration.

[FR Doc. 2016–00886 Filed 1–19–16; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; DSR Member Conflict.

Date: February 12, 2016.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Latarsha J. Carithers, Ph.D., Program Director, Division of Extramural Activities, NIDCR, 6701 Democracy Boulevard, Suite 672, Bethesda, MD 20892, 301–594–4859, *latarsha.carithers@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: January 13, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–00908 Filed 1–19–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2015–1033]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0023

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of revisions to the following collection of information: 1625–0023, Barge Fleeting Facility Records. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before March 21, 2016.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2015–1033] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr Ave SE., Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION: Contact Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise this ICR or decide not to seek approval of revisions of the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2015–1033], and must be received by March 21, 2016.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Information Collection Request

Title: Barge Fleeting Facility Records.

OMB Control Number: 1625–0023.

Summary: The regulations require the person-in-charge of certain barge fleeting facilities to keep records of twice daily inspections of barge moorings and movements of barges and hazardous cargo in and out of a facility.

Need: Title 33 CFR 165.803 requirements are intended to prevent barges from breaking away from a fleeting facility and drifting downstream out of control in the congested Lower Mississippi River waterway system.

Forms: None.

Respondents: Operators of barge fleeting facilities. It is estimated that there are 47 respondents annually for this information collection.

Frequency: Daily.

Hour Burden Estimate: The estimated burden has decreased from 50,453 hours to 11,076 hours a year due to a decrease in the estimated annual number of respondents and number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: January 12, 2016.

Thomas P. Michelli,

Deputy Chief Information Officer, U.S. Coast Guard.

[FR Doc. 2016–01008 Filed 1–19–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2015–1034]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0052

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0052, Nondestructive Testing of Certain Cargo Tanks on Unmanned Barges. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before March 21, 2016.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2015–1034] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2015–1034], and must be received by March 21, 2016.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Information Collection Request

Title: Nondestructive Testing of Certain Cargo Tanks on Unmanned Barges.

OMB Control Number: 1625–0052.

Summary: The Coast Guard uses the results of nondestructive testing to evaluate the suitability of older pressure-vessel-type cargo tanks of unmanned barges to remain in service. Such a tank, on an unmanned barge, 30 years old or older is subjected to nondestructive testing once every ten years.

Need: Under Title 46 U.S.C. 3703, the Coast Guard is responsible for ensuring safe shipment of liquid dangerous cargoes and has promulgated regulations for certain barges to ensure the meeting of safety standards.

Forms: None.

Respondents: Owners of tank barges. It is estimated there are 10 respondents annually for this information collection.

Frequency: Every 10 years. There are no recordkeeping requirements for this information collection.

Hour Burden Estimate: The estimated burden remains 130 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: January 12, 2016.

Thomas P. Michelli,

Deputy Chief Information Officer, U.S. Coast Guard.

[FR Doc. 2016–01016 Filed 1–19–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2015–0631]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0048

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collection of information: 1625–0048, Vessel Reporting Requirements. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before February 19, 2016.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2015–0631] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* Alternatively, you may submit comments to OIRA using one of the following means:

(1) *Email: OIRA-submission@omb.eop.gov.*

(2) *Mail:* OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Fax:* 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr Ave SE., Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION: Contact Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection. The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2015–0631], and must be received by February 19, 2016.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0048.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (80 FR 48553, August 13, 2015) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request:

1. *Title:* Vessel Reporting Requirements.

OMB Control Number: 1625–0048.

Summary: Owners, Charterers, Managing Operators, or Agents of U.S. vessels must immediately notify the Coast Guard if they believe the vessel may be lost or in danger. The Coast Guard uses this information to investigate the situation and, when

necessary, plan appropriate search and rescue operations.

Need: Section 2306(a) of 46 U.S.C. requires the owner, charterer, managing operator, or an agent of vessel of the United States to immediately notify the Coast Guard if: (1) There is reason to believe that the vessel may have been lost or imperiled, or (2) more than 48 hours have passed since last receiving communication from the vessel. These reports must be followed by written confirmation submitted to the Coast Guard within 24 hours. The implementing regulations are contained in 46 CFR part 4.

Forms: None.

Respondents: Businesses or other for profit organizations. The number of respondents is estimated at 550 annually.

Frequency: There are no recordkeeping requirements for this information collection. The frequency of reporting is, on occasion.

Hour Burden Estimate: The estimated burden has increased from 137 hours to 138 hours a year due to an adjustment in the agency's estimate.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: January 12, 2016.

Thomas P. Michelli,

Deputy Chief Information Officer, U.S. Coast Guard.

[FR Doc. 2016–01011 Filed 1–19–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2015–0748]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0047

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collection of information: 1625–0047, Plan Approval and Records for Vital System Automation. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or February 19, 2016.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2015–0748] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* Alternatively, you may submit comments to OIRA using one of the following means:

(1) *Email: OIRA-submission@omb.eop.gov.*

(2) *Mail:* OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Fax:* 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr Ave. SE., Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2015–0748], and must be received by February 19, 2016.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0047.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (80 FR 59802, October 2, 2015) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Plan Approval and Records for Vital System Automation.

OMB Control Number: 1625–0047.

Summary: This collection pertains to the vital system automation on commercial vessels that is necessary to

protect personnel and property on board U.S.-Flag vessels.

Need: 46 U.S.C. 3306 authorizes the Coast Guard to promulgate regulations for the safety of personnel and property on board vessels. Various sections within parts 61 and 62 of Title 46 of the Code of Federal Regulations contain these rules.

Forms: None.

Respondents: Owners, operations, shipyards, designers, and manufacturers of certain vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 39,900 hours to 46,500 hours a year due to an increase in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: January 12, 2016.

Thomas P. Michelli,

U.S. Coast Guard, Deputy Chief Information Officer.

[FR Doc. 2016–01010 Filed 1–19–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2015–1097]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0027

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of revisions to the following collection of information: 1625–0027, Vessel Documentation. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before March 21, 2016.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2015–1097] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr Ave SE., Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise this ICR or decide not to seek approval of revisions of the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2015–1097], and must be received by March 21, 2016.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Information Collection Request

Title: Vessel Documentation.

OMB Control Number: 1625–0027.

Summary: The information collected will be used to establish the eligibility of a vessel to: (a) be documented as a ''vessel of the United States'', (b) engage in a particular trade, and/or (c) become the object of a preferred ship's mortgage. The information collected concerns citizenship of owner/applicant and build, tonnage and markings of a vessel.

Need: Title 46 U.S.C. Chapters 121, 123, 125 and 313 requires the documentation of vessels. A Certificate of Documentation is required for the operation of a vessel in certain trades, serves as evidence of vessel nationality, and permits a vessel to be subject to preferred mortgages.

Forms: CG–1258, Application for Initial, Exchange, or Replacement of Certificate of Documentation/Redocumentation; CG–1258, Section A—Additional Vessels; CG–1258, Section H—Additional Owners; CG–1258, Section L—Attachment to Limited Liability Company; CG–1258, Section L—Attachment to Partnership; CG–1258, Section L—Attachment to Joint Venture or Association; CG–1258, Section L—Attachment to Trust Arrangement; CG–1261, Builder's Certification and First Transfer of Title; CG–1270, Certificate of Documentation; CG–1280, Vessel Renewal Notification Application for Renewal; CG–1340, Bill of Sale; CG–1356, Bill of Sale by Government Entity Pursuant to Court Order or Administrative Degree of Forfeiture; CG–4593, Application, Consent, and Approval for Withdrawal of Application for Documentation or Exchange of Certificate of

Documentation; CG–5542, Optional Application for Filing; CG–7042, Authorization for Credit Card Transactions; and CG–7043, Abstract of Title/Certified COD Request.

Respondents: Owners/builders of yachts and commercial vessels of at least 5 net tons.

Frequency: Annually.

Hour Burden Estimate: The estimated burden has increased from 67,882 hours to 77,619 hours a year due to an increase in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: January 12, 2016.

Thomas P. Michelli,

Deputy Chief Information Officer, U.S. Coast Guard.

[FR Doc. 2016–01014 Filed 1–19–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–ES–2015–N234; FF07CAMM00–FX–FR133707PB00]

U.S.-Russia Polar Bear Commission; Maintenance of Annual Taking Limit for the Alaska-Chukotka Polar Bear Population

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: On October 22, 2015, the U.S.-Russia Polar Bear Commission (Commission), established under the *Agreement Between the Government of the United States and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population,* unanimously agreed to maintain the annual taking limit adopted in 2010 for the Alaska-Chukotka polar bear population. In 2010, the Commission established an annual taking limit on the number of bears that may be removed from this population as a result of human activities, such as bears taken for subsistence purposes and in defense of human life. This annual taking limit, which corresponds with the annual sustainable harvest level for this population, is 58 polar bears per year, of which no more than 19 will be females. Under the Agreement, the annual taking limit is to be shared equally between the United States of America and the Russian Federation.

FOR FURTHER INFORMATION CONTACT: Hilary Cooley, Polar Bear Project Leader, U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, AK 99503; by telephone (907–786–800); or by facsimile (907–786–3816). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

The *Agreement between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population* (2000 Agreement), signed in 2000 and ratified by the United States in 2007, provides legal protections for the population of polar bears found in the Chukchi and Northern Bering Seas. The Agreement is implemented in the United States through Title V of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*), and builds upon the protections provided to this population of polar bears through the *Agreement on the Conservation of Polar Bears* (the 1973 Agreement), which was a significant early step in the international conservation of polar bears.

The 1973 Agreement is a multilateral treaty to which the United States and Russia are parties with other polar bear range states—Norway, Canada, and Denmark (on behalf of Greenland). While the 1973 Agreement provides authority for the maintenance of a subsistence harvest of polar bears and provides for habitat conservation, the 2000 Agreement establishes a common legal, scientific, and administrative framework directed specifically for the conservation and management of the Alaska-Chukotka polar bear population.

As a shared population, polar bears within the Alaska-Chukotka population readily move between the United States and Russian Federation. Article 3 of the 2000 Agreement defines the geographic boundaries of the Agreement, which correspond to the areas within the jurisdiction of the United States and Russian Federation, in which the joint polar bear population may be found. Under Article 3, the geographic boundaries of the Agreement are ''bounded on the west by a line extending north from the mouth of the Kolyma River; on the east by a line extending north from Point Barrow; and on the south by a line describing the southernmost annual formation of drift ice.'' Thus, the Agreement recognizes the need for a unified, common management regime to provide for the long-term sustainability of this shared population, while assisting in safeguarding the social, cultural, and subsistence needs of Alaska Natives and native people of Chukotka. For example, the Agreement requires the Commission, the bilateral authority established under the 2000 Agreement, to determine a ''sustainable harvest level'' that is based upon reliable scientific information, does not exceed net annual recruitment to the population, and maintains the population at or near its current level.

Article 8 of the Agreement sets forth the composition and responsibilities of the Commission. The Commission includes a U.S. Section and Russian Section, with each national section comprised of two members appointed by their respective parties to provide for the inclusion of a member representing the country's native people in addition to a Federal representative. Under the Agreement, each section has one vote, and all decisions of the Commission may be made only with the approval of both sections. Among other duties under Article 8, the Commission must promote cooperation among the Parties and the native people, make scientific determinations, establish annual taking limits, and adopt other restrictions on take of polar bears for subsistence purposes within the framework of the established annual taking limits. Article 8 further requires the establishment of a scientific working group (SWG) to advise the Commission on its decisions.

At its first annual meeting, held in Moscow, Russia, September 23–25, 2009, the Commission identified members of the SWG and tasked the SWG with reviewing the current level of take of polar bears and providing recommendations to the Commission on the sustainable harvest level. Recommendations from the SWG help guide the research necessary to address present and future polar bear conservation issues in the shared Alaska-Chukotka polar bear population.

The second annual meeting of the Commission took place June 7–10, 2010, in Anchorage, Alaska. During this meeting the Commission reviewed the recommendations of the SWG and, consistent with the SWG's recommendation, determined that establishing a limit to the total allowable take, including subsistence harvest, of polar bears from the Alaska-Chukotka polar bear population was needed. Thus, consistent with the 2000 Agreement, the Commission adopted an annual taking limit that corresponds with, but does not exceed, the sustainable harvest level of no more than 58 polar bears per year, of which no more than 19 animals may be females, that may be removed from the

Alaska-Chukotka polar bear population. The Commission determined that all forms of human-caused removal of individuals from the Alaska-Chukotka polar bear population will be incorporated in this annual taking limit (75 FR 65507; October 25, 2010). Under Section 502(a)(2) of the MMPA, it is unlawful to take any polar bear from the Alaska-Chukotka population in violation of this annual taking limit adopted by the Commission.

At its fourth annual meeting, held June 25–27, 2012 in Anchorage, Alaska, the Commission adopted a multi-year quota system that would allow the Commission to set a sustainable harvest level for a 5-year timeframe, and within the 5-year cycle, adjust the annual taking limit upward or downward depending on the actual harvest of bears the preceding year. For example, if harvest was above the annual taking limit in one year, which would constitute a violation of the 2000 Agreement and Title V of the MMPA, the annual taking limit could be reduced by the Commission for subsequent years. Alternatively, if ice conditions or other factors limit hunters' abilities to harvest polar bears in one year, the Commission could increase the annual taking limit in subsequent years as long as the sustainable harvest level over a 5-year period is not exceeded. Therefore, in 2012, based on the recommendation of the SWG, the Commission agreed upon a 5-year sustainable harvest level of 290 polar bears (*i.e.,* the annual sustainable harvest level of 58 bears x 5 years), with no more than one-third being female. Under this multiyear quota system, the 5-year sustainable harvest level would be allocated over a 5-year period and would include the identification of annual sustainable harvest levels for consideration by the Commission in setting annual taking limits. The Commission, at each of its subsequent annual meetings held in 2013 and 2014, was advised by the SWG that new biological information considered at the meeting did not suggest the need to change the sustainable harvest level established by the Commission. The Commission, therefore, at each of those meetings in 2013 and 2014 adopted the SWG's recommendation that no change be made to the existing sustainable harvest level of up to 58 polar bears per year to be shared equally between the United States and Russia, of which no more than one-third will be female.

At the seventh annual meeting of the Commission, held October 22–23, 2015, in Sochi, Russia, the SWG recognized that new biological information considered at the meeting did not suggest the need to change the sustainable harvest level established by the Commission and, therefore, it recommended no change to the current annual sustainable harvest level of 58 polar bears per year to be shared equally between the United States and the Russian Federation, of which no more than one-third will be female, or to the multi-year quota system previously adopted by the Commission. The Commission unanimously adopted this recommendation.

Additionally, the U.S. Commissioners discussed their collaborative efforts over the past year to lay the foundation for effective implementation of the annual taking limit, and expressed their commitment to continuing that work together to achieve the goal of a sustainably managed polar bear subsistence harvest.

In consideration of these collaborative efforts, the U.S. Fish and Wildlife Service (Service) will develop regulations that establish a U.S. reporting and management regime for polar bears of the Alaska-Chukotka population, as authorized under Title V of the MMPA. Accordingly, the Service intends to issue a proposed rule in April, 2016, with finalization of the rulemaking by September, 2016. Consistent with the collaborative efforts to date, the Service will continue to work with the Alaska Nanuuq Commission in the development of these regulations. Because harvest limits are new for the Alaska-Chukotka population, during the period of regulation development and outreach, the Service will use its enforcement discretion with respect to any take that exceeds the annual taking limit established by the Commission in 2010. Currently, the Service's MMPA implementing regulations at 50 CFR 18.23(f) require Alaskan natives who harvest any polar bears for subsistence purposes or for purposes of selling authentic Native articles of handicrafts and clothing to report such take to the Service and present the skin and skull to Service personnel or the Service's authorized local representative. Under these regulations, an Alaskan native may possess the unmarked, untagged, and unreported polar bear for a period of time not to exceed 30 days from the time of taking for the purpose of transporting the skin and skull to Service personnel or the Service's authorized local representative for marking, tagging, and reporting.

Determination of the Commission

Pursuant to section 507(b) of the MMPA, we are publishing in the **Federal Register** this notice of the U.S.-Russia Polar Bear Commission's determination concerning the annual taking limit for the Alaska-Chukotka polar bear population. As detailed above, at its 2015 annual meeting, the Commission agreed to maintain the limit on the annual harvest of polar bears from this population to no more than 58 animals, of which no more than 19 may be female, to be shared equally between the United States and the Russian Federation. The Commission also agreed that no changes to the multi-year quota system, previously adopted by the Commission in 2012, was warranted.

Dated: January 5, 2016.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2016–00987 Filed 1–19–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMTC 00900.L16100000.DP0000 MO#4500089568]

Notice of Public Meeting, Dakotas Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Dakotas Resource Advisory Council (RAC) will meet as indicated below.

DATES: The Dakotas Resource Advisory Council meeting will be held on February 3, 2016 in Bowman, North Dakota. When determined, the meeting place and time will be announced in a news release.

FOR FURTHER INFORMATION CONTACT: Mark Jacobsen, Public Affairs Specialist, BLM Eastern Montana/Dakotas District, 111 Garryowen Road, Miles City, Montana 59301; (406) 233–2831; *mjacobse@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–677–8339 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 15-member council advises the Secretary of

the Interior through the BLM on a variety of planning and management issues associated with public land management in North and South Dakota. At this meeting, topics will include: An Eastern Montana/Dakotas District report, North Dakota and South Dakota Field Office manager reports, individual RAC member reports, RAC recommendations status updates and other issues the council may raise. All meetings are open to the public and the public may present written comments to the council. Each formal RAC meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations should contact the BLM as provided above.

Authority: 43 CFR 1784.4–2

Lori (Chip) Kimball,

Acting Eastern Montana/Dakotas District Manager.

[FR Doc. 2016–00953 Filed 1–19–16; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(LLMT926000–L1440000.BJ0000); 16XL1109AF; MO#4500089204]

Notice of Filing of Plats of Survey; North Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on February 19, 2016.

DATES: Protests of the survey must be filed before February 19, 2016 to be considered.

ADDRESSES: Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

FOR FURTHER INFORMATION CONTACT: Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5124 or (406) 896–5003, *HMontoya@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: This survey was executed at the request of the Chief, Branch of Fluid Minerals, Bureau of Land Management, Billings, Montana, and was necessary to determine Federal Leasable Mineral lands.

The lands we surveyed are:

Fifth Principal Meridian, North Dakota

T. 147 N., R. 95 W.

The plat, in two sheets, representing the dependent resurvey of a portion of the subdivisional lines, the adjusted original meanders of the former left and right banks of the Little Missouri River, through section 2, and a certain division of accretion line, the subdivision of section 2, and the survey of the meanders of the present left and right banks of the Little Missouri River, through section 2, the limits of erosion in section 2, the left and right banks and medial line of an abandoned channel of the Little Missouri River, in section 2, certain division of accretion and partition lines, and the medial line and partition lines of the present bed of the Little Missouri River, through section 2, Township 147 North, Range 95 West, Fifth Principal Meridian, North Dakota, was accepted January 5, 2016.

Fifth Principal Meridian, North Dakota

T. 148 N., R. 95 W.

The plat, in four sheets, representing the dependent resurvey of a portion of the west boundary of the Fort Berthold Indian Reservation, a portion of the south boundary, a portion of the subdivisional lines, and the adjusted original meanders of the former left and right banks of the Little Missouri River, through sections 33, 34, and 35, the subdivision of certain sections, and the survey of the meanders of the present left and right banks of the Little Missouri River, through sections 33, 34, and 35, the limits of erosion in section 35, the left and right banks and medial line of an abandoned channel of the Little Missouri River, in section 35, certain division of accretion and partition lines, and the medial line and partition lines of the present bed of the Little Missouri River, through sections 33, 34, and 35, Township 148 North, Range 95 West, Fifth Principal Meridian, North Dakota, was accepted January 5, 2016.

We will place a copy of the plats, in six sheets, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in six sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in six sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. chap. 3.

Joshua F. Alexander,

Acting Chief, Branch of Cadastral Survey, Division of Energy, Minerals and Realty.

[FR Doc. 2016–00948 Filed 1–19–16; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZA 24749A]

Notice of Application for Withdrawal and Opportunity for Public Meeting; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of the Navy (DON) filed an application with the Bureau of Land Management (BLM) requesting the Secretary of the Interior to withdraw approximately 26.794 acres of public land within the DON Marine Corps Air Station, Yuma (MCAS, Yuma), for a period of 20 years, from settlement, sale, location, or entry under the public land laws, including the United States mining and mineral leasing laws. The DON has also requested that jurisdiction of these lands be transferred to the Department of Defense for the use of MCAS, Yuma. The purpose of the withdrawal would be to protect the existing structures and facilities that were installed or developed under the prior withdrawal, Public Land Order No. 6804, which expired in 2010. This notice temporarily segregates the land for up to 2 years while the withdrawal application is being considered. This notice also gives the public an opportunity to comment on the withdrawal application and to request a public meeting.

DATES: Comments and/or requests for a public meeting should be received by April 19, 2016.

ADDRESSES: Comments and/or requests for a public meeting should be sent to Arizona State Director, Bureau of Land Management, One North Central Avenue, Suite 800, Phoenix, Arizona 85004.

FOR FURTHER INFORMATION CONTACT: Sara Ferreira, BLM, Arizona State Office, 602–417–9598, or Candice Holzer, BLM, Yuma Field Office, 928–317–3253, during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. 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 either individual. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with either of the above individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The DON filed an application requesting the Secretary of the Interior withdraw, subject to valid existing rights, the following described land from location and entry under the United States mining laws:

Gila and Salt River Meridian

T. 9 S., R. 23 W.,
Sec. 11, Tract B.

The area described contains approximately 26.794 acres of public lands in Yuma County.

The use of a right-of-way, interagency agreement, or cooperative agreement would not adequately constrain non-discretionary uses and would not provide adequate protection of the structures and facilities on this parcel within MCAS, Yuma.

There are no suitable alternative sites with equal or greater benefit to the government.

No additional water rights will be needed to fulfill the purpose of the requested withdrawal.

Records related to the application may be examined by contacting the individual listed above.

Comments or Requests for Public Meetings: For a period until April 19, 2016, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the BLM Arizona State Office at the address listed above.

Notice is also hereby given that the opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested parties who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the BLM Arizona State Office at the address listed above by April 19, 2016.

If the BLM authorized officer determines that the BLM/DON will hold a public meeting, the BLM will publish a notice of the time and place in the **Federal Register** and a local newspaper at least 30 days before the scheduled date of the meeting.

Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information may be made publicly available at any time. Individuals that submit written comments may request confidentiality by asking us in your comment to withhold your personal identifying information from public review, however, we cannot guarantee that we will be able to do so.

Temporary Segregation: For a period until January 22, 2018 the public land described in this notice will be segregated from location and entry under the United States mining laws, but not from leasing under the mineral or geothermal leasing laws, unless the application is canceled or denied, or the withdrawal is approved prior to that date. The temporary land uses that may be permitted during the temporary segregation period include licenses, permits, rights-of-way, and disposal of vegetative resources other than under the mining laws.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2310.

Ray Suazo,

State Director, Arizona State Office.

[FR Doc. 2016–00885 Filed 1–19–16; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(LLMT926000–L1440000.BJ0000); 16XL1109AF; MO#4500089414]

Notice of Filing of Plats of Survey; North Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on February 19, 2016.

DATES: Protests of the survey must be filed before February 19, 2016 to be considered.

ADDRESSES: Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

FOR FURTHER INFORMATION CONTACT: Blaise Lodermeier, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5128 or (406) 896–5003, *bloderme@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: This survey was executed at the request of the Regional Director, Bureau of Indian Affairs, Great Plains Region, Aberdeen, South Dakota, and was necessary to determine individual and tribal trust surface and mineral lands.

The lands we surveyed are:

Fifth Principal Meridian, North Dakota

T. 147 N., R. 95 W.

The plat, in one sheet, representing the supplemental plat of sec. 1, showing the amended lottings, Township 147 North, Range 95 West, Fifth Principal Meridian, North Dakota, was accepted January 5, 2016.

We will place a copy of the plat, in one sheet, in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in one sheet, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in one sheet, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. chap. 3.

Joshua F. Alexander,

Acting Chief, Branch of Cadastral Survey, Division of Energy, Minerals and Realty.

[FR Doc. 2016–00946 Filed 1–19–16; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM950000 L13400000.BX0000 16XL1109AF]

Notice of Filing of Plats of Survey, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, thirty (30) calendar days from the date of this publication.

FOR FURTHER INFORMATION CONTACT: These plats will be available for inspection in the New Mexico State Office, Bureau of Land Management, 301 Dinosaur Trail, Santa Fe, New Mexico. Copies may be obtained from this office upon payment. Contact Carlos Martinez at 505–954–2096, or by email at *cjjmarti@blm.gov*, for assistance. 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.

SUPPLEMENTARY INFORMATION:

New Mexico Principal Meridian, New Mexico (NM)

The plat, in six pages, representing the dependent resurvey in Township 14 North, Range 7 East, of the New Mexico Principal Meridian, accepted September 30, 2015 for Group, 1156, NM.

The plat, representing the dependent resurvey in Township 20 North, Range 20 West, of the New Mexico Principal Meridian, accepted September 30, 2015 for Group, 1161, NM.

The plat, representing the dependent resurvey in Township 20 North, Range 5 West, of the New Mexico Principal Meridian, accepted November 19, 2015 for Group, 1170, NM.

The plat, representing the dependent resurvey in Township 32 North, Range 10 West, of the New Mexico Principal Meridian, accepted December 15, 2015 for Group, 1174, NM.

The Indian Meridian, Oklahoma (OK)

The Supplemental plat, representing the dependent resurvey and survey in Township 8 North, Range 23 East, of the Indian Meridian, accepted July 31, 2015, for Group 229 OK.

The plat, in two sheets, representing the dependent resurvey and survey in Township 4 North, Range 7 West, of the Indian Meridian, accepted September 30, 2015, for Group 226 OK.

These plats are scheduled for official filing 30 days from the notice of publication in the **Federal Register**, as provided for in the BLM Manual Section 2097—Opening Orders. Notice from this office will be provided as to the date of said publication. If a protest against a survey, in accordance with 43 CFR 4.450–2, of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest.

A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the Bureau of Land Management New Mexico State Director stating that they wish to protest.

A statement of reasons for a protest may be filed with the Notice of Protest to the State Director or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed.

Charles I. Doman,

Branch Chief, Cadastral Survey.

[FR Doc. 2016–00954 Filed 1–19–16; 8:45 am]

BILLING CODE 4310–FB–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–554 and 731–TA–1309 (Preliminary)]

Certain Biaxial Integral Geogrid Products From China; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–554 and 731–TA–1309 (Preliminary) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of certain biaxial integral geogrid products from China, provided for in subheading 3926.90.99 of the Harmonized Tariff Schedule of the United States.[1] The petitioner alleges that these products are imported from China and sold in the United States at less than fair value, and that these imports are allegedly subsidized by the government of China. Unless the Department of Commerce extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by February 29, 2016. The Commission's views must be transmitted to Commerce within five business days thereafter, or by March 7, 2016.

DATES: *Effective Date:* January 13, 2016.

FOR FURTHER INFORMATION CONTACT: Amy Sherman (202–205–3289), 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 this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to a petition filed on January 13, 2016, by Tensar Corporation, Morrow, Georgia.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level)

[1] Certain biaxial integral geogrid products may also enter under HTS subheadings 3920.20.00 and 3925.90.00.

representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on February 3, 2016, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be emailed to *William.bishop@usitc.gov* and *Sharon.bellamy@usitc.gov* (DO NOT FILE ON EDIS) on or before February 1, 2016. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before February 8, 2016, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please consult the Commission's rules, as amended, 76 FR 61937 (Oct. 6, 2011) and the Commission's Handbook on Filing Procedures, 76 FR 62092 (Oct. 6, 2011), available on the Commission's Web site at *http://edis.usitc.gov.*

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: January 13, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–00931 Filed 1–19–16; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 16–4]

Irwin August, D.O.; Decision and Order

On November 6, 2015, Administrative Law Judge Charles Wm. Dorman (ALJ) issued the attached Recommended Decision (R.D.).[1] Therein, the ALJ found that it is undisputed that Respondent's Connecticut Controlled Substance Registration is suspended, thus rendering him without authority to dispense controlled substances in Connecticut, the State in which he holds DEA Registration FA3033002. R.D. at 4. The ALJ also found that, by virtue of the Voluntary Agreement Not to Practice Medicine which Respondent entered into with the Massachusetts Board of Registration in Medicine, he is also currently without authority to dispense controlled substances in that State, where he holds DEA Registration BA4089721. *Id.* The ALJ thus granted the Government's Motion for Summary Disposition and recommended that I revoke both of Respondent's registrations and deny any pending applications.

Neither party filed exceptions to the Recommended Decision. Having reviewed the record, I adopt the ALJ's factual findings that Respondent's Connecticut Controlled Substance Registration has been suspended and that he has entered into the Voluntary Agreement with the Massachusetts Board. I also adopt the ALJ's legal conclusions that Respondent currently lacks authority to dispense controlled substances in each State.[2] Accordingly, I will also adopt the ALJ's recommendation that I revoke both registrations and deny any pending applications to renew or modify each registration.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificates of Registration BA4089721 and FA3033002 issued to Irwin August, D.O., be, and they hereby are, revoked. I further order that any pending application of Irwin August, D.O., to renew or modify either of the above registrations, be, and it hereby is, denied. This Order is effective February 19, 2016.

Dated: January 8, 2016.

Chuck Rosenberg,

Acting Administrator.

W. Brian Bayly, Esq., for the Government.
John J. Tierney, Esq., for the Respondent.

Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision

Charles Wm. Dorman, Administrative Law Judge. The Deputy Assistant Administrator, Drug Enforcement Administration (''DEA'' or ''Government''), issued an Order to Show Cause (''OSC''), seeking to revoke the DEA Certificates of Registration (''CORs'') of Irwin August, D.O. (''Respondent''), pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal or modification of the CORs, pursuant to 21 U.S.C. 823(f). The Government alleged that the Respondent lacks state authority to handle controlled substances in Massachusetts and Connecticut, where DEA CORs Numbers BA4089721 and FA3033002, respectively, are registered. OSC at 2.

The Respondent filed a timely Request for Hearing. Therein, the Respondent did not discuss the voluntary suspension of his Massachusetts license. However, he did allege that his Connecticut license may be restored because the Connecticut Commissioner of Consumer Affairs currently is reviewing the suspension of his license. Req. for Hr'g at 1.

[1] All citations to the Recommended Decision are to the slip opinion issued by the ALJ.

[2] Respondent does not dispute the allegations that his DEA registration for his Massachusetts office does not expire until June 30, 2018 and that his DEA registration for his Connecticut office does not expire until June 30, 2017. Resp.'s Affirmation in Opp., at 1. Accordingly, I find that there is a live controversy with respect to both registrations.

On October 27, 2015, the Government filed a Motion for Summary Disposition Based on Respondent's Lack of State Authorization to Handle Controlled Substances and Submission of Evidence in Support of Such Motion (''Motion for Summary Disposition''). Therein, the Government argued that the Respondent currently lacks state authority in Massachusetts and Connecticut to handle controlled substances. Mot. for Summ. Disp. at 3. First, the Government argued that the Respondent voluntarily agreed with the Massachusetts Board of Registration in Medicine (''Massachusetts Board'') to refrain from practicing medicine. Mot. for Summ. Disp. at 2. Attached to the Government's Motion is a copy of the Voluntary Agreement Not to Practice Medicine, entered into by the Respondent and the Massachusetts Board. Mot. for Summ. Disp. Ex. C, at 3–4. Second, the Government argued that the Respondent's Connecticut controlled substance registration was suspended because the Respondent made false statements in his renewal application. Mot. for Summ. Disp. at 2. Attached to the Government's Motion is the Connecticut Department of Consumer Protection's (''CDCP'') Order of Immediate Suspension of Controlled Substance Registration No. 22241. Mot. for Summ. Disp. Ex. D, at 1–2.

On November 4, 2015, the Respondent's counsel filed an Affirmation in Opposition (''Respondent's Reply''). In his Reply, the Respondent's counsel asserted that, although the Respondent's Connecticut controlled substance registration currently is suspended, the CDCP conducted a hearing on September 17, 2015, regarding the suspension. Resp't Reply at 1–2. The Respondent's counsel asserted that the CDCP's final decision may change his registration status. Resp't Reply at 1–2, 7–8. The Respondent's counsel also asserted that, although the Respondent signed an agreement not to practice in Massachusetts, that agreement was predicated on the suspension of the Respondent's Rhode Island license, and that his Rhode Island license may be restored.[3] Resp't Reply at 4–5, 7.

In revocation cases, the Government has the burden of proving that the requirements for revocation are satisfied. 21 CFR 1301.44(e) (2015). The Government also bears the initial burden of production. If the Government makes a *prima facie* case for revocation, the burden of production shifts to the registrant to show that revocation is inappropriate. *Morall* v. *DEA,* 412 F.3d 165, 174 (D.C. Cir. 2005).

To maintain a DEA registration, a practitioner must be currently authorized to handle controlled substances in the jurisdiction where he practices. *See* 21 U.S.C. 802(21), 823(f) (2012). A registrant must possess state authority to dispense controlled substances in order to obtain and maintain DEA registration. *E.g., Serenity Café,* 77 FR 35027, 35028 (2012). Accordingly, the Controlled Substances Act ''requires the revocation of a registration issued to a practitioner whose State license has been suspended or revoked.'' *Scott Sandarg, D.M.D.,* 74 FR 17528, 17529 (2009).

The Respondent argues that his COR should not be revoked because the CDCP may restore his Connecticut registration. However, ''it does not matter whether the suspension . . . [is] pending the outcome of a state proceeding. Rather, what matters—as DEA has repeatedly held—is whether Respondent is without authority under [state] law to dispense a controlled substance.'' *Bourne Pharmacy, Inc.,* 72 FR 18273, 18274 (2007); *see also Grider Drug #1 & Grider Drug #2,* 77 FR 44069, 44104 n.97 (2012).

The Respondent requested a stay of these proceedings until the CDCP reaches a final decision regarding his Connecticut registration. Req. for Hr'g at 2; Resp't Reply at 8. This Agency routinely denies ''requests to stay the issuance of a final order of revocation . . . [because] a practitioner must be *currently* authorized to handle controlled substances . . . to maintain [his] DEA registration.'' *Gregory F. Saric, M.D.,* 76 FR 16821 (2011) (emphasis added) (internal quotations and citations omitted). Because evaluating ''whether Respondent's state license will be re-instated is entirely speculative,'' *id.,* ''[i]t is not DEA's policy to stay proceedings . . . while registrants litigate in other forums.'' *Newcare Home Health Servs.,* 72 FR 42126, 42127 n.2 (2007) (citing *Bourne Pharmacy,* 72 FR at 18273; *Oakland Med. Pharmacy,* 71 FR 50100 (2006); *Kennard Kobrin, M.D.,* 70 FR 33199 (2005)). Therefore, the Respondent's request to stay the proceedings pending the CDCP's final decision is *denied.*

The disposition of the Government's Motion depends on whether the Respondent possesses state authority to handle controlled substances. The administrative record establishes that he does not. The CDCP's Order of Immediate Suspension of Controlled Substance Registration No. 22241 establishes that his Connecticut controlled substances registration currently is suspended. Accordingly, the Respondent lacks authorization to handle controlled substances in Connecticut, where DEA COR Number FA3033002 is registered. Additionally, the Massachusetts Voluntary Agreement Not to Practice Medicine establishes that the Respondent currently lacks authorization to handle controlled substances in Massachusetts, where DEA COR Number BA4089721 is registered.

Where there is no genuine question of fact, or there is agreement upon the material facts, a plenary, adversarial hearing is not required. *See, e.g., Jesus R. Juarez, M.D.,* 62 FR 14945 (1997). Thus, summary disposition is warranted here because ''there is no factual dispute of substance.'' *See Veg-Mix, Inc.,* 832 F.2d 601, 607 (D.C. Cir. 1987). As of the date of this Recommended Decision, the Respondent currently lacks state authority to handle controlled substances in both Connecticut and Massachusetts; therefore, he cannot maintain his DEA registrations. The Government's Motion for Summary Disposition is *granted,* and it is *recommended* that the Respondent's DEA registrations be *revoked* and any pending applications for renewal be *denied.*

Dated: November 6, 2015

Charles Wm. Dorman,

Administrative Law Judge.

[FR Doc. 2016–00895 Filed 1–19–16; 8:45 am]

BILLING CODE 4410–09–P

[3] The Respondent asserts that he entered a voluntary agreement suspending his Massachusetts license because his Rhode Island license was suspended. Resp't Reply at 4–6. The Respondent also asserts that he requested a hearing on the suspension of his Rhode Island license, but has not challenged his Massachusetts license's suspension. Req. for Hr'g at 1; Resp't Reply at 7. This case, however, do not address any DEA registration to dispense controlled substances in Rhode Island. Thus, the status of the Respondent's Rhode Island license is not considered here. *See Brian Earl Cressman, M.D.,* 78 FR 12091, 12092 n.2 (2013) (noting that ''a registrant's controlled substance privileges in a state outside the state of his DEA registration [are] irrelevant'') (citing *Shahid Musud Siddiqui, M.D.,* 61 FR 14818 (1996)).

DEPARTMENT OF JUSTICE

[OMB Number 1110–0011]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection

AGENCY: Federal Bureau of Investigation, Department of Justice Violent Criminal Apprehension Program (ViCAP).

ACTION: 60-day notice.

SUMMARY: The Department of Justice, Federal Bureau of Investigation, Critical Incident Response Group will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with established review procedures of the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until March 21, 2016.

FOR FURTHER INFORMATION CONTACT: All comments, suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Lesa Marcolini, Program Manager, Federal Bureau of Investigation, Critical Incident Response Group, ViCAP, FBI Academy, Quantico, Virginia 22135; facsimile (703) 632–4239.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a currently approved collection.

2. *The Title of the Form/Collection:* ViCAP Case Submission Form.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection: The form number is* FD–676. The applicable component within the Department of Justice is the Federal Bureau of Investigation.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Federal, state, local, and tribal government law enforcement agencies charged with the responsibility of investigating violent crimes.

Abstract: Established by the Department of Justice in 1985, ViCAP serves as the national repository for violent crimes; specifically;

Homicides (and attempts) that are known or suspected to be part of a series and/or are apparently random, motiveless, or sexually oriented.

Sexual assaults that are known or suspected to be part of a series and/or are committed by a stranger.

Missing persons where the circumstances indicate a strong possibility of foul play and the victim is still missing.

Unidentified human remains where the manner of death is known or suspected to be homicide.

Comprehensive case information submitted to ViCAP is maintained in the ViCAP Web National Crime Database and is automatically compared to all other cases in the databases to identify potentially related cases.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Of the approximately 18,000 government law enforcement agencies that are eligible to submit cases, it is estimated that thirty to fifty percent will actually submit cases to ViCAP. The time burden of the respondents is less than 60 minutes per form.

6. *An estimate of the total public burden (in hours) associated with the collection:* 5,000 annual burden hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: January 14, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–00942 Filed 1–19–16; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by the MSHA's Office of Standards, Regulations, and Variances on or before February 19, 2016.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202–693–9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or

other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2015–0026–C.

Petitioner: Lone Mountain Processing, Inc., Drawer C, St. Charles, VA 24282.

Mine: Clover Fork No. 1 Mine, MSHA I.D. No. 15–18647, Huff Creek No. 1 Mine, MSHA I.D. No. 15–17234, Darby Fork No. 1 Mine, MSHA I.D. No. 15–02263, located in Harlan County, Kentucky.

Regulation Affected: 30 CFR 75.310(a)(3) (Installation of main mine fans).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of fan signal monitoring provided by the Communication Center at the Huff Creek Mine as an alternative to having personnel on the surface at the mine to monitor fan operation. The petitioner states that:

(1) Currently the Clover Fork fans can be monitored for operation at the Communication Center. This Communication Center is manned continuously when miners are underground by a qualified atmospheric monitoring system (AMS) operator as required in 30 CFR 75.156. This operator is currently responsible for monitoring the Clover Fork Mine, Huff Creek Mine, and Darby Fork Mine AMS systems. This operator is familiar with the underground workings of the Clover Fork Mine and will regularly travel to all working sections every six months as required. In addition to having the AMS operator continuously monitoring the main mine fans for the Clover Fork Mine, Lone Mountain Processing will be installing a system to activate the existing section alarms at all three mines to alarm when any main mine fan slows or stops. This alarm will provide an audible and visual alarm to alert miners that an event has occurred. Constant communications is provided to all three interconnected mines via the Huff Creek Communication Center. All approved ventilation plans provide instructions to evacuate the mine when a fan outage occurs. Should there be an interruption in the fan operations, a notification of the interruption can be given to the miners underground at Clover Fork Mine from the Huff Creek Communication Center. Clover Fork Mine management believes that these provisions for fan monitoring will provide a greater degree of safety than having mine personnel monitor the fan from the surface at the Clover Fork Mine.

(2) Fan alarm signal monitoring by the Communication Center is accomplished in two ways: First by fan signal connection to mine phones and by a fiber optic line that is from the Clover Fork Mine to the Huff Creek Mine. Both systems are routed through each mine to an underground borehole connection to remove issues with inclement weather. The fiber optic line is connected to the CO monitoring and tracking system computer at Clover Fork Mine which receives an input from the fan alarm signal device. The fiber optic terminates at a computer in the Communication Center and provides both audible and visual notification if the Clover Fork fan should stop operating, as well as all working sections at all three aforementioned mines.

(3) Voice communication to the Clover Fork Mine is accomplished by three separate connections and also by wireless tracking system radios. Primary communication is a mine phone line routed through an underground borehole connection between the two mines. Backup to the mine phone system is an overland copper pair for the emergency phone system that is provided by the land line telephone company. A third way of communication to the mine is land line telephone to the mine office. Tracking system radios mentioned above also provide a wireless fourth means of communication.

(4) The Communication Center is also provided with a ''kill feature'' system designed to deenergize the AMS system for the Clover Fork Mine should any main mine fan fail. All AMS operators are trained how to perform this procedure and written instructions are provided inside the Communication Center. This feature will be maintained in working order at all times or otherwise immediate corrective actions will be taken to correct the condition and a designated person will be required to monitor the main mine fans at the Clover Fork Mine until the system is in proper working order. The AMS system is routed through underground workings and underground borehole connections as previously mentioned.

The petitioner asserts that the proposed alternative method will provide a greater degree of safety than having mine personnel monitor the fan from the surface at the Clover Fork Mine.

Docket Number: M–2015–027–C.

Petitioner: Peabody Energy Company, 115 Grayson Lane, Eldorado, Illinois 62930.

Mine: Wildcat Hills Underground Mine, MSHA I.D. No. 11–03156, located in Saline County, Illinois.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of nonpermissible electronic testing or diagnostic equipment in or inby the last open crosscut. The petitioner states that:

(1) Nonpermissible electronic testing and diagnostic equipment to be used include: Laptop computers; oscilloscopes; vibration analysis machines; cable fault detectors; point temperature probes; infrared temperature devices; insulation testers (meggers); voltage, current, resistance, and power measurement devices; ultrasonic thickness gauges; electronic component testers; and electronic tachometers. Other testing and diagnostic equipment may be used if approved in advance by the MSHA District Manager.

(2) All nonpermissible testing and diagnostic equipment used in or inby the last open crosscut will be examined by a qualified person as defined in 30 CFR 75.153, prior to use to ensure the equipment is being maintained in a safe operating condition. The examination results will be recorded in the weekly examination book and will be made available to MSHA and the miners at the mine.

(3) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible electronic testing and diagnostic equipment in or inby the last open crosscut.

(4) Nonpermissible electronic testing and diagnostic equipment will not be used if methane is detected in concentrations at or above one percent. When one percent or more methane is detected while the nonpermissible electronic equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment will be withdrawn outby the last open crosscut.

(5) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper

operating condition as defined in 30 CFR 75.320.

(6) Except for time necessary to trouble shoot under actual mining conditions, coal production in the section will cease. However, coal may remain in or on the equipment to test and diagnose the equipment under ''load.''

(7) All electronic testing and diagnostic equipment will be used in accordance with the safe use procedures recommended by the manufacturer.

(8) Qualified personnel who used electronic testing and diagnostic equipment will be properly trained to recognize the hazards and limitations associated with use of the equipment.

The petitioner asserts that under the terms and conditions of this petition for modification, the use of nonpermissible electronic testing and diagnostic equipment will at all times guarantee not less than the same measure of protection afforded by the existing standard.

Sheila McConnell,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2016–00935 Filed 1–19–16; 8:45 am]

BILLING CODE 4520–43–P

LEGAL SERVICES CORPORATION

Request for Letters of Intent To Apply for 2015 Technology Initiative Grant Funding

AGENCY: Legal Services Corporation.

ACTION: Notice.

SUMMARY: The Legal Services Corporation (LSC) issues this Notice describing the conditions under which Letters of Intent To Apply for Technology Initiative Grants (TIG) will be received. LSC's TIG program was established in 2000. Since that time, LSC has made 647 grants totaling more than $53 million. This grant program provides an important tool to help achieve LSC's goal of increasing the quantity and quality of legal services available to eligible persons. Projects funded under the TIG program develop, test and replicate innovative technologies that can enable grant recipients and state justice communities to improve low-income persons' access to high quality legal assistance through an integrated and well managed technology system. When submitting Letters of Intent, applicants should consider the growth and continued development of technology and the resulting effects on the practice of law, management of legal aid organizations and legal aid service delivery.

DATES: Letters of Intent must be submitted by 11:59 p.m. EST on February 29, 2016.

ADDRESSES: Letters of Intent must be submitted electronically at *http://lscgrants.lsc.gov*.

FOR FURTHER INFORMATION CONTACT: Jane Ribadeneyra, Program Analyst, Office of Program Performance, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007; (202) 295–1554 (phone); *ribadeneyraj@lsc.gov*.

SUPPLEMENTARY INFORMATION:

General Information

The Legal Services Corporation awards Technology Initiative Grant funds through an open, competitive, and impartial selection process. All prospective applicants for 2016 TIG funds must submit a Letter of Intent to Apply (LOI) prior to submitting a formal application. The format and contents of the LOI should conform to the requirements specified below in Section IV.

Through the LOI process, LSC identifies those projects that have a reasonable chance of success in the competitive grant process based on LSC's analysis of the project description and other information provided in the LOI. LSC will solicit full proposals for those projects.

LSC Requirements

Technology Initiative Grant funds are subject to all LSC requirements, including the requirements of the Legal Services Corporation Act (LSC Act), any applicable appropriations acts and any other applicable laws, rules, regulations, policies, guidelines, instructions, and other directives of the Legal Services Corporation, including, but not limited to, the LSC Audit Guide for Recipients and Auditors, the Accounting Guide for LSC Recipients, the CSR Handbook, the 1981 LSC Property Manual (as amended) and the Property Acquisition and Management Manual, with any amendments to the foregoing adopted before or during the period of the grant. Before submitting a Letter of Intent to Apply, applicants should be familiar with LSC's transfer and subgrant requirements at 45 CFR parts 1610 and 1627 (see *http://www.lsc.gov/about/laws-regulations/lsc-regulations-cfr-45-part-1600-et-seq*), particularly as they pertain to payments of LSC funds to other entities for programmatic activities.

For additional information and resources regarding TIG compliance, including transfers, subgrants, third-party contracting, conflicts of interest, grant modification procedures, and special TIG grant assurances, see LSC's TIG compliance Web page.

Eligible Applicants

TIG awards are available only to current LSC Basic Field Grant recipients that are not subject to any short funding (*i.e.,* less than one year) on Basic Field Grants.

LSC will not award a TIG to any applicant that is not in good standing on any existing TIG projects. Applicants must be up to date, according to the milestone schedule on all existing TIG projects prior to submitting a LOI or have requested and received an adjustment to the original milestone schedule. LSC will not award a TIG to any applicant that has not made satisfactory progress on prior TIGs. LSC recipients that have had a previous TIG terminated for failure to provide timely reports and submissions are not eligible to receive a TIG for three years after their earlier grant was terminated. This policy does not apply to applicants that worked with LSC to end a TIG early after an unsuccessful project implementation resulting from technology limitations, a failed proof of concept, or other reasons outside of the applicant's control.

Funding Availability

LSC has received an appropriation of $4 million for fiscal year 2016 to fund TIG projects. In 2015, 36 TIG projects received funding with a median funding amount of $86,200. (See TIG's past awards Web page for more information on past grants.) LSC recommends a minimum amount for TIG funding requests of $40,000, but lower requests will be considered. There is no maximum amount for TIG funding requests that are within the total appropriation for TIG.

Collaborations

The TIG program encourages applicants to reach out to and include in TIG projects others interested in access to justice—the courts, bar associations, pro bono projects, libraries, and social service agencies. Partnerships can enhance the reach, effectiveness and sustainability of many projects.

Grant Categories

LSC will accept projects in two application categories:

(1) Innovations and Improvements

(2) Replication and Adaptation

Grant Category 1: Innovations and Improvements

The Innovations and Improvements Category is designated for projects that:

(1) Implement new or innovative approaches for using technology in legal services or (2) enhance the effectiveness and efficiency of existing technologies so that they may be better used to increase the quality and quantity of services to clients.

Although there is no funding limit or matching requirement for applications in this category, additional weight is given to projects with strong support from partners. Proposals for initiatives with broad applicability and/or that would have impact throughout the legal services community are strongly encouraged.

Grant Category 2: Replication and Adaptation

The Replication and Adaptation category is for proposals that seek to replicate, adapt, or provide added value to the work of prior technology projects. This includes, but is not limited to, the implementation and improvement of tested methodologies and technologies from previous TIG projects. Applicants may also replicate technology projects funded outside of the TIG program, including sectors outside the legal aid community, such as other social services organizations, the broader non-profit community, and the private sector.

Project proposals in the Replication and Adaptation category may include, but are not limited to:

A: Replication of Previous TIG Projects

LSC requires that any original software developed with TIG funding be available to other legal services programs at little or no cost. Applicants should look to previous successful TIG projects to determine how they could be replicated at a reduced cost from the original project, and/or how they could be expanded and/or enhanced. Projects where original software or content has already been created lend themselves to replication, and LSC encourages programs to look to these projects to see how they could benefit the delivery systems in their state.

B: Automated Form Replication

LawHelp Interactive (LHI [1]) is deployed across the country with thousands of active HotDocs templates and A2J Author modules hosted on the LawHelp Interactive National HotDocs Server at *https://lawhelpinteractive.org*. Despite differences from state to state in the content and format, many of these forms can be edited for use in other jurisdictions with less effort, hence a lower cost, than developing the document from scratch.

Even if a form differs from one state to another, the information needed to populate a form will, for the most part, be similar. (What are the names of the plaintiff, the defendant, the children, etc.?). This means the interviews are more easily replicated than templates. All of these templates and interviews are available to be modified as needed. Applicants should identify which forms and templates are to be adapted, and then estimate the cost to do this and compare that to the cost of developing them from scratch.

LHI has the capacity to support Spanish, Vietnamese, Mandarin and Korean language interviews. In addition, LHI has been integrated with other systems to allow the flow of information between LHI and court e-filing systems, and legal aid case management systems. The ''Connect'' feature enables pro bono programs from across a state to use LHI interviews and forms to assign pre-screened pro bono cases and their documents to panel attorneys. For additional information, including examples, best practices, models and training materials, see the LawHelp Interactive Resource Center at *http://www.probono.net/dasupport* (you may need to request a free membership to access this Web site).

C. Replication of Technology Projects in Other Sectors

In addition to replicating other TIG funded technology projects, LSC encourages replication of proven technologies from non-LSC funded legal aid organizations as well as sectors outside the legal aid community. Ideas for replication may be found through resources and organizations such as LSNTAP, the ABA, international legal aid providers such as the Legal Services Society of British Columbia and HiiL's Innovating Justice project (*http://www.innovatingjustice.com*), Idealware (see the article on Unleashing Innovation), NTEN, and TechSoup.

Areas of Interest

LSC welcomes applications for a wide variety of projects. For 2016, LSC has three areas of particular interest in which programs are encouraged to submit proposals for innovative technology approaches. The designation of these areas does not in any way limit the scope of proposals in which LSC is interested. The 2016 areas of particular interest are:

A. Achieving ''100 Percent Access.'' LSC's 2013 Technology Summit Report, available at *http://www.lsc.gov/media-center/publications/report-summit-use-technology-expand-access-justice,* proposed an integrated service-delivery system that would ''move the United States toward providing some form of effective assistance to 100 percent of persons otherwise unable to afford an attorney for dealing with essential civil legal needs.'' Recently, the Conference of Chief Justices and the Conference of State Court Administrators adopted a resolution advocating a similar access goal:

> NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators support the aspirational goal of 100 percent access to effective assistance for essential civil legal needs and urge their members to provide leadership in achieving that goal and to work with their Access to Justice Commission or other such entities to develop a strategic plan with realistic and measurable outcomes;
>
> and BE IT FURTHER RESOLVED that the Conferences urge the National Center for State Courts and other national organizations to develop tools and provide assistance to states in achieving the goal of 100 percent access through a continuum of meaningful and appropriate services.

With this area of interest, LSC seeks proposals that use technology to further the goal of 100 percent access to effective assistance for essential civil legal needs, particularly through projects that advance related objectives developed by the Access to Justice Commission in the applicant's state.

LSC's Technology Summit Report provides examples of strategies for achieving 100 percent access, but proposals should not be limited to approaches discussed in the report. Applicants should work with their local commissions (where they exist) and/or other stakeholders to determine the best ways to use technology to move toward achieving this goal.

B. Projects to Move Organizations above the LSC Technology Baselines. ''LSC Baselines: Technologies That Should Be in Place in a Legal Aid Office Today,'' available at *http://www.lsc.gov/sites/default/files/TIG/pdfs/LSC-Technology-Baselines-2015.PDF,* provides a detailed overview of the technologies that enable modern legal aid offices to operate efficiently and effectively. While LSC's policy is that TIGs cannot be used to bring grantees up to the baselines in an area, we encourage applicants as they implement a baseline capacity to think about how they can do more than just the minimum. This area of interest focuses on initiatives that advance organizations beyond the 2015 Baselines by developing innovative, creative

[1] LHI is an automated document server powered by HotDocs Server and made available to any LSC funded program at no charge. See *https://lawhelpinteractive.org*.

technology solutions that not only address one or more Baseline capacities, but also exceed them. Grantees applying under this area of interest should address how their project could establish a new technology best practice that could be incorporated into future versions of the Baselines.

C. Innovations in Legal Information Design and Delivery. Legal tools and content should be developed with the end user in mind, but too often the result reflects what the developer determines the end user will need, rather than what the user understands and finds helpful. Technology provides an opportunity to design and deliver legal information optimized for the end user, and there are good examples of how user-centric design can improve legal innovation (see *www.legaltechdesign.com* and *www.nulawlab.org*). Projects in this area of interest could incorporate new approaches to visual law, online learning, and user interaction in the design and delivery of content. In one example from the 2015 TIG cycle, a grantee received funding to develop a courtroom experience app that delivers just-in-time support directly to litigants' smartphones as they navigate various stages of the court process, increasing effective self-representation. Projects could also focus on low/no-literacy and Limited English Proficiency (LEP) communities or others who are under-served by traditional methods.

Specific Letter of Intent To Apply Requirements

One Project per Letter of Intent

Applicants may submit multiple LOIs, but a separate LOI should be submitted for each project for which funding is sought.

Letter Requirements and Format

Letters of Intent must be submitted using the online system at *http://lscgrants.lsc.gov*. Additional instructions and information can be found on the TIG Web site, *http://www.lsc.gov/grants-grantee-resources/our-grant-programs/tig*. This system will walk you through the process of creating a simple two-page LOI. The LOI should concisely provide the following information about the proposed project:

1. Category—Select the appropriate category from the drop down list.

2. Description of Project (maximum 2500 characters)—Briefly describe the basic elements of the project, including the specific technology(ies) the project will develop or implement; how they will be developed, how they will operate, the function they will serve within the legal services delivery system, their expected impact, and other similar factors. (Only the impact should be highlighted here; more details about the system's benefits should be provided below.)

3. Major Benefits (maximum 2500 characters)—Describe the specific ways in which the project will increase or improve services to clients and/or enhance the effectiveness and efficiency of program operations. To the extent feasible, discuss both the qualitative and quantitative aspects of these benefits.

4. Estimated Costs (maximum 1500 characters)—Start by stating the amount of funding you are seeking from the TIG program, followed by the estimated total project cost, summarizing the anticipated costs of the major components of the project. List anticipated contributions, both in-kind and monetary, from all partners involved in the project.

5. Major Partners (maximum 1500 characters)—Identify organizations that are expected to be important partners. Specify the role(s) each partner will play.

6. Innovation/Replication (maximum 1500 characters)—Identify how and why the proposed project is new and innovative and/or is a replication or adaptation of a previous technology project. Identify how and why the proposed project can significantly benefit and/or be replicated by other legal services providers and/or the legal services community at large.

Letter of Intent To Apply Deadline

Letters of Intent must be completed and submitted into the online system at *http://lscgrants.lsc.gov* no later than 11:59 p.m. EST, Monday, February 29, 2016. The online system may experience technical difficulties due to heavy traffic on the day of the deadline. Applicants are strongly encouraged to complete LOI submissions as early as possible.

LSC will not accept applications submitted after the application deadline unless a waiver of the deadline has been approved in advance (see Waiver Authority). Therefore, allow sufficient time for online submission.

LSC will provide confirmation via email upon the completed electronic submission of each Letter of Intent. Keep this email as verification that the program's LOI was submitted. If no confirmation email is received, inquire about the status of your LOI at *Techgrants@lsc.gov*.

Selection Process

LSC will initially review all Letters of Intent to Apply to determine whether they conform to the required format and clearly present all of the required elements listed and described above. Failure to meet these requirements may result in rejection of the Letter of Intent.

LSC will review each Letter of Intent to identify those projects likely to improve access to justice, or to improve the efficiency, effectiveness, and quality of legal services provided by grantees. The Letters of Intent will also be reviewed to determine the extent to which the project proposed is clearly described and well thought out, offers major benefits to our targeted client community, is cost-effective, involves all of the parties needed to make it successful and sustainable, and is either innovative or a cost-effective replication of prior successful projects. LSC will invite those applicants that satisfy these criteria to submit full applications.

Next Steps for Successful Applicants

LSC will notify successful applicants by April 11, 2016. Successful applicants will have until 11:59 p.m. EDT, Friday, May 20, 2016 to complete and submit full applications in the online application system.

Waiver Authority

LSC, upon its own initiative or when requested, may waive provisions in this Notice at its sole discretion under extraordinary circumstances and when it is in the best interest of the eligible client community. Waivers may be granted only for requirements that are discretionary and not mandated by statute or regulation. Any request for a waiver must set forth the extraordinary circumstances for the request and be included in the application. LSC will not consider a request to waive the deadline for a Letter of Intent to Apply unless the waiver request is received by LSC prior to the deadline.

Contact Information

For information on the status of a current TIG project, contact Eric Mathison, Program Analyst, Telephone: 202–295–1535; Email: *emathison@lsc.gov*.

For questions about projects in CT, IL, IN, ME, MA, MI, NH, NJ, NY, OH, PA, RI, WI, WV, VT, contact David Bonebrake, Program Counsel, Telephone: 202.295.1547; Email: *dbonebrake@lsc.gov*.

For questions about projects in AK, AZ, CA, CO, GU, HI, ID, IA, KS, MP, MN, MT, NE., NV, NH, NM, ND, OK, OR, SD, TX, UT, WA, WY, contact Glenn Rawdon, Program Counsel, Telephone: 202.295.1552; Email: *grawdon@lsc.gov*.

For questions about projects in AL, AR, DC, FL, GA, KY, LA, MD, MS, MO, NC, PR, SC, TN, VI, VA, contact Jane Ribadeneyra, Program Analyst, Telephone: 202.295.1554, Email: *ribadeneyraj@lsc.gov*.

If you have a general question, please email *techgrants@lsc.gov*.

Dated: January 12, 2016.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2016–00941 Filed 1–19–16; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Collection Request: Guidelines for Grants to States Program Five-Year Evaluations

AGENCY: Institute of Museum and Library Services, National Foundation for the Arts and the Humanities.

ACTION: Notice, request for comments, collection of information.

SUMMARY: The Institute of Museum and Library Service (''IMLS'') as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This pre-clearance consultation program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The purpose of this Notice is to solicit comments concerning the guidelines for the agency's Grants to States program's five-year evaluations.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before March 15, 2016.

IMLS is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submissions of responses.

ADDRESSES: For a copy of the documents contact: Kim A. Miller, Management Analyst, Office of Planning, Research, and Evaluation, Institute of Museum and Library Services, 1800 M Street NW., 9th Floor, Washington DC 20036. Ms. Miller can be reached by *Telephone:* 202–653–4762, *Fax:* 202–653–4762, or by email at *kmiller@imls.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Institute of Museum and Library Services (IMLS) is an independent Federal grant-making agency and is the primary source of federal support for the Nation's 123,000 libraries and 17,500 museums. IMLS provides a variety of grant programs to assist the Nation's museums and libraries in improving their operations and enhancing their services to the public. The IMLS Grants to States program is the largest source of federal funding support for library services in the United States. Using a population-based formula, more than $150 million is distributed among the State Library Administrative Agencies.

II. Current Actions

The Library Services and Technology Act requires each State Library Administrative Agency to submit a plan that details library services goals for a five-year period. Pursuant to 20 U.S.C. 9134, each State Library Administrative Agency that receives an IMLS grant under the Grants to States Program is required to evaluate and report to the agency, prior to the end of their five-year plan, regarding the activities assisted under the LSTA. These five-year plans and evaluations are the foundation for improving practice and informing policy. The purpose of the proposed information collection is to promulgate guidelines to establish a consistent framework for the evaluations required under 20 U.S.C. 9134, so as to ensure that each State Library Administrative Agency develops and submits to IMLS an effective evaluation of their five-year plan.

Agency: Institute of Museum and Library Services.

Title: Guidelines for Grants to States Program Five-Year Evaluations.

OMB Number: To be determined.

Agency Number: 3137.

Affected Public: State Library Administrative Agencies.

Number of Respondents: 55.

Note: 55 is the number of State Library Administrative Agencies that are responsible for the collection of this information and for reporting it to IMLS.

Frequency: Once every five years.

Burden Hours per Respondent: To be determined.

Total Burden Hours: To be determined.

Total Annualized Capital/Startup Costs: To be determined.

Total Annual Costs: To be determined.

Contact: Kim A. Miller, Management Analyst, Office of Planning, Research, and Evaluation, Institute of Museum and Library Services, 1800 M Street NW., 9th Floor, Washington DC 20036. Ms. Miller can be reached by *Telephone:* 202–653–4762, *Fax:* 202–653–4762, or by email at *kmiller@imls.gov* or by teletype (TTY/TDD at 202–653–4614. Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

Dated: January 12, 2016.

Kim A. Miller,

Management Analyst, Office of Planning, Research, and Evaluation.

[FR Doc. 2016–00768 Filed 1–19–16; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL SCIENCE FOUNDATION

Astronomy and Astrophysics Advisory Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub., L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Astronomy and Astrophysics Advisory Committee (#13883).

Date and Time: February 25, 2016; 12:00 p.m.–4:00 p.m. EDT.

Place: National Science Foundation, Room 1060, Stafford I Building, 4201 Wilson Blvd., Arlington, VA 22230. (Via Teleconference).

Type of Meeting: Open. *http://www.nsf.gov/mps/ast/aaac.jsp.* Attendance information for the meeting will be forthcoming on the Web site.

Contact Person: Dr. James Ulvestad, Division Director, Division of Astronomical

Sciences, Suite 1045, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703–292–7165.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA) and the U.S. Department of Energy (DOE) on issues within the field of astronomy and astrophysics that are of mutual interest and concern to the agencies.

Agenda: To provide updates on agency activities and to discuss the Committee's draft annual report due 15 March 2016.

Dated: January 14, 2016.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2016–00996 Filed 1–19–16; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0022]

Concentration Averaging and Encapsulation Branch Technical Position

AGENCY: Nuclear Regulatory Commission.

ACTION: Branch technical position; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is requesting comments on whether the NRC staff should formally document a position on contaminated material and contaminated trash. The NRC issued Revision 1 of the Branch Technical Position on Concentration Averaging and Encapsulation (CA BTP) in February of 2015. The CA BTP provides acceptable methods that can be used to perform concentration averaging of Low-Level Radioactive Waste (LLRW) for the purpose of determining its waste class for disposal. When the NRC issued the revised CA BTP, it noted that one issue, distinguishing contaminated materials from contaminated trash, may need further clarification. The NRC also stated that it would consider whether additional guidance, such as a Regulatory Issue Summary (RIS), would be warranted for distinguishing contaminated materials from contaminated trash.

DATES: Submit comments by March 21, 2016. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0022. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Don Lowman, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5452; email: *Donald.Lowman@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2011–0022 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0022.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* Volume 1 and Volume 2 of the revised CA BTP are available in ADAMS under Accession Nos. ML12254B065 and ML12326A611, respectively.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2011–0022 in the subject line of your comment submission. The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in you comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

The NRC issued Revision 1 of the CA BTP (''Revised CA BTP'') on February 25, 2015, (80 FR 10165). This revision provided updated guidance on the interpretation of § 61.55(a)(8) of title 10 of the *Code of Federal Regulations* (10 CFR), ''Determination of concentrations in wastes,'' as it applies to the classification (as Class A, B, or C waste) of a variety of different types and forms of LLW. Section 61.55(a)(8) states that radionuclide concentrations can be averaged over the volume of the waste or its weight if the units are expressed as nanocuries per gram. The average radionuclide concentrations are compared with the waste classification tables in § 61.55 to determine the class of the waste. The waste class determines the minimum safety measures to be applied in order to provide reasonable assurance of safe disposal of the waste. The previous version of the CA BTP was published in 1995 (ADAMS Accession No. ML033630732).

In developing the Revised CA BTP, the staff identified one issue that may need further clarification. One of the categories of discrete wastes that are subject to additional concentration averaging constraints is ''contaminated materials.'' Both the 1995 and Revised CA BTPs define contaminated materials as components or metals on which radioactivity resides on or near the surface in a fixed or removable condition. To demonstrate compliance with these averaging constraints, the

radiological characteristics and volumes of individual items are typically determined. However, items with surface contamination may also be categorized as contaminated trash which has fewer averaging constraints. Both the 1995 and the Revised CA BTP used the term contaminated trash which is intended to be the equivalent of waste descriptor codes 39 and 40 (*i.e.,* Compactible Trash and Noncompactible Trash) of NRC Form 541, ''Uniform Low-Level Radioactive Waste Manifest—Container and Waste Description.'' Items in contaminated trash do not need to be individually characterized. Instead, a container of contaminated trash can be surveyed to determine its overall radioactivity and its classification determined by dividing the overall activity by the waste volume. Neither the 1995 CA BTP nor draft revisions published for public comment provided guidance for categorizing items as either contaminated materials or contaminated trash. In addition, the NRC received no comments from stakeholders on this issue. The NRC is now addressing whether additional guidance, such as a Regulatory Issue Summary (RIS), is warranted for distinguishing contaminated materials from contaminated trash.

III. Specific Request for Comments

The NRC is trying to determine what items that could be defined as contaminated material per the CA BTP, if any, are currently being disposed of as contaminated trash. The NRC is requesting that persons consider and address the following questions as they develop and provide their comments:

1. Is additional guidance needed to clarify the distinction between contaminated trash and contaminated material?

2. When filling out the Uniform Waste Manifest (UWM)(NRC Forms 540, 541, and 542), how is contaminated equipment (UWM code 33) currently distinguished from contaminated trash (UWM codes 39 and 40)?

3. Should numerical constraints be developed to clarify the distinction between contaminated materials and contaminated trash? If so, what basis should be used to develop the numerical constraints? If not, what qualitative factors should be considered?

4. If numerical values are developed, would activity or concentration constraints be preferable? Would an option to use either be feasible to implement?

5. What challenges, if any, do you foresee with implementing numerical thresholds for distinguishing between contaminated trash and contaminated materials? How could these challenges be ameliorated?

6. Would an emphasis on using process knowledge be sufficient to avoid the unintended consequence of causing licensees to characterize individual pieces of trash that have radionuclide concentrations significantly less than the class limits?

7. The NRC understands that items referred to as ''high rad trash'' are placed in containers of contaminated trash and averaged. The NRC also understands that this practice reduces worker exposure as compared to evaluating each item of trash. Please provide examples of ''high rad trash,'' estimated annual volume, areas of the facilities where this waste is generated, and typical contact dose rates (if available).

8. When classifying contaminated trash, is the same sample data (*e.g.,* scaling factors) for determining the radionuclide content of ''normal'' contaminated trash used for classifying the ''high rad trash''?

9. What process currently is used to determine whether items of ''high rad trash'' can be disposed of with lower-activity contaminated trash or whether items are treated as contaminated materials and averaged with the constraints described for contaminated materials under the 1995 CA BTP?

10. Is clarification needed for the term ''component'' in the definition of contaminated materials used in the 1995 and 2015 CA BTP?

Dated at Rockville, Maryland this 12th day of January 2016.

For the Nuclear Regulatory Commission.

Andrew Persinko,

Deputy Director, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2016–00972 Filed 1–19–16; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This provides the consolidated notice of all agency specific excepted authorities, approved by the Office of Personnel Management (OPM), under Schedule A, B, and C, as of June 30, 2015, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Senior Executive Resources Services, Senior Executive Service and Performance Management, Employee Services, 202–606–2246.

SUPPLEMENTARY INFORMATION: Civil Service Rule VI (5 CFR 6.1) requires the U.S. Office of Personnel Management (OPM) to publish notice of exceptions granted under Schedule A, B, and C. Under 5 CFR 213.103(a) it is required that all Schedule A, B, and C appointing authorities available for use by all agencies to be published as regulations in the **Federal Register** (FR) and the Code of Federal Regulations (CFR). Excepted appointing authorities established solely for use by one specific agency do not meet the standard of general applicability prescribed by the Federal Register Act for regulations published in either the FR or the CFR. Therefore, 5 CFR 213.103(b) requires monthly publication, in the Notices section of the **Federal Register**, of any Schedule A, B, and C appointing authorities applicable to a single agency. Under 5 CFR 213.103(c) it is required that a consolidated listing of all Schedule A, B, and C authorities, current as of June 30 of each year, be published annually in the Notices section of the **Federal Register** at *www.federalregister.gov/agencies/personnel-management-office.* That notice follows. Governmentwide authorities codified in the CFR are not printed in this notice.

When making appointments under an agency-specific authority, agencies should first list the appropriate Schedule A, B, or C, followed by the applicable number, for example: Schedule A, 213.3104(x)(x). Agencies are reminded that all excepted authorities are subject to the provisions of 5 CFR part 302 unless specifically exempted by OPM at the time of approval.

OPM maintains continuing information on the status of all Schedule A, B, and C appointing authorities. Interested parties needing information about specific authorities during the year may obtain information by writing to the Senior Executive Resource Services, Office of Personnel Management, 1900 E Street NW., Room 7412, Washington, DC 20415, or by calling (202) 606–2246.

The following exceptions are current as of June 30, 2015.

Schedule A

03. ***Executive Office of the President (Sch. A, 213.3103)***

(a) Office of Administration—

(1) Not to exceed 75 positions to provide administrative services and support to the White House Office.

(b) Office of Management and Budget—

(1) Not to exceed 20 positions at grades GS–5/15.

(2) Not to Exceed 34 positions that require unique technical skills needed for the re-designing and re-building of digital interfaces between citizens, businesses, and government as a part of Smarter Information Technology Delivery Initiative. This authority may be used to make permanent, time-limited and temporary appointments to Digital Services Expert positions (GS–301) directly related to the implementation of the Smarter Information Technology Delivery Initiative at the GS–14 to 15 level. No new appointments may be made under this authority after September 30, 2016.

(c) Council on Environmental Quality—

(1) Professional and technical positions in grades GS–9 through 15 on the staff of the Council.

(d)–(f) (Reserved)

(g) National Security Council—

(1) All positions on the staff of the Council.

(h) Office of Science and Technology Policy—

(1) Thirty positions of Senior Policy Analyst, GS–15; Policy Analyst, GS–11/14; and Policy Research Assistant, GS–9, for employment of anyone not to exceed 5 years on projects of a high priority nature.

(i) Office of National Drug Control Policy—

(1) Not to exceed 18 positions, GS–15 and below, of senior policy analysts and other personnel with expertise in drug-related issues and/or technical knowledge to aid in anti-drug abuse efforts.

04. ***Department of State (Sch. A, 213.3104)***

(a) Office of the Secretary—

(1) All positions, GS–15 and below, on the staff of the Family Liaison Office, Director General of the Foreign Service and the Director of Personnel, Office of the Under Secretary for Management.

(2) (Reserved)

(b)–(f) (Reserved)

(g) Bureau of Population, Refugees, and Migration—

(1) Not to exceed 10 positions at grades GS–5 through 11 on the staff of the Bureau.

(h) Bureau of Administration—

(1) (Reserved)

(2) One position of the Director, Art in Embassies Program, GM–1001–15.

(3) (Reserved)

05. ***Department of the Treasury (Sch. A, 213.3105)***

(a) Office of the Secretary—

(1) Not to exceed 20 positions at the equivalent of GS–13 through GS–15 or Senior Level (SL) to supplement permanent staff in the study of complex problems relating to international financial, economic, trade, and energy policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.

(2) Covering no more than 100 positions supplementing permanent staff studying domestic economic and financial policy, with employment not to exceed 4 years.

(3) Not to exceed 100 positions in the Office of the Under Secretary for Terrorism and Financial Intelligence.

(4) Up to 35 temporary or time-limited positions at the GS–9 through 15 grade levels to support the organization, design, and stand-up activities for the Consumer Financial Protection Bureau (CFPB), as mandated by P.L. 111–203. This authority may be used for the following series: GS–201, GS–501, GS–560, GS–1035, GS–1102, GS–1150, GS–1720, GS–1801, and GS–2210. No new appointments may be made under this authority after July 21, 2011, the designated transfer date of the CFPB.

(b)–(d) (Reserved)

(e) Internal Revenue Service—

(1) Twenty positions of investigator for special assignments.

(f) (Reserved)

(g) (Reserved, moved to DOJ)

(h) Office of Financial Stability—

(1) Positions needed to perform investment, risk, financial, compliance, and asset management requiring unique qualifications currently not established by OPM. Positions will be in the Office of Financial Stability and the General Schedule (GS) grade levels 12–15 or Senior Level (SL), for initial employment not to exceed 4 years. No new appointments may be made under this authority after December 31, 2012.

06. ***Department of Defense (Sch. A, 213.3106)***

(a) Office of the Secretary—

(1)–(5) (Reserved)

(6) One Executive Secretary, US–USSR Standing Consultative Commission and Staff Analyst (SALT), Office of the Assistant Secretary of Defense (International Security Affairs).

(b) Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force)—

(1) Dependent School Systems overseas—Professional positions in Military Dependent School systems overseas.

(2) Positions in Attaché 1 systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interpreter overseas.

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the staffs of the chaplains in the military services.

(5) Positions under the program for utilization of alien scientists, approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense, when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

(6) Positions in overseas installations of the DOD when filled by dependents of military or civilian employees of the U.S. Government residing in the area. Employment under this authority may not extend longer than 2 months following the transfer from the area or separation of a dependent's sponsor: Provided that

(i) A school employee may be permitted to complete the school year; and

(ii) An employee other than a school employee may be permitted to serve up to 1 additional year when the military department concerned finds that the additional employment is in the interest of management.

(7) Twenty secretarial and staff support positions at GS–12 or below on the White House Support Group.

(8) Positions in DOD research and development activities occupied by participants in the DOD Science and Engineering Apprenticeship Program for High School Students. Persons employed under this authority shall be bona fide high school students, at least 14 years old, pursuing courses related to the position occupied and limited to 1,040 working hours a year. Children of DOD employees may be appointed to these positions, notwithstanding the sons and daughters restriction, if the positions are in field activities at remote locations. Appointments under this authority may be made only to positions for which qualification standards established under 5 CFR part 302 are consistent with the education and

experience standards established for comparable positions in the competitive service. Appointments under this authority may not be used to extend the service limits contained in any other appointing authority.

(9) (Reserved)

(10) Temporary or time-limited positions in direct support of U.S. Government efforts to rebuild and create an independent, free and secure Iraq and Afghanistan, when no other appropriate appointing authority applies. Positions will generally be located in Iraq or Afghanistan, but may be in other locations, including the United States, when directly supporting operations in Iraq or in Afghanistan. No new appointments may be made under this authority after September 30, 2014.

(11) Not to exceed 3,000 positions that require unique cyber security skills and knowledge to perform cyber risk and strategic analysis, incident handling and malware/vulnerability analysis, program management, distributed control systems security, cyber incident response, cyber exercise facilitation and management, cyber vulnerability detection and assessment, network and systems engineering, enterprise architecture, investigation, investigative analysis and cyber-related infrastructure inter-dependency analysis. This authority may be used to make permanent, time-limited and temporary appointments in the following occupational series: Security (GS–0080), computer engineers (GS–0854), electronic engineers (GS–0855), computer scientists (GS–1550), operations research (GS–1515), criminal investigators (GS–1811), telecommunications (GS–0391), and IT specialists (GS–2210). Within the scope of this authority, the U.S. Cyber Command is also authorized to hire miscellaneous administrative and program (GS–0301) series when those positions require unique cyber security skills and knowledge. All positions will be at the General Schedule (GS) grade levels 09–15 or equivalent. No new appointments may be made under this authority after December 31, 2015.

(c) (Reserved)

(d) General—

(1) Positions concerned with advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information, including scientific and technical positions in the intelligence function; and positions involved in the planning, programming, and management of intelligence resources when, in the opinion of OPM, it is impracticable to examine. This authority does not apply to positions assigned to cryptologic and communications intelligence activities/functions.

(2) Positions involved in intelligence-related work of the cryptologic intelligence activities of the military departments. This includes all positions of intelligence research specialist, and similar positions in the intelligence classification series; all scientific and technical positions involving the applications of engineering, physical, or technical sciences to intelligence work; and professional as well as intelligence technician positions in which a majority of the incumbent's time is spent in advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information or in the planning, programming, and management of intelligence resources.

(e) Uniformed Services University of the Health Sciences—

(1) Positions of President, Vice Presidents, Assistant Vice Presidents, Deans, Deputy Deans, Associate Deans, Assistant Deans, Assistants to the President, Assistants to the Vice Presidents, Assistants to the Deans, Professors, Associate Professors, Assistant Professors, Instructors, Visiting Scientists, Research Associates, Senior Research Associates, and Postdoctoral Fellows.

(2) Positions established to perform work on projects funded from grants.

(f) National Defense University—

(1) Not to exceed 16 positions of senior policy analyst, GS–15, at the Strategic Concepts Development Center. Initial appointments to these positions may not exceed 6 years, but may be extended thereafter in 1-, 2-, or 3-year increments, indefinitely.

(g) Defense Communications Agency—

(1) Not to exceed 10 positions at grades GS–10/15 to staff and support the Crisis Management Center at the White House.

(h) Defense Acquisition University—

(1) The Provost and professors.

(i) George C. Marshall European Center for Security Studies, Garmisch, Germany—

(1) The Director, Deputy Director, and positions of professor, instructor, and lecturer at the George C. Marshall European Center for Security Studies, Garmisch, Germany, for initial employment not to exceed 3 years, which may be renewed in increments from 1 to 2 years thereafter.

(j) Asia-Pacific Center for Security Studies, Honolulu, Hawaii—

(1) The Director, Deputy Director, Dean of Academics, Director of College, deputy department chairs, and senior positions of professor, associate professor, and research fellow within the Asia Pacific Center. Appointments may be made not to exceed 3 years and may be extended for periods not to exceed 3 years.

(k) Business Transformation Agency—

(1) Fifty temporary or time-limited (not to exceed four years) positions, at grades GS–11 through GS–15. The authority will be used to appoint persons in the following series: Management and Program Analysis, GS–343: Logistics Management, GS–346; Financial Management Programs, GS–501; Accounting, GS–510; Computer Engineering, GS–854; Business and Industry, GS–1101; Operations Research, GS–1515; Computer Science, GS–1550; General Supply, GS–2001; Supply Program Management, GS–2003; Inventory Management, GS–2010; and Information Technology, GS–2210.

(l) Special Inspector General for Afghanistan—

(1) Positions needed to establish the Special Inspector General for Afghanistan Reconstruction. These positions provide for the independent and objective conduct and supervision of audits and investigations relating to the programs and operations funded with amounts appropriated and otherwise made available for the reconstruction of Afghanistan. These positions are established at General Schedule (GS) grade levels for initial employment not to exceed 3 years and may, with prior approval of OPM, be extended for an additional period of 2 years. No new appointments may be made under this authority after January 31, 2011.

07. *Department of the Army (Sch. A, 213.3107)*

(a)–(c) (Reserved)

(d) U.S. Military Academy, West Point, New York—

(1) Civilian professors, instructors, teachers (except teachers at the Children's School), Cadet Social Activities Coordinator, Chapel Organist and Choir-Master, Director of Intercollegiate Athletics, Associate Director of Intercollegiate Athletics, Coaches, Facility Manager, Building Manager, three Physical Therapists (Athletic Trainers), Associate Director of Admissions for Plans and Programs, Deputy Director of Alumni Affairs; and Librarian when filled by an officer of the Regular Army retired from active

service, and the Military Secretary to the Superintendent when filled by a U.S. Military Academy graduate retired as a regular commissioned officer for disability.

(e)–(f) (Reserved)

(g) Defense Language Institute—

(1) All positions (professors, instructors, lecturers) which require proficiency in a foreign language or knowledge of foreign language teaching methods.

(h) Army War College, Carlisle Barracks, PA—

(1) Positions of professor, instructor, or lecturer associated with courses of instruction of at least 10 months duration for employment not to exceed 5 years, which may be renewed in 1-, 2-, 3-, 4-, or 5-year increments indefinitely thereafter.

(i) (Reserved)

(j) U.S. Military Academy Preparatory School, Fort Monmouth, New Jersey—

(1) Positions of Academic Director, Department Head, and Instructor.

(k) U.S. Army Command and General Staff College, Fort Leavenworth, Kansas—

(1) Positions of professor, associate professor, assistant professor, and instructor associated with courses of instruction of at least 10 months duration, for employment not to exceed up to 5 years, which may be renewed in 1-, 2-, 3-, 4-, or 5-year increments indefinitely thereafter.

08. ***Department of the Navy (Sch. A, 213.3108)***

(a) General—

(1)–(14) (Reserved)

(15) Marine positions assigned to a coastal or seagoing vessel operated by a naval activity for research or training purposes.

(16) All positions necessary for the administration and maintenance of the official residence of the Vice President.

(b) Naval Academy, Naval Postgraduate School, and Naval War College—

(1) Professors, Instructors, and Teachers; the Director of Academic Planning, Naval Postgraduate School; and the Librarian, Organist-Choirmaster, Registrar, the Dean of Admissions, and Social Counselors at the Naval Academy.

(c) Chief of Naval Operations—

(1) One position at grade GS–12 or above that will provide technical, managerial, or administrative support on highly classified functions to the Deputy Chief of Naval Operations (Plans, Policy, and Operations).

(d) Military Sealift Command

(1) All positions on vessels operated by the Military Sealift Command.

(e)–(f) (Reserved)

(g) Office of Naval Research—

(1) Scientific and technical positions, GS–13/15, in the Office of Naval Research International Field Office which covers satellite offices within the Far East, Africa, Europe, Latin America, and the South Pacific. Positions are to be filled by personnel having specialized experience in scientific and/or technical disciplines of current interest to the Department of the Navy.

09. ***Department of the Air Force (Sch. A, 213.3109)***

(a) Office of the Secretary—

(1) One Special Assistant in the Office of the Secretary of the Air Force. This position has advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with the pilot studies.

(b) General—

(1) Professional, technical, managerial and administrative positions supporting space activities, when approved by the Secretary of the Air Force.

(2) Two hundred positions, serviced by Hill Air Force Base, Utah, engaged in interdepartmental activities in support of national defense projects involving scientific and technical evaluations.

(c) Norton and McClellan Air Force Bases, California—

(1) Not to exceed 20 professional positions, GS–11 through GS–15, in Detachments 6 and 51, SM–ALC, Norton and McClellan Air Force Bases, California, which will provide logistic support management to specialized research and development projects.

(d) U.S. Air Force Academy, Colorado—

(1) (Reserved)

(2) Positions of Professor, Associate Professor, Assistant Professor, and Instructor, in the Dean of Faculty, Commandant of Cadets, Director of Athletics, and Preparatory School of the United States Air Force Academy.

(e) (Reserved)

(f) Air Force Office of Special Investigations—

(1) Positions of Criminal Investigators/Intelligence Research Specialists, GS–5 through GS–15, in the Air Force Office of Special Investigations.

(g) Wright-Patterson Air Force Base, Ohio—

(1) Not to exceed eight positions, GS–12 through 15, in Headquarters Air Force Logistics Command, DCS Material Management, Office of Special Activities, Wright-Patterson Air Force Base, Ohio, which will provide logistic support management staff guidance to classified research and development projects.

(h) Air University, Maxwell Air Force Base, Alabama—

(1) Positions of Professor, Instructor, or Lecturer.

(i) Air Force Institute of Technology, Wright-Patterson Air Force Base, Ohio—

(1) Civilian deans and professors.

(j) Air Force Logistics Command—

(1) One Supervisory Logistics Management Specialist, GM–346–14, in Detachment 2, 2762 Logistics Management Squadron (Special), Greenville, Texas.

(k) Wright-Patterson AFB, Ohio—

(1) One position of Supervisory Logistics Management Specialist, GS–346–15, in the 2762nd Logistics Squadron (Special), at Wright-Patterson Air Force Base, Ohio.

(l) Air National Guard Readiness Center—

(1) One position of Commander, Air National Guard Readiness Center, Andrews Air Force Base, Maryland.

10. ***Department of Justice (Sch. A, 213.3110)***

(a) General—

(1) Deputy U.S. Marshals employed on an hourly basis for intermittent service.

(2) Positions at GS–15 and below on the staff of an office of a special counsel.

(3)–(5) (Reserved)

(6) Positions of Program Manager and Assistant Program Manager supporting the International Criminal Investigative Training Assistance Program in foreign countries. Initial appointments under this authority may not exceed 2 years, but may be extended in 1-year increments for the duration of the in-country program.

(7) Positions necessary throughout DOJ, for the excepted service transfer of NDIC employees hired under Schedule A, 213.3110(d). Authority expires September 30, 2012.

(b) (Reserved)

(c) Drug Enforcement Administration—

(1) (Reserved)

(2) Four hundred positions of Intelligence Research Agent and/or Intelligence Operation Specialist in the GS–132 series, grades GS–9 through GS–15.

(3) Not to exceed 200 positions of Criminal Investigator (Special Agent). New appointments may be made under this authority only at grades GS–7/11.

(d) (Reserved, moved to Justice)

(e) Bureau of Alcohol, Tobacco, and Firearms—

(1) One hundred positions of Criminal Investigator for special assignments.

(2) One non-permanent Senior Level (SL) Criminal Investigator to serve as a

senior advisor to the Assistant Director (Firearms, Explosives, and Arson).

11. *Department of Homeland Security (Sch. A, 213.3111)*

(a) (Revoked 11/19/2009)

(b) Law Enforcement Policy—

(1) Ten positions for oversight policy and direction of sensitive law enforcement activities.

(c) Homeland Security Labor Relations Board/Homeland Security Mandatory Removal Board—

(1) Up to 15 Senior Level and General Schedule (or equivalent) positions.

(d) General—

(1) Not to exceed 1,000 positions to perform cyber risk and strategic analysis, incident handling and malware/vulnerability analysis, program management, distributed control systems security, cyber incident response, cyber exercise facilitation and management, cyber vulnerability detection and assessment, network and systems engineering, enterprise architecture, intelligence analysis, investigation, investigative analysis and cyber-related infrastructure interdependency analysis requiring unique qualifications currently not established by OPM. Positions will be at the General Schedule (GS) grade levels 09–15. No new appointments may be made under this authority after December 31, 2015.

(e) Papago Indian Agency—Not to exceed 25 positions of Immigration and Customs Enforcement (ICE) Tactical Officers (Shadow Wolves) in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood. (Formerly 213.3105(b)(9))

(f) U.S. Citizenship and Immigration Services

(1) Reserved. (Formerly 213.3110(b)(1))

(2) Not to exceed 500 positions of interpreters and language specialists, GS–1040–5/9. (Formerly 213.3110(b)(2))

(3) Reserved. (Formerly 213.3110(b)(3))

(g) U.S. Immigration and Customs Enforcement—

(1) Not to exceed 200 staff positions, GS–15 and below for an emergency staff to provide health related services to foreign entrants. (Formerly 213.3116(b)(16))

(h) Federal Emergency Management Agency—

(1) Field positions at grades GS–15 and below, or equivalent, which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency. Persons may not be employed under this authority for long-term duties or for work not directly necessitated by the emergency response effort. (Formerly 213.3195(a))

(2) Not to exceed 30 positions at grades GS–15 and below in the Offices of Executive Administration, General Counsel, Inspector General, Comptroller, Public Affairs, Personnel, Acquisition Management, and the State and Local Program and Support Directorate which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency, or for long-term duties or work not directly necessitated by the emergency response effort. No one may be reappointed under this authority for service in connection with a different emergency unless at least 6 months have elapsed since the individual's latest appointment under this authority. (Formerly 213.3195(b))

(3) Not to exceed 350 professional and technical positions at grades GS–5 through GS–15, or equivalent, in Mobile Emergency Response Support Detachments (MERS). (Formerly 213.3195(c))

(i) U.S. Coast Guard—

(1) Reserved. (Formerly 213.3194(a))

(2) Lamplighters. (Formerly 213.3194(b))

(3) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, one Cadet Hostess, and one Psychologist (Counseling) at the Coast Guard Academy, New London, Connecticut. (Formerly 213.3194(c))

12. *Department of the Interior (Sch. A, 213.3112)*

(a) General—

(1) Technical, maintenance, and clerical positions at or below grades GS–7, WG–10, or equivalent, in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positions on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damages or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of OPM.

(4) Temporary, intermittent, or seasonal field assistants at GS–7, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority may not exceed 180 working days a year.

(5) Temporary positions established in the field service of the Department for emergency forest and range fire prevention or suppression and blister rust control for not to exceed 180 working days a year: Provided, that an employee may work as many as 220 working days a year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property.

(6) Persons employed in field positions, the work of which is financed jointly by the Department of the Interior and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of the Interior is responsible for defining the term ''Indian.''

(8) Temporary, intermittent, or seasonal positions at GS–7 or below in Alaska, as follows: Positions in nonprofessional mining activities, such as those of drillers, miners, caterpillar operators, and samplers. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(9) Temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators, and tradesmen on construction, repair, or maintenance work not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(11) Temporary staff positions in the Youth Conservation Corps Centers operated by the Department of the Interior. Employment under this

authority shall not exceed 11 weeks a year except with prior approval of OPM.

(12) Positions in the Youth Conservation Corps for which pay is fixed at the Federal minimum wage rate. Employment under this authority may not exceed 10 weeks.

(b) (Reserved)

(c) Indian Arts and Crafts Board—

(1) The Executive Director

(d) (Reserved)

(e) Office of the Assistant Secretary, Territorial and International Affairs—

(1) (Reserved)

(2) Not to exceed four positions of Territorial Management Interns, grades GS–5, GS–7, or GS–9, when filled by territorial residents who are U.S. citizens from the Virgin Islands or Guam; U.S. nationals from American Samoa; or in the case of the Northern Marianas, will become U.S. citizens upon termination of the U.S. trusteeship. Employment under this authority may not exceed 6 months.

(3) (Reserved)

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional, technical, and scientific duties as members of his or her immediate staff.

(f) National Park Service—

(1) (Reserved)

(2) Positions established for the administration of Kalaupapa National Historic Park, Molokai, Hawaii, when filled by appointment of qualified patients and Native Hawaiians, as provided by Public Law 95–565.

(3) Seven full-time permanent and 31 temporary, part-time, or intermittent positions in the Redwood National Park, California, which are needed for rehabilitation of the park, as provided by Public Law 95–250.

(4) One Special Representative of the Director.

(5) All positions in the Grand Portage National Monument, Minnesota, when filled by the appointment of recognized members of the Minnesota Chippewa Tribe.

(g) Bureau of Reclamation—

(1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values on conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: Provided, that such employment may, with prior approval of OPM, be extended for not to exceed an additional 50 working days in any single year.

(h) Office of the Deputy Assistant Secretary for Territorial Affairs—

(1) Positions of Territorial Management Interns, GS–5, when filled by persons selected by the Government of the Trust Territory of the Pacific Islands. No appointment may extend beyond 1 year.

13. ***Department of Agriculture (Sch. A, 213.3113)***

(a) General—

(1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agricultural Research Service or the National Agricultural Statistics Service. This authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural commodity grader (grain) and (meat), (poultry), and (dairy), agricultural commodity aid (grain), and tobacco inspection positions.

(2)–(4) (Reserved)

(5) Temporary, intermittent, or seasonal employment in the field service of the Department in positions at and below GS–7 and WG–10 in the following types of positions: Field assistants for sub professional services; agricultural helpers, helper-leaders, and workers in the Agricultural Research Service and the Animal and Plant Health Inspection Service; and subject to prior OPM approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph may not exceed 180 working days in a service year: Provided, that an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraph (i) of Sec. 213.3102 or positions within the Forest Service.

(6)–(7) (Reserved)

(b)–(c) (Reserved)

(d) Farm Service Agency—

(1) (Reserved)

(2) Members of State Committees: Provided, that employment under this authority shall be limited to temporary intermittent (WAE) positions whose principal duties involve administering farm programs within the State consistent with legislative and Departmental requirements and reviewing national procedures and policies for adaptation at State and local levels within established parameters. Individual appointments under this authority are for 1 year and may be extended only by the Secretary of Agriculture or his designee. Members of State Committees serve at the pleasure of the Secretary.

(e) Rural Development—

(1) (Reserved)

(2) County committeemen to consider, recommend, and advise with respect to the Rural Development program.

(3)–(5) (Reserved)

(6) Professional and clerical positions in the Trust Territory of the Pacific Islands when occupied by indigenous residents of the Territory to provide financial assistance pursuant to current authorizing statutes.

(f) Agricultural Marketing Service—

(1) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–9 and below in the tobacco, dairy, and poultry commodities; Meat Acceptance Specialists, GS–11 and below; Clerks, Office Automation Clerks, and Computer Clerks at GS–5 and below; Clerk-Typists at grades GS–4 and below; and Laborers under the Wage System. Employment under this authority is limited to either 1,280 hours or 180 days in a service year.

(2) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–11 and below in the cotton, raisin, peanut, and processed and fresh fruit and vegetable commodities and the following positions in support of these commodities: Clerks, Office Automation Clerks, and Computer Clerks and Operators at GS–5 and below; Clerk-Typists at grades GS–4 and below; and, under the Federal Wage System, High Volume Instrumentation (HVI) Operators and HVI Operator Leaders at WG/WL–2 and below, respectively, Instrument Mechanics/Workers/Helpers at WG–10 and below, and Laborers. Employment under this authority may not exceed 180 days in a service year. In unforeseen situations such as bad weather or crop conditions, unanticipated plant demands, or increased imports, employees may work up to 240 days in a service year. Cotton Agricultural Commodity Graders, GS–5, may be employed as trainees for the first appointment for an initial period of 6 months for training without regard to the service year limitation.

(3) Milk Market Administrators

(4) All positions on the staffs of the Milk Market Administrators.

(g)–(k) (Reserved)

(l) Food Safety and Inspection Service—

(1)–(2) (Reserved)

(3) Positions of Meat and Poultry Inspectors (Veterinarians at GS–11 and below and non-Veterinarians at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

(m) Grain Inspection, Packers and Stockyards Administration—

(1) One hundred and fifty positions of Agricultural Commodity Aid (Grain), GS–2/4; 100 positions of Agricultural Commodity Technician (Grain), GS–4/7; and 60 positions of Agricultural Commodity Grader (Grain), GS–5/9, for temporary employment on a part-time, intermittent, or seasonal basis not to exceed 1,280 hours in a service year.

(n) Alternative Agricultural Research and Commercialization Corporation—

(1) Executive Director

14. ***Department of Commerce (Sch. A, 213.3114)***

(a) General—

(1)–(2) (Reserved)

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in the continental United States for periods of orientation, training, analysis of data, and report writing.

(b)–(c) (Reserved)

(d) Bureau of the Census—

(1) Managers, supervisors, technicians, clerks, interviewers, and enumerators in the field service, for time-limited employment to conduct a census.

(2) Current Program Interviewers employed in the field service.

(e)–(h) (Reserved)

(i) Office of the Under Secretary for International Trade—

(1) Fifteen positions at GS–12 and above in specialized fields relating to international trade or commerce in units under the jurisdiction of the Under Secretary for International Trade. Incumbents will be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed 2 years for an individual appointee.

(2) (Reserved)

(3) Not to exceed 15 positions in grades GS–12 through GS–15, to be filled by persons qualified as industrial or marketing specialists; who possess specialized knowledge and experience in industrial production, industrial operations and related problems, market structure and trends, retail and wholesale trade practices, distribution channels and costs, or business financing and credit procedures applicable to one or more of the current segments of U.S. industry served by the Under Secretary for International Trade, and the subordinate components of his organization which are involved in Domestic Business matters. Appointments under this authority may be made for a period not to exceed 2 years and may, with prior OPM approval, be extended for an additional 2 years.

(j) National Oceanic and Atmospheric Administration—

(1)–(2) (Reserved)

(3) All civilian positions on vessels operated by the National Ocean Service.

(4) Temporary positions required in connection with the surveying operations of the field service of the National Ocean Service. Appointment to such positions shall not exceed 8 months in any 1 calendar year.

(k) (Reserved)

(l) National Telecommunication and Information Administration—

(1) Thirty-eight professional positions in grades GS–13 through GS–15.

15. ***Department of Labor (Sch. A, 213.3115)***

(a) Office of the Secretary—

(1) Chairman and five members, Employees' Compensation Appeals Board.

(2) Chairman and eight members, Benefits Review Board.

(b)–(c) (Reserved)

(d) Employment and Training Administration—

(1) Not to exceed 10 positions of Supervisory Manpower Development Specialist and Manpower Development Specialist, GS–7/15, in the Division of Indian and Native American Programs, when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities for the development and administration of comprehensive employment and training programs.

16. ***Department of Health and Human Services (Sch. A, 213.3116)***

(a) General—

(1) Intermittent positions, at GS–15 and below and WG–10 and below, on teams under the National Disaster Medical System including Disaster Medical Assistance Teams and specialty teams, to respond to disasters, emergencies, and incidents/events involving medical, mortuary and public health needs.

(b) Public Health Service—

(1) (Reserved)

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) (Reserved)

(4) Positions concerned with problems in preventive medicine financed or participated in by the Department of Health and Human Services and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the participating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5)–(6) (Reserved)

(7) Not to exceed 50 positions associated with health screening programs for refugees.

(8) All positions in the Public Health Service and other positions in the Department of Health and Human Services directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of Health and Human Services is responsible for defining the term ''Indian.''

(9) (Reserved)

(10) Health care positions of the National Health Service Corps for employment of any one individual not to exceed 4 years of service in health manpower shortage areas.

(11)–(15) (Reserved)

(c)–(e) (Reserved)

(f) The President's Council on Physical Fitness—

(1) Four staff assistants.

17. ***Department of Education (Sch. A, 213.3117)***

(a) Positions concerned with problems in education financed and participated in by the Department of Education and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

18. Environmental Protection Agency (sch. A, 213.3118)

24. ***Board of Governors, Federal Reserve System (Sch. A, 213.3124)***

(a) All positions

27. ***Department of Veterans Affairs (Sch. A, 213.3127)***

(a) Construction Division—

(1) Temporary construction workers paid from ''purchase and hire'' funds and appointed for not to exceed the duration of a construction project.

(b) Alcoholism Treatment Units and Drug Dependence Treatment Centers—

(1) Not to exceed 400 positions of rehabilitation counselors, GS–3 through GS–11, in Alcoholism Treatment Units and Drug Dependence Treatment Centers, when filled by former patients.

(c) Board of Veterans' Appeals—

(1) Positions, GS–15, when filled by a member of the Board. Except as provided by section 201(d) of Public Law 100–687, appointments under this authority shall be for a term of 9 years, and may be renewed.

(2) Positions, GS–15, when filled by a non-member of the Board who is awaiting Presidential approval for appointment as a Board member.

(d) Vietnam Era Veterans Readjustment Counseling Service—

(1) Not to exceed 600 positions at grades GS–3 through GS–11, involved in the Department's Vietnam Era Veterans Readjustment Counseling Service.

(e) Not to Exceed 75 positions that require unique technical skills needed for the re-designing and re-building of digital interfaces between citizens, businesses, and government as a part of Smarter Information Technology Delivery Initiative. This authority may be used to make permanent, time-limited and temporary appointments to non-supervisory Digital Services Expert positions (GS–301) directly related to the implementation of the Smarter Information Technology Delivery Initiative at the GS–15 level. No new appointments may be made under this authority after September 30, 2017.

32. *Small Business Administration (Sch. A, 213.3132)*

(a) When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in the area under the Small Business Act, as amended. Service under this authority may not exceed 4 years, and no more than 2 years may be spent on a single disaster. Exception to this time limit may only be made with prior Office of Personnel Management approval. Appointments under this authority may not be used to extend the 2-year service limit contained below. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(b) When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended. No one may serve under this authority for more than an aggregate of 2 years without a break in service of at least 6 months. Persons who have had more than 2 years of service under paragraph (a) of this section must have a break in service of at least 8 months following such service before appointment under this authority. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

33. *Federal Deposit Insurance Corporation (Sch. A, 213.3133)*

(a)–(b) (Reserved)

(c) Temporary or time-limited positions that are directly related with resolving failing insured depository institutions; financial companies; or brokers and dealers; covered by the Dodd-Frank Wall Street Reform and Consumer Protection Act, including but not limited to, the marketing and sale of institutions and any associated assets; paying insured depositors; and managing receivership estates and all associated receivership management activities, up to termination. Time limited appointments under this authority may not exceed 7 years.

36. *U.S. Soldiers' and Airmen's Home (Sch. A, 213.3136)*

(a) (Reserved)

(b) Positions when filled by member-residents of the Home.

37. *General Services Administration (Sch. A, 213.3137)*

(a) Not to Exceed 95 positions that require unique technical skills needed for the re-designing and re-building of digital interfaces between citizens, businesses, and government as a part of Smarter Information Technology Delivery Initiative. This authority may be used nationwide to make permanent, time-limited and temporary appointments to Digital Services Expert positions (GS–301) directly related to the implementation of the Smarter Information Technology Delivery Initiative at the GS–11 to 15 level. No new appointments may be made under this authority after September 30, 2017.

46. *Selective Service System (Sch. A, 213.3146)*

(a) State Directors

48. *National Aeronautics and Space Administration (Sch. A, 213.3148)*

(a) One hundred and fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

55. *Social Security Administration (Sch. A, 213.3155)*

(a) Arizona District Offices—

(1) Six positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(b) New Mexico—

(1) Seven positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of New Mexico when filled by the appointment of persons of one-fourth or more Indian blood.

(c) Alaska—

(1) Two positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointments of persons of one-fourth or more Alaskan Native blood (Eskimos, Indians, or Aleuts).

62. *The President's Crime Prevention Council (Sch. A, 213.3162)*

(a) (Reserved)

65. *Chemical Safety and Hazard Investigation Board (Sch. A, 213.3165)*

(a) (Reserved)

(b) (Reserved)

66. *Court Services and Offender Supervision Agency of the District of Columbia (Sch. A, 213.3166)*

(a) (Reserved, expired 3/31/2004)

70. *Millennium Challenge Corporation (MCC) (Sch. A, 213.3170)*

(a) (Reserved, expired 9/30/2007)

(b)

(1) Positions of Resident Country Directors and Deputy Resident Country Directors. The length of appointments will correspond to the length or term of the compact agreements made between the MCC and the country in which the MCC will work, plus one additional year to cover pre- and post-compact agreement related activities.

74. ***Smithsonian Institution (Sch. A, 213.3174)***

(a) (Reserved)

(b) Smithsonian Tropical Research Institute—All positions located in Panama which are part of or which support the Smithsonian Tropical Research Institute.

(c) National Museum of the American Indian—Positions at GS–15 and below requiring knowledge of, and experience in, tribal customs and culture. Such positions comprise approximately 10 percent of the Museum's positions and, generally, do not include secretarial, clerical, administrative, or program support positions.

75. ***Woodrow Wilson International Center for Scholars (Sch. A, 213.3175)***

(a) One Asian Studies Program Administrator, one International Security Studies Program Administrator, one Latin American Program Administrator, one Russian Studies Program Administrator, two Social Science Program Administrators, one Middle East Studies Program Administrator, one African Studies Program Administrator, one Global Sustainability and Resilience Program Administrator, one Canadian Studies Program Administrator; one China Studies Program Administrator, one Science, Technology and Innovation Program Administrator, and one Population, Environmental Change, and Security Administrator.

78. ***Community Development Financial Institutions Fund (Sch. A, 213.3178)***

(a) (Reserved, expired 9/23/1998)

80. ***Utah Reclamation and Conservation Commission (Sch. A, 213.3180)***

(a) Executive Director.

82. ***National Foundation on the Arts and the Humanities (Sch. A, 213.3182)***

(a) National Endowment for the Arts—

(1) Artistic and related positions at grades GS–13 through GS–15 engaged in the review, evaluation and administration of applications and grants supporting the arts, related research and assessment, policy and program development, arts education, access programs and advocacy, or evaluation of critical arts projects and outreach programs. Duties require artistic stature, in-depth knowledge of arts disciplines and/or artistic-related leadership qualities.

90. ***African Development Foundation (Sch. A, 213.3190)***

(a) One Enterprise Development Fund Manager. Appointment is limited to four years unless extended by OPM.

91. ***Office of Personnel Management (Sch. A, 213.3191)***

(a)–(c) (Reserved)

(d) Part-time and intermittent positions of test examiners at grades GS–8 and below.

94. ***Department of Transportation (Sch. A, 213.3194)***

(a)–(d) (Reserved)

(e) Maritime Administration—

(1)–(2) (Reserved)

(3) All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.

(4)–(5) (Reserved)

(6) U.S. Merchant Marine Academy, positions of: Professors, Instructors, and Teachers, including heads of Departments of Physical Education and Athletics, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; Coordinator of Shipboard Training; the Commandant of Midshipmen, the Assistant Commandant of Midshipmen; Director of Music; three Battalion Officers; three Regimental Affairs Officers; and one Training Administrator.

(7) U.S. Merchant Marine Academy positions of: Associate Dean; Registrar; Director of Admissions; Assistant Director of Admissions; Director, Office of External Affairs; Placement Officer; Administrative Librarian; Shipboard Training Assistant; three Academy Training Representatives; and one Education Program Assistant.

(f) Up to 40 positions at the GS–13 through 15 grade levels and within authorized SL allocations necessary to support the following credit agency programs of the Department: The Federal Highway Administration's Transportation Infrastructure Finance and Innovation Act Program, the Federal Railroad Administration's Railroad Rehabilitation and Improvement Financing Program, the Federal Maritime Administration's Title XI Program, and the Office of the Secretary's Office of Budget and Programs Credit Staff. This authority may be used to make temporary, time-limited, or permanent appointments, as the DOT deems appropriate, in the following occupational series: Director or Deputy Director SL–301/340, Origination Team Lead SL–301, Deputy Director/Senior Financial Analyst GS–1160, Origination Financial Policy Advisor GS–301, Credit Budgeting Team Lead GS–1160, Credit Budgeting Financial Analysts GS–1160, Portfolio Monitoring Lead SL–1160, Portfolio Monitoring Financial Analyst GS–1160, Financial Analyst GS–1160. No new appointments may be made under this authority after December 31, 2014.

95. ***(Reserved)***

Schedule B

03. ***Executive Office of the President (Sch. B, 213.3203)***

(a) (Reserved)

(b) Office of the Special Representative for Trade Negotiations—

(1) Seventeen positions of economist at grades GS–12 through GS–15.

04. ***Department of State (Sch. B, 213.3204)***

(a) (1) One non-permanent senior level position to serve as Science and Technology Advisor to the Secretary.

(b)–(c) (Reserved)

(d) Seventeen positions on the household staff of the President's Guest House (Blair and Blair-Lee Houses).

(e) (Reserved)

(f) Scientific, professional, and technical positions at grades GS–12 to GS–15 when filled by persons having special qualifications in foreign policy matters. Total employment under this authority may not exceed 4 years.

05. ***Department of the Treasury (Sch. B, 213.3205)***

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Administrator of National Banks, Deputy Regional Administrator of National Banks, Assistant to the Comptroller of the Currency, National Bank Examiner, Associate National Bank Examiner, and Assistant National Bank Examiner, whose salaries are paid from assessments against national banks and other financial institutions.

(b)–(c) (Reserved)

(d) (Reserved) Transferred to 213.3211(b)

(e) (Reserved) Transferred to 213.3210(f)

06. ***Department of Defense (Sch. B, 213.3206)***

(a) Office of the Secretary—

(1) (Reserved)

(2) Professional positions at GS–11 through GS–15 involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary

(Program Analysis and Evaluation); and in the Office of the Deputy Assistant Secretary (Systems Policy and Information) in the Office of the Assistant Secretary (Comptroller).

(3)–(4) (Reserved)

(5) Four Net Assessment Analysts.

(b) Interdepartmental activities—

(1) Seven positions to provide general administration, general art and information, photography, and/or visual information support to the White House Photographic Service.

(2) Eight positions, GS–15 or below, in the White House Military Office, providing support for airlift operations, special events, security, and/or administrative services to the Office of the President.

(c) National Defense University—

(1) Sixty-one positions of Professor, GS–13/15, for employment of any one individual on an initial appointment not to exceed 3 years, which may be renewed in any increment from 1 to 6 years indefinitely thereafter.

(d) General—

(1) One position of Law Enforcement Liaison Officer (Drugs), GS–301–15, U.S. European Command.

(2) Acquisition positions at grades GS–5 through GS–11, whose incumbents have successfully completed the required course of education as participants in the Department of Defense scholarship program authorized under 10 U.S.C. 1744.

(e) Office of the Inspector General—

(1) Positions of Criminal Investigator, GS–1811–5/15.

(f) Department of Defense Polygraph Institute, Fort McClellan, Alabama—

(1) One Director, GM–15.

(g) Defense Security Assistance Agency—

All faculty members with instructor and research duties at the Defense Institute of Security Assistance Management, Wright Patterson Air Force Base, Dayton, Ohio. Individual appointments under this authority will be for an initial 3-year period, which may be followed by an appointment of indefinite duration.

07. *Department of the Army (Sch. B, 213.3207)*

(a) U.S. Army Command and General Staff College—

(1) Seven positions of professors, instructors, and education specialists. Total employment of any individual under this authority may not exceed 4 years.

08. *Department of the Navy (Sch. B, 213.3208)*

(a) Naval Underwater Systems Center, New London, Connecticut—

(1) One position of Oceanographer, grade GS–14, to function as project director and manager for research in the weapons systems applications of ocean eddies.

(b) Armed Forces Staff College, Norfolk, Virginia—All civilian faculty positions of professors, instructors, and teachers on the staff of the Armed Forces Staff College, Norfolk, Virginia.

(c) Defense Personnel Security Research and Education Center—One Director and four Research Psychologists at the professor or GS–15 level.

(d) Marine Corps Command and Staff College—All civilian professor positions.

(e) Executive Dining facilities at the Pentagon—One position of Staff Assistant, GS–301, whose incumbent will manage the Navy's Executive Dining facilities at the Pentagon.

(f) (Reserved)

09. *Department of the Air Force (Sch. B, 213.3209)*

(a) Air Research Institute at the Air University, Maxwell Air Force Base, Alabama—Not to exceed four interdisciplinary positions for the Air Research Institute at the Air University, Maxwell Air Force Base, Alabama, for employment to complete studies proposed by candidates and acceptable to the Air Force. Initial appointments are made not to exceed 3 years, with an option to renew or extend the appointments in increments of 1-, 2-, or 3- years indefinitely thereafter.

(b)–(c) (Reserved)

(d) Air University—Positions of Instructor or professional academic staff at the Air University associated with courses of instruction of varying durations, for employment not to exceed 3 years, which may be renewed for an indefinite period thereafter.

(e) U.S. Air Force Academy, Colorado—One position of Director of Development and Alumni Programs, GS–301–13.

10. *Department of Justice (Sch. B, 213.3210)*

(a) Drug Enforcement Administration—

Criminal Investigator (Special Agent) positions in the Drug Enforcement Administration. New appointments may be made under this authority only at grades GS–5 through 11. Service under the authority may not exceed 4 years. Appointments made under this authority may be converted to career or career-conditional appointments under the provisions of Executive Order 12230, subject to conditions agreed upon between the Department and OPM.

(b) (Reserved)

(c) Not to exceed 400 positions at grades GS–5 through 15 assigned to regional task forces established to conduct special investigations to combat drug trafficking and organized crime.

(d) (Reserved)

(e) United States Trustees—Positions, other than secretarial, GS–6 through GS–15, requiring knowledge of the bankruptcy process, on the staff of the offices of United States Trustees or the Executive Office for U.S. Trustees.

(f) Bureau of Alcohol, Tobacco, and Firearms

(1) Positions, grades GS–5 through GS–12 (or equivalent), of Criminal Investigator. Service under this authority may not exceed 3 years and 120 days.

11. *Department of Homeland Security (Sch. B, 213.3211)*

(a) Coast Guard.

(1) (Reserved)

(b) Secret Service—Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by OPM. Service under this authority may not exceed:

(1) a total of 4 years; or

(2) 120 days following completion of the service required for conversion under Executive Order 11203.

13. *Department of Agriculture (Sch. B, 213.3213)*

(a) Foreign Agricultural Service—

(1) Positions of a project nature involved in international technical assistance activities. Service under this authority may not exceed 5 years on a single project for any individual unless delayed completion of a project justifies an extension up to but not exceeding 2 years.

(b) General—

(1) Temporary positions of professional Research Scientists, GS–15 or below, in the Agricultural Research Service, Economic Research Service, and the Forest Service, when such positions are established to support the Research Associateship Program and are filled by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and the agency.

Appointments are limited to proposals approved by the appropriate Administrator. Appointments may be made for initial periods not to exceed 2 years and may be extended for up to 2 additional years. Extensions beyond 4 years, up to a maximum of 2 additional years, may be granted, but only in very rare and unusual circumstances, as determined by the Human Resources Officer for the Research, Education, and Economics Mission Area, or the Human Resources Officer, Forest Service.

(2) Not to exceed 55 Executive Director positions, GM–301–14/15, with the State Rural Development Councils in support of the Presidential Rural Development Initiative.

14. ***Department of Commerce (Sch. B, 213.3214)***

(a) Bureau of the Census—

(1) (Reserved)

(2) Not to exceed 50 Community Services Specialist positions at the equivalent of GS–5 through 12.

(b)–(c) (Reserved)

(d) National Telecommunications and Information Administration—

(1) Not to exceed 10 Telecommunications Policy Analysts, grades GS–11 through 15. Employment under this authority may not exceed 2 years.

15. ***Department of Labor (Sch. B, 213.3215)***

(a) Administrative Review Board— Chair and a maximum of four additional Members.

(b) (Reserved)

(c) Bureau of International Labor Affairs—

(1) Positions in the Office of Foreign Relations, which are paid by outside funding sources under contracts for specific international labor market technical assistance projects. Appointments under this authority may not be extended beyond the expiration date of the project.

17. ***Department of Education (Sch. B, 213.3217)***

(a) Seventy-five positions, not to exceed GS–13, of a professional or analytical nature when filled by persons, other than college faculty members or candidates working toward college degrees, who are participating in mid-career development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program. Employment under this authority shall not exceed 1 year.

(b) Fifty positions, GS–7 through GS–11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed 1 year, and may, with the prior approval of the Office of Personnel Management, be extended for an additional period of 1 year.

27. ***Department of Veterans Affairs (Sch. B, 213.3227)***

(a) Not to exceed 800 principal investigatory, scientific, professional, and technical positions at grades GS–11 and above in the medical research program.

(b) Not to exceed 25 Criminal Investigator (Undercover) positions, GS–1811, in grades 5 through 12, conducting undercover investigations in the Veterans Health Administration (VA) supervised by the VA, Office of Inspector General. Initial appointments shall be greater than 1 year, but not to exceed 4 years and may be extended indefinitely in 1-year increments.

28. ***Broadcasting Board of Governors (Sch. B, 213.3228)***

(a) International Broadcasting Bureau—

(1) Not to exceed 200 positions at grades GS–15 and below in the Office of Cuba Broadcasting. Appointments may not be made under this authority to administrative, clerical, and technical support positions.

36. ***U.S. Soldiers' and Airmen's Home (Sch. B, 213.3236)***

(a) (Reserved)

(b) Director, Health Care Services; Director, Member Services; Director, Logistics; and Director, Plans and Programs.

40. ***National Archives and Records Administration (Sch. B, 213.3240)***

(a) Executive Director, National Historical Publications and Records Commission.

48. ***National Aeronautics and Space Administration (Sch. B, 213.3248)***

(a) Not to exceed 40 positions of Astronaut Candidates at grades GS–11 through 15. Employment under this authority may not exceed 3 years.

55. ***Social Security Administration (Sch. B, 213.3255)***

(a) (Reserved)

74. ***Smithsonian Institution (Sch. B, 213.3274)***

(a) (Reserved)

(b) Freer Gallery of Art—

(1) Not to exceed four Oriental Art Restoration Specialists at grades GS–9 through GS–15.

76. ***Appalachian Regional Commission (Sch. B, 213.3276)***

(a) Two Program Coordinators.

78. ***Armed Forces Retirement Home (Sch. B, 213.3278)***

(a) Naval Home, Gulfport, Mississippi—

(1) One Resource Management Officer position and one Public Works Officer position, GS/GM–15 and below.

82. ***National Foundation on the Arts and the Humanities (Sch. B, 213.3282)***

(a) (Reserved)

(b) National Endowment for the Humanities—

(1) Professional positions at grades GS–11 through GS–15 engaged in the review, evaluation, and administration of grants supporting scholarship, education, and public programs in the humanities, the duties of which require in-depth knowledge of a discipline of the humanities.

91. ***Office of Personnel Management (Sch. B, 213.3291)***

(a) Not to exceed eight positions of Associate Director at the Executive Seminar Centers at grades GS–13 and GS–14. Appointments may be made for any period up to 3 years and may be extended without prior approval for any individual. Not more than half of the authorized faculty positions at any one Executive Seminar Center may be filled under this authority.

(b) **Federal Executive Institute**—No more than 57 positions of faculty members at grades GS–13 through GS–15. Initial appointments under this authority may be made for any period up to 3 years and may be extended in 1, 2, or 3 year increments.

SCHEDULE C

Agency name	Organization name	Position title	Authorization No.	Effective date
Department of Agriculture	Office of the Under Secretary for Research, Education, and Economics.	Confidential Assistant	DA140100	8/4/2014
	Foreign Agricultural Service	Minister Counselor of Agriculture	DA140105	8/18/2014
		Special Assistant	DA150133	5/1/2015
		Policy Advisor	DA150144	5/14/2015
	Office of the Assistant Secretary for Congressional Relations.	Confidential Assistant	DA140106	8/19/2014
		Legislative Analyst (3)	DA140107	8/19/2014
			DA140120	9/8/2014
			DA150141	5/14/2015
		Legislative Director	DA150001	10/3/2014
		Senior Legislative Analyst (2)	DA150035	1/15/2015
			DA150131	5/1/2015
	Office of Communications	Speech Writer	DA140110	8/22/2014
		Scheduler (2)	DA140111	8/27/2014
			DA150159	6/30/2015
		Deputy Director of Scheduling	DA140122	9/23/2014
		Deputy Director (2)	DA150041	1/20/2015
			DA150157	6/25/2015
		Press Secretary	DA150158	6/25/2015
		Scheduler	DA150159	6/30/2015
		Deputy Press Secretary	DA150148	6/9/2015
		Senior Advisor for Strategic Communications.	DA150151	6/9/2015
	Farm Service Agency	State Executive Director—Utah	DA140116	9/8/2014
		State Executive Director, Idaho	DA150007	10/23/2014
		State Executive Director—Arizona	DA150008	10/23/2014
		State Executive Director—California.	DA150114	3/20/2015
	Office of the Secretary	Deputy White House Liaison (2)	DA140123	9/18/2014
			DA150147	6/9/2015
		Confidential Assistant	DA150003	10/16/2014
		Special Advisor	DA150118	4/2/2015
		White House Liaison	DA150134	5/1/2015
	Office of the Deputy Secretary	Confidential Assistant	DA150021	11/18/2014
	Office of Civil Rights	Special Assistant	DA150022	12/1/2014
	Office of the Under Secretary for Marketing and Regulatory Programs.	Confidential Assistant	DA150023	12/12/2014
	Rural Business Service	Deputy Administrator, Rural Business Cooperative Service.	DA150025	12/12/2014
		Chief of Staff	DA150059	3/4/2015
	Office of the Chief Financial Officer	Chief of Staff	DA150031	12/19/2014
	Office of Under Secretary for Natural Resources and Environment.	Policy Advisor	DA150101	3/4/2015
		Chief of Staff	DA150145	5/14/2015
		Senior Advisor (2)	DA150146	5/14/2015
			DA150152	6/11/2015
	Office of the Assistant Secretary for Civil Rights.	Senior Advisor	DA150102	3/4/2015
	Office of the Under Secretary for Rural Development.	Senior Advisor (2)	DA150119	4/2/2015
			DA150120	4/2/2015
		Special Advisor	DA140124	10/1/2014
		Special Assistant	DA150150	6/9/2015
	Natural Resources Conservation Service.	Special Assistant for Public and Private Partnerships.	DA150142	5/15/2015
	Rural Housing Service	State Director—Massachusetts	DA150156	6/25/2015
Appalachian Regional Commission	Appalachian Regional Commission	Policy Advisor	AP140001	7/23/2014
Department of Commerce	Office of the Assistant Secretary for Economic Development.	Confidential Assistant	DC140128	7/1/2014
		Director of Public Affairs	DC140162	9/8/2014
	Office of White House Liaison	Deputy Director, Office of White House Liaison (2).	DC140129	7/1/2014
			DC150098	5/21/2015
		Special Assistant	DC150034	12/31/2014
	Office of the Secretary	Special Assistant (2)	DC140135	7/16/2014
			DC150054	2/2/2015
		Executive Assistant	DC150056	2/2/2015

SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
		Director of Scheduling and Advance.	DC150033	12/19/2014
	Office of the Under Secretary	Special Advisor (2)	DC140137	7/16/2014
			DC150095	5/14/2015
		Senior Advisor for Oceans and Atmosphere.	DC140151	8/18/2014
		Senior Advisor	DC140159	8/28/2014
		Chief Speechwriter	DC140170	9/23/2014
		Special Assistant	DC150107	5/15/2015
		Senior Advisor for Trade and Strategic Initiatives.	DC150012	11/6/2014
	Office of Policy and Strategic Planning.	Confidential Assistant	DC140138	7/17/2014
		Policy Advisor	DC150065	2/23/2015
		Senior Advisor for Manufacturing Policy.	DC140166	10/7/2014
	Office of the Assistant Secretary for Communications and Information.	Senior Advisor	DC140131	7/24/2014
	Office of the Chief of Staff	Scheduling Assistant	DC140142	7/24/2014
		Confidential Assistant (2)	DC140152	8/15/2014
			DC150105	5/21/2015
		Deputy Director of Advance and Special Assistant.	DC150106	5/21/2015
		Director of Advance and Protocol	DC150043	1/15/2015
		Director of Advance and Protocol and Senior Advisor for Strategic Initiatives.	DC150115	6/23/2015
		Special Assistant (2)	DC140158	8/25/2014
			DC150069	3/2/2015
	Office of the Business Liaison	Deputy Director, Office of Business Liaison.	DC140143	7/24/2014
		Special Advisor	DC150027	12/9/2014
	Office of the Executive Secretariat	Special Assistant	DC140126	7/29/2014
	International Trade Administration	Senior Advisor (3)	DC140147	8/4/2014
			DC140155	8/26/2014
			DC150061	2/25/2015
		Director, Office of Strategic Partnerships, Industry and Analysis.	DC150088	4/16/2015
	Office of Public Affairs	Press Assistant (2)	DC140153	8/18/2014
			DC150082	3/31/2015
		Deputy Speechwriter	DC140165	9/19/2014
		Director of Digital Strategy	DC150008	10/23/2014
		Senior Press Coordinator	DC150085	3/25/2015
	Office of Legislative and Intergovernmental Affairs.	Director of Legislative Outreach (2)	DC140154	8/18/2014
			DC150091	4/22/2015
		Associate Director of Legislative Affairs and Senior Advisor for Native American Affairs.	DC150064	2/27/2015
	Economic Development Administration.	Special Advisor	DC140150	8/20/2014
	Office of the General Counsel	Deputy General Counsel for Strategic Initiatives.	DC140156	9/8/2014
		Special Assistant	DC150035	1/7/2015
		Counselor	DC150071	2/25/2015
	Office of Assistant Secretary for Legislative and Intergovernmental Affairs.	Associate Director of Legislative and Intergovernmental Affairs.	DC140164	9/16/2014
	Deputy Assistant Secretary for Domestic Operations.	Special Advisor	DC140175	9/29/2014
	Office of Deputy Assistant Secretary for Legislative and Intergovernmental Affairs.	Associate Director for Oversight	DC150003	10/9/2014
	Office of the Director General of the U.S. and Foreign Commercial Service and Assistant Secretary for Global Markets.	Special Assistant	DC150011	10/27/2014
		Special Advisor	DC150102	5/13/2015

SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
	Assistant Secretary and Director General for United States and Foreign Commercial Service.	Senior Director	DC150016	11/10/2014
	Office of the Deputy Secretary	Deputy Chief Data Officer	DC150020	11/10/2014
		Special Assistant (2)	DC150026	12/9/2014
			DC150104	5/14/2015
	Office of the Assistant Secretary for Industry and Analysis.	Deputy Director, Office of Advisory Committees, Industry and Analysis (2).	DC150024	12/5/2014
			DC150112	6/4/2015
		Director of the Advisory Committee In Industry and Analysis.	DC150058	1/29/2015
		Senior Advisor	DC150111	6/1/2015
		Special Advisor	DC150057	2/5/2015
	Office of Scheduling and Advance	Director of Scheduling	DC150031	12/12/2014
		Advance Specialist	DC150110	5/21/2015
	Bureau of the Census	Chief of Congressional Affairs	DC150059	2/4/2015
	Bureau of Industry and Security	Special Advisor	DC150060	2/4/2015
	National Oceanic and Atmospheric Administration.	Special Assistant	DC150086	4/8/2015
	Office of the Chief Financial Officer and Assistant Secretary for Administration.	Chief of Staff for Administration	DC150097	4/28/2015
	Office of the Deputy Secretary	Special Assistant	DC150104	5/14/2015
Commission on Civil Rights	Office of Commissioners	Special Assistant (4)	CC140003	9/22/2014
			CC140005	9/22/2014
			CC140006	9/25/2014
			CC150001	11/13/2014
Commodity Futures Trading Commission.	Office of the Chairperson	Executive Assistant	CT140010	8/20/2014
		Policy Advisor	CT150001	6/23/2015
Consumer Product Safety Commission.	Office of Commissioners	Special Assistant (Legal) (5)	PS140007	7/25/2014
			PS140012	8/20/2014
			PS140015	10/1/2014
			PS150002	1/22/2015
			PS150001	2/9/2015
		Special Assistant (3)	PS140009	7/31/2014
			PS140011	8/15/2014
			PS140016	9/30/2014
		Chief of Staff	PS140013	9/15/2014
		Executive Assistant	PS150003	2/23/2015
		Staff Assistant	PS150005	6/25/2015
Department of Defense	Office of the Secretary of Defense	Special Assistant (2)	DD140113	7/7/2014
			DD140133	8/15/2014
		Confidential Assistant (2)	DD140142	9/10/2014
			DD150135	6/2/2015
		Special Assistant for Protocol	DD140143	9/16/2014
		Speechwriter	DD140139	9/19/2014
		Advance Officer (3)	DD150020	11/21/2014
			DD150021	11/21/2014
			DD150028	11/21/2014
		Deputy White House Liaison	DD150118	4/13/2015
	Washington Headquarters Services	Defense Fellow (10)	DD140114	7/7/2014
			DD140115	7/7/2014
			DD140119	7/23/2014
			DD140128	8/12/2014
			DD150019	11/17/2014
			DD150035	1/7/2015
			DD150062	2/4/2015
			DD150138	6/16/2015
			DD150139	6/17/2015
			DD150143	6/29/2015
	Office of the Under Secretary of Defense (Policy).	Special Assistant of the Under Secretary of Defense for Policy.	DD140120	7/10/2014
		Special Assistant for Middle East	DD150002	10/21/2014
	Office of the Assistant Secretary of Defense (Legislative Affairs).	Special Assistant (2)	DD140117	7/11/2014
			DD150034	12/16/2014

SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
	Office of the Assistant Secretary of Defense (Asian and Pacific Security Affairs).	Principal Director Afghanistan, Pakistan and Central Asia.	DD140122	7/15/2014
		Special Assistant for East Asia	DD140134	9/19/2014
		Special Assistant for Asian and Pacific Security Affairs.	DD150120	4/30/2015
	Assistant To the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs.	Senior Advisor (Nuclear, Chemical and Biological Defense Programs).	DD140121	7/22/2014
	Office of Principal Deputy Under Secretary for Policy.	Special Assistant	DD140101	7/24/2014
		Special Assistant to the Deputy Assistant Secretary, Plans.	DD140125	7/25/2014
		Special Assistant for Strategy, Plans and Forces.	DD150134	5/14/2015
	Office of the Assistant Secretary of Defense (Homeland Defense and America's Security Affairs).	Special Assistant for Homeland Defense and America's Security Affairs.	DD140146	9/29/2014
	Office of the Assistant Secretary of Defense (Legislative Affairs).	Special Assistant (2)	DD140147	10/3/2014
			DD150141	6/25/2015
		Special Assistant (Legislative Affairs) (Chief Policy).	DD150045	1/23/2015
		Special Assistant (Legislative Affairs) (Chief, Research).	DD150046	1/30/2015
	Office of the Assistant Secretary of Defense (Global Strategic Affairs).	Special Assistant for Strategy, Plans and Forces.	DD150013	11/13/2014
	Office of Assistant Secretary of Defense (Public Affairs).	Speechwriter (3)	DD150018	11/13/2014
			DD150030	12/8/2014
			DD150137	6/16/2015
		Research Assistant	DD150012	12/5/2014
		Director Digital Media	DD150069	2/24/2015
		Special Assistant for Community and Public Outreach.	DD150116	4/8/2015
	Office of the Assistant Secretary of Defense (International Security Affairs).	Special Assistant for International Security Affairs (2).	DD150121	4/30/2015
			DD150037	12/10/2014
		Special Assistant, Russia, Ukraine, and Eurasia.	DD150036	12/19/2014
		Special Assistant for Middle East Policy.	DD150107	3/25/2015
		Special Assistant for Middle East (2).	DD150126	5/20/2015
			DD150128	5/20/2015
		Special Assistant	DD150148	6/26/2015
	Office of the General Counsel	Special Counsel (2)	DD150032	12/11/2014
			DD150044	1/8/2015
	Office of the Director (Cost Assessment and Program Evaluation).	Special Assistant, Cost Assessment and Program Evaluation.	DD150015	1/30/2015
	Office of the Assistant Secretary of Defense (Special Operations/Low Intensity Conflict and Interdependent Capabilities).	Chief of Staff for Stability and Humanitarian Affairs.	DD150067	2/18/2015
		Senior Advisor for Atrocity Prevention and Response.	DD150071	3/12/2015
	Office of Under Secretary of Defense (Intelligence).	Chief of Staff and Assistant for Sensitive Activities.	DD150111	3/31/2015
	Office of the Under Secretary of Defense (Comptroller).	Personal and Confidential Assistant (Comptroller).	DD150123	5/11/2015
Department of the Air Force	Office of the Under Secretary	Special Assistant (3)	DF140031	9/8/2014
			DF150011	12/5/2014
			DF150024	2/24/2015
	Office of Assistant Secretary Air Force, Installations, Environment, and Logistics.	Special Assistant for Installations, Environment, and Energy.	DF150049	5/14/2015
Department of the Army	Office Assistant Secretary Army (Manpower and Reserve Affairs).	Special Assistant (Manpower and Reserve Affairs).	DW150003	11/25/2014

SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
	Office of Energy Initiatives	Executive Director of the Office of Energy Initiatives (OEI).	DW150002	1/13/2015
	Office of the Under Secretary	Special Assistant	DW150012	1/28/2015
Department of the Navy	Office of the Assistant Secretary of Navy (Manpower and Reserve Affairs).	Special Assistant	DN140032	7/17/2014
	Office of the Secretary	Deputy Chief of Staff (2)	DN150008	12/5/2014
			DN150009	12/5/2014
		Special Assistant	DN150004	12/12/2014
Department of Education	Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students.	Deputy Director for Office of English Language and Acquisition.	DB140085	7/2/2014
	Office of Career Technical and Adult Education.	Special Assistant (3)	DB140089	7/2/2014
			DB150042	2/3/2015
			DB150044	2/6/2015
		Confidential Assistant	DB150101	6/29/2015
	Office of the Secretary	Special Assistant (7)	DB140090	7/2/2014
			DB140099	8/7/2014
			DB140103	8/21/2014
			DB150019	11/24/2014
			DB150043	2/6/2015
			DB150066	4/17/2015
			DB150089	6/1/2015
		Special Advisor for Strategy and Planning.	DB150010	10/30/2014
		Confidential Assistant (4)	DB150015	10/31/2014
			DB150028	12/11/2014
			DB150049	2/19/2015
			DB150095	6/12/2015
		Deputy White House Liaison	DB150050	2/19/2015
		Special Advisor, Strategic Partnership.	DB150047	2/19/2015
		Senior Advisor	DB150082	5/14/2015
		Director of Strategic Partnerships, Special Advisor.	DB150083	5/20/2015
		Director of Scheduling and Advance.	DB150100	6/29/2015
	Office of Elementary and Secondary Education.	Confidential Assistant (2)	DB140091	7/10/2014
			DB150093	6/12/2015
		Deputy Assistant Secretary for Policy and Programs.	DB150062	3/24/2015
	Office of Legislation and Congressional Affairs.	Special Assistant (4)	DB140094	7/14/2014
			DB150022	11/24/2014
			DB150045	2/18/2015
			DB150052	2/20/2015
		Confidential Assistant	DB150091	6/11/2015
		Special Assistant	DB150079	5/1/2015
	Office of Communications and Outreach.	Special Assistant (2)	DB140095	7/14/2014
			DB150070	4/17/2015
		Special Assistant for Digital and Visual Media.	DB150008	10/30/2014
		Confidential Assistant	DB150026	12/11/2014
		Press Secretary	DB150012	10/30/2014
		Assistant Press Secretary	DB150069	4/2/2015
		Strategic Advisor, Communications	DB150087	5/29/2015
	Office of the Under Secretary	Special Assistant (2)	DB140096	7/25/2014
			DB150006	10/21/2014
		Confidential Assistant (2)	DB140104	9/8/2014
			DB150036	12/19/2014
		Deputy Director White House Initiative on Educational Excellence for African Americans.	DB150027	12/11/2014
		Deputy Director, White House Initiative on Asian American Pacific Islanders.	DB150078	5/1/2015

SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
	Office of the Deputy Secretary	Confidential Assistant	DB140100	8/6/2014
		Special Assistant	DB140051	9/9/2014
		Special Advisor	DB150011	10/30/2014
		Director for Strategic Communications and Scheduling.	DB150088	5/29/2015
		Deputy Chief of Staff	DB150090	6/1/2015
	Office of Planning, Evaluation and Policy Development.	Special Assistant (5)	DB140102	8/21/2014
			DB150002	10/16/2014
			DB150021	11/24/2014
			DB150065	3/24/2015
			DB150092	6/12/2015
		Confidential Assistant	DB150072	4/17/2015
		Deputy Assistant Secretary for Higher Education and Student Financial Aid.	DB150073	4/17/2015
		Senior Policy Advisor	DB150074	4/20/2015
		Policy Advisor (2)	DB150103	6/30/2015
			DB150104	6/30/2015
	Office of Postsecondary Education	Deputy Assistant Secretary	DB140117	9/17/2014
		Confidential Assistant	DB150001	10/10/2014
		Chief of Staff	DB150005	10/23/2014
		Special Assistant	DB150054	3/6/2015
		Deputy Chief of Staff	DB150096	6/19/2015
	Office of Innovation and Improvement.	Special Assistant (3)	DB140118	9/19/2014
			DB150016	11/14/2014
			DB150063	3/25/2015
		Confidential Assistant (2)	DB150034	12/19/2014
			DB150102	6/30/2015
		Chief of Staff	DB150055	3/6/2015
		Deputy Director of Science, technology, Engineering, and Math Initiatives.	DB150098	6/23/2015
	Office of Special Education and Rehabilitative Services.	Confidential Assistant	DB150004	10/17/2014
		Special Assistant	DB150099	6/29/2015
	Office of the General Counsel	Confidential Assistant	DB150014	10/31/2014
		Chief of Staff (2)	DB150031	12/12/2014
			DB150076	5/1/2015
		Senior Counsel	DB150080	5/15/2015
	Office for Civil Rights	Confidential Assistant (2)	DB150017	11/14/2014
			DB150094	6/12/2015
		Chief of Staff	DB150067	3/25/2015
		Special Assistant	DB150064	4/29/2015
		Senior Counsel	DB150086	5/28/2015
Department of Energy	Office of the Secretary of Energy Advisory Board.	Deputy Director	DE140081	7/1/2014
	Office of the Assistant Secretary for Congressional and Intergovernmental Affairs.	Legislative Affairs Specialist (2)	DE140085	7/15/2014
			DE150034	2/4/2015
		Special Advisor	DE140096	9/19/2014
		Director of External Affairs	DE150044	4/14/2015
		Senior Advisor and Strategic Projects Manager.	DE150069	4/14/2015
	Office of Public Affairs	Press Assistant	DE140084	7/18/2014
		Director of Digital Strategy	DE140108	9/19/2014
		Deputy Press Secretary	DE150004	10/27/2014
		Digital Communications Specialist	DE150010	11/4/2014
		Deputy Director, Office of Public Affairs.	DE150077	4/30/2015
		Director of Strategic Communications and Messaging.	DE150086	6/2/2015
		Assistant Press Secretary	DE150095	6/25/2015
		Deputy Press Secretary and Advisor for Broadcast Media.	DE150099	6/25/2015
	Office of General Counsel	Senior Legal Advisor	DE140088	7/18/2014
	Office of Energy Policy and Systems Analysis.	Chief of Staff/Associate Director	DE140093	7/28/2014
		Special Assistant	DE150007	10/22/2014

SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
		Special Advisor	DE150023	1/7/2015
	Office of Management	Special Assistant	DE140095	8/12/2014
		Deputy Director of Scheduling and Advance (2).	DE140101	9/8/2014
			DE150040	3/2/2015
		Special Assistant and Scheduler	DE150076	4/30/2015
	Office of the Secretary	Special Assistant (2)	DE140106	9/19/2014
			DE150093	6/17/2015
		Special Advisor	DE150079	5/21/2015
	Loan Programs Office	Senior Advisor	DE140109	9/19/2014
	Office of the Assistant Secretary for Environmental Management.	Special Assistant	DE140110	9/19/2014
	Office of the Assistant Secretary for Energy Efficiency and Renewable Energy.	Director, Legislative Affairs	DE140113	10/2/2014
		Special Advisor for Technology	DE150017	12/12/2014
		Special Assistant	DE150037	2/18/2015
	Office of the Deputy Secretary	Special Assistant	DE150001	10/2/2014
	Office of the Assistant Secretary for Electricity Delivery and Energy Reliability.	Senior Advisor for External Affairs	DE150002	10/22/2014
		Special Advisor Office the Assistant Secretary for Electricity Delivery and Energy Reliability.	DE150068	4/14/2015
	Office of the Associate Administrator for External Affairs.	Deputy Director of Congressional Affairs.	DE150006	10/22/2014
	Office of the Assistant Secretary for Fossil Energy.	Special Advisor for Emerging Markets.	DE150005	10/29/2014
		Chief of Staff	DE150087	5/15/2015
	Office of the Assistant Secretary for Nuclear Energy.	Chief of Staff and Senior Advisor	DE150013	12/2/2014
	National Nuclear Security Administration.	Director, Public Affairs	DE150036	2/5/2015
	Office of Advanced Research Projects Agency—Energy.	Special Advisor	DE150065	4/3/2015
	Office of the Assistant Secretary for International Affairs.	Special Advisor	DE150078	4/15/2015
		Senior Advisor	DE150080	4/15/2015
	Office of the Chief Information Officer.	Special Assistant	DE150084	5/15/2015
	Office of the Under Secretary for Science.	Senior Advisor	DE150085	6/12/2015
Environmental Protection Agency	Office of Public Affairs	Advisor for Digital Strategy and Engagement.	EP140047	9/15/2014
		Deputy Associate Administrator for Public Affairs.	EP150032	3/18/2015
		Press Secretary	EP150036	5/20/2015
	Office of Public Engagement and Environmental Education.	Deputy Associate Administrator for Public Engagement and Environmental Education.	EP140049	9/25/2014
		Deputy Director for Public Engagement and Faith Based Initiatives.	EP150016	4/2/2015
	Office of the Associate Administrator for Policy.	Counsel for Policy	EP150002	10/20/2014
		Deputy Associate Administrator for Policy.	EP150043	6/29/2015
	Office of the Administrator	Special Assistant	EP150006	11/10/2014
	Office of Advance Staff	Deputy for Advance	EP150007	11/13/2014
		Advance Specialist	EP150021	2/26/2015
Executive Office of the President	Council on Environmental Quality	Special Assistant (Legislative Affairs).	OP140002	7/11/2014
		Special Assistant (Energy/Climate Change).	OP140003	8/15/2014
Export–Import Bank	Office of the Chief of Staff	Senior Vice President and Chief of Staff.	EB140009	7/1/2014
	Office of the Chairman	Special Assistant (2)	EB140010	7/23/2014
			EB150002	4/17/2015
		Director of Scheduling	EB150001	1/23/2015
		Deputy Chief of Staff	EB150003	5/5/2015
	Office of Communications	Senior Vice President for Communications.	EB140011	9/15/2014

SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
	Office of Congressional Affairs	Senior Vice President	EB140012	9/23/2014
Federal Communications Commission.	Office of Legislative Affairs	Director, Office of Legislative Affairs.	FC150010	6/24/2015
Federal Energy Regulatory Commission.	Office of the Chairman	Confidential Assistant (6)	DR140006	8/13/2014
			DR150002	10/16/2014
			DR150006	1/29/2015
			DR150003	2/10/2015
			DR150009	2/19/2015
			DR150015	5/18/2015
		Program Analyst (2)	DR140007	8/13/2014
			DR150004	12/17/2014
Federal Housing Finance Agency	Office of the Director	Chief of Staff	HA140005	8/18/2014
Federal Mediation and Conciliation Service.	Office of the Director	Executive Assistant	FM150002	6/23/2015
General Services Administration	Office of Communications and Marketing.	Senior Communications Advisor	GS140048	7/25/2014
		Deputy Associate Administrator for Media Affairs.	GS150031	4/30/2015
		Press Secretary	GS150034	5/22/2015
	Office of Regional Administrators	Special Assistant	GS140049	8/15/2014
	Office of Congressional and Intergovernmental Affairs.	Policy Advisor (2)	GS140051	8/27/2014
			GS150002	10/7/2014
	New England Region	Special Assistant	GS150003	10/7/2014
	Public Buildings Service	Special Assistant	GS150008	12/11/2014
	Office of the Administrator	Special Assistant	GS150015	2/24/2015
		Senior Advisor (3)	GS150032	5/6/2015
			GS150039	6/11/2015
			GS150043	6/25/2015
		Deputy Chief of Staff	GS150033	5/14/2015
		White House Liaison	GS150036	6/9/2015
	Office of Small Business Utilization	Special Assistant	GS150027	4/1/2015
	Office of Administrative Services	Chief of Staff	GS150042	6/25/2015
Government Printing Office	Office of the Public Printer	Executive Assistant	GP150001	5/19/2015
Department of Health and Human Services.	Office of the Assistant Secretary for Public Affairs.	Confidential Assistant (3)	DH140103	7/2/2014
			DH150127	4/17/2015
			DH150140	5/14/2015
		Press Secretary	DH140107	7/3/2014
		Communications Director for Health Care.	DH140135	9/19/2014
		Press Secretary (Health Reform)	DH140137	9/19/2014
		Communications Director for Public Health.	DH150019	10/31/2014
		Communications Director for Human Services.	DH150040	11/26/2014
		Director of Strategic Planning	DH150124	4/16/2015
		Director of Speechwriting	DH150128	4/17/2015
		Deputy Director of Speechwriting	DH150131	5/7/2015
	Office of the Secretary	Confidential Assistant (3)	DH140113	7/23/2014
			DH150023	11/4/2014
			DH150157	6/17/2015
		Director of Scheduling and Advance.	DH140119	8/15/2014
		Special Assistant	DH140139	10/1/2014
		Director of Advance	DH150113	4/17/2015
		Policy Advisor	DH150141	5/29/2015
		Advance Lead	DH150067	2/6/2015
	Office of the Assistant Secretary for Children and Families.	Confidential Assistant (2)	DH140114	7/25/2014
			DH150003	10/17/2014
		Senior Policy Advisor	DH150149	5/29/2015
	Office of Intergovernmental and External Affairs.	Regional Director, New York, New York, Region II.	DH140116	8/4/2014
		Outreach Coordinator	DH150029	11/10/2014
		Director, Center for Faith-Based and Neighborhood Partnerships.	DH150026	11/13/2014
		Regional Director, San Francisco, California, Region IX.	DH150035	11/14/2014
		Special Assistant	DH150044	12/12/2014

SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
		Regional Director, Boston, Massachusetts, Region I.	DH150106	3/24/2015
		Special Assistant	DH150125	4/17/2015
		Enrollment Coordinator	DH150160	6/30/2015
	Office of Administration for Community Living.	Special Assistant	DH140117	8/4/2014
	Office of the Assistant Secretary for Preparedness and Response.	Special Assistant for Preparedness and Response (2).	DH140122	8/22/2014
			DH150027	11/10/2014
	Office of the Assistant Secretary for Legislation.	Special Assistant and Director of Special Projects.	DH140123	9/2/2014
		Special Assistant for Human Services.	DH140126	9/2/2014
		Confidential Assistant for Legislation, Discretionary Health.	DH150014	10/31/2014
		Special Assistant for Oversight	DH150048	12/12/2014
	Office of Communications	Senior Advisor (2)	DH150002	10/3/2014
			DH150039	11/26/2014
	Office of Refugee Resettlement/Office of the Director.	Special Advisor	DH150020	10/30/2014
		Chief of Staff	DH150073	2/20/2015
	Office of Health Reform	Director of Outreach	DH150024	10/30/2014
		Special Assistant	DH150045	12/19/2014
		Director of Delivery System Reform	DH150129	4/23/2015
		Policy Analyst	DH150146	6/23/2015
	Health Resources and Services, Administration Office of the Administrator.	Special Assistant and Policy Advisor.	DH150021	10/31/2014
		Special Assistant (2)	DH150143	6/2/2015
			DH150142	6/4/2015
	Office of the Assistant Secretary for Health.	Chief of Staff (2)	DH150074	3/12/2015
			DH150102	3/17/2015
	Office of the Deputy Secretary	Confidential Assistant	DH150150	5/29/2015
Department of Homeland Security	Office of the Under Secretary for Management.	Deputy Chief of Staff	DM140187	7/1/2014
	Office of the Assistant Secretary for Public Affairs.	Strategic Planning and Coordination Advisor.	DM140193	7/7/2014
		Press Secretary	DM140231	8/21/2014
		Press Assistant	DM140233	8/22/2014
		Assistant Press Secretary (2)	DM140235	8/22/2014
			DM150019	10/29/2014
		Deputy Press Secretary	DM140244	9/22/2014
		Confidential Assistant for Public Affairs.	DM150010	10/10/2014
	Office of the General Counsel	Attorney-Advisor	DM140194	7/7/2014
		Confidential Assistant	DM150173	5/28/2015
	United States Customs and Border Protection.	Deputy Chief of Staff, Policy	DM140198	7/11/2014
		Special Assistant	DM140205	7/17/2014
		Advisor (2)	DM140213	7/23/2014
			DM150030	11/17/2014
		Special Advisor	DM150029	11/17/2014
	Office of the Executive Secretariat	Deputy Secretary Briefing Book Coordinator.	DM140206	7/22/2014
		Writer-Editor	DM140232	9/8/2014
		Deputy White House Liaison	DM150089	3/12/2015
		Special Assistant	DM150088	3/12/2015
		Director of Trips and Advance	DM150171	5/28/2015
	Federal Emergency Management Agency.	Special Assistant (3)	DM140207	7/22/2014
			DM140208	7/22/2014
			DM150049	1/7/2015
		Director of Intergovernmental Affairs.	DM140210	7/22/2014
		Press Secretary	DM150018	10/31/2014
	Office of the Under Secretary for National Protection and Programs Directorate.	Special Advisor for Infrastructure Protection.	DM140212	7/23/2014
		Cyber Security Strategist	DM140216	7/30/2014
		Confidential Assistant (3)	DM140218	8/7/2014

SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
			DM150063	2/18/2015
			DM150162	5/15/2015
		Advisor for Counterterrorism and Intelligence.	DM140246	9/24/2014
		Advisor	DM150068	4/9/2015
	Office of the Assistant Secretary for Intergovernmental Affairs.	Advisor for Global Law Enforcement Partnerships.	DM140214	7/23/2014
		Intergovernmental Affairs Coordinator (4).	DM140228	8/28/2014
			DM150012	10/14/2014
			DM150008	10/23/2014
			DM150024	11/7/2014
		Senior Director	DM150026	11/7/2014
		External Engagement Coordinator	DM150035	12/3/2014
		Chief of Staff	DM150061	2/4/2015
		Director, Homeland Security Advisory Council.	DM150129	4/16/2015
	Office of the Assistant Secretary for Policy.	Advisor	DM140219	7/30/2014
		Policy Advisor (2)	DM140227	8/21/2014
			DM150040	12/5/2014
		Special Assistant In Information Sharing Policy.	DM150051	1/20/2015
		Special Assistant (3)	DM150053	1/20/2015
			DM150056	1/23/2015
			DM150130	3/31/2015
		Senior Advisor for Cyber Policy	DM150172	5/28/2015
	Office of the Chief of Staff	Travel Operations Coordinator	DM140223	8/12/2014
		Advance Officer	DM150017	10/30/2014
		Special Assistant (2)	DM150050	1/20/2015
			DM150158	5/13/2015
		White House Liaison	DM150115	3/17/2015
	Office of the Privacy Officer	Special Assistant (2)	DM140237	9/2/2014
			DM150170	5/28/2015
	Office of Assistant Secretary for Legislative Affairs.	Chief of Staff	DM150009	10/10/2014
	United States Citizenship and Immigration Services.	Press Secretary and Advisor for Intergovernmental and External Affairs.	DM150011	10/14/2014
	Ombudsman, Citizenship and Immigration Services.	Public Affairs Specialist	DM150013	11/3/2014
	Office of the Under Secretary for Science and Technology.	Advisor	DM150032	11/14/2014
		Special Assistant for Science and Technology.	DM150064	2/19/2015
	United States Immigration and Customs Enforcement.	Special Assistant (2)	DM150034	11/18/2014
			DM150067	2/26/2015
		Congressional Relations Director	DM150116	3/20/2015
		Senior Advisor	DM150185	6/30/2015
	Immediate Office of the Deputy Secretary.	Special Assistant	DM150041	12/5/2014
	Office of the Secretary	Special Assistant	DM150181	6/18/2015
Department of Housing and Urban Development.	Office of Housing	Special Policy Advisor	DU140031	7/7/2014
	Office of Fair Housing and Equal Opportunity.	Special Policy Advisor	DU140032	7/7/2014
		Chief of Staff/Senior Advisor	DU150003	10/17/2014
	Office of the Secretary	Senior Advisor	DU140034	7/18/2014
		White House Liaison	DU140035	7/18/2014
		Deputy Chief of Staff	DU140037	7/18/2014
		Executive Assistant	DU140038	7/18/2014
		Senior Policy Advisor (4)	DU140042	8/7/2014
			DU140052	9/29/2014
			DU150063	6/30/2015
			DU150009	12/1/2014
		Deputy White House Liaison (2)	DU150006	10/30/2014
			DU150031	3/2/2015
		Special Assistant	DU150026	3/2/2015
	Office of the Chief Human Capital Officer.	Director of Scheduling	DU140043	8/20/2014

SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
	Office of Congressional and Intergovernmental Relations.	Senior Advisor	DU140045	8/20/2014
		Congressional Relations Specialist	DU150016	12/29/2014
		Deputy Assistant Secretary for Legislative Affairs.	DU150021	2/11/2015
	Office of the Administration	Scheduling and Advance Coordinator.	DU140047	8/27/2014
		Scheduling Assistant and Briefing Book Coordinator.	DU140051	9/26/2014
		Director of Advance	DU150004	10/30/2014
	Office of the General Counsel	Senior Counsel for Oversight	DU140048	9/11/2014
		Senior Counsel	DU150050	4/30/2015
		Chief of Staff/Senior Counsel	DU150061	6/4/2015
	Office of Public Affairs	Assistant Press Secretary	DU140050	9/19/2014
		Director of Speechwriting	DU150019	12/29/2014
		Deputy Press Secretary	DU150015	1/2/2015
		Deputy Speechwriter	DU150020	1/23/2015
	Office of Public and Indian Housing	Chief of Staff/Senior Advisor	DU150008	12/16/2014
		Special Policy Advisor	DU150043	3/30/2015
Department of the Interior	Office of the Assistant Secretary—Policy, Management and Budget.	Advisor	DI140038	7/1/2014
		Special Assistant for Policy, Management and Budget.	DI150049	3/6/2015
	United States Geological Survey	Confidential Assistant (2)	DI140050	7/10/2014
			DI140051	7/18/2014
	Secretary's Immediate Office	Special Assistant for Advance	DI140053	7/10/2014
		Director of Digital Strategy	DI140066	8/11/2014
		Director of Scheduling and Advance.	DI150057	3/12/2015
		Special Assistant (4)	DI150074	4/1/2015
			DI140072	10/21/2014
			DI150010	11/14/2014
			DI150099	6/19/2015
		White House Liaison	DI150011	11/14/2014
		Deputy Communications Director	DI150086	5/29/2015
		Senior Advisor and Press Secretary.	DI150092	5/29/2015
		Advance Representative	DI150093	5/29/2015
		Deputy Director of Scheduling and Advance.	DI150048	4/13/2015
	Office of the Deputy Secretary	Special Assistant	DI140065	7/17/2014
	Office of Congressional and Legislative Affairs.	Senior Counsel	DI140049	7/25/2014
		Special Assistant, Office of Congressional and Legislative Affairs.	DI140063	7/25/2014
		Counsel	DI150073	4/9/2015
		Deputy Director for Congressional and Legislative Affairs.	DI150026	6/15/2015
	Office of the Assistant Secretary—Fish and Wildlife and Parks.	Advisor	DI140073	10/2/2014
		Chief of Staff-To the Assistant Secretary for Fish Wildlife and Parks.	DI150016	12/3/2014
		Senior Advisor for Fish, Wildlife and Parks.	DI150023	4/9/2015
	National Park Service	Centennial Campaign Public Affairs Specialist.	DI150006	10/30/2014
	Office of the Assistant Secretary—Land and Minerals Management.	Senior Advisor	DI150009	11/20/2014
	Bureau of Reclamation	Advisor	DI150007	11/25/2014
		Chief, Congressional and Legislative Affairs Office.	DI150085	4/14/2015
	Bureau of Ocean Energy Management.	Advisor	DI150080	4/2/2015
	Bureau of Land Management	Advisor	DI150083	4/3/2015
	Office of the Solicitor	Counselor	DI150084	4/15/2015
Department of Justice	Civil Division	Chief of Staff	DJ140087	7/14/2014
	Office of the Attorney General	Special Assistant	DJ140088	7/14/2014
		Director of Advance (2)	DJ140094	7/18/2014
			DJ140116	8/26/2014
		Deputy White House Liaison (2)	DJ140109	8/18/2014
			DJ150090	6/26/2015

SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
		Director of Scheduling and Advance.	DJ150095	6/26/2015
		Special Assistant	DJ150020	11/24/2014
		Special Assistant and Scheduler	DJ150082	6/5/2015
		Confidential Assistant	DJ150033	1/16/2015
	Civil Rights Division	Senior Counsel (3)	DJ140089	7/14/2014
			DJ140095	8/13/2014
			DJ140135	10/1/2014
	Office of Legislative Affairs	Confidential Assistant	DJ140110	8/15/2014
		Chief of Staff and Attorney Advisor	DJ150072	4/24/2015
		Attorney Advisor (2)	DJ150080	5/26/2015
			DJ150088	6/25/2015
	Antitrust Division	Chief of Staff	DJ140114	8/20/2014
		Counsel	DJ150069	2/10/2015
	Office of Justice Programs	Policy Advisor	DJ140117	8/25/2014
		Senior Policy Advisor	DJ150009	10/22/2014
		Chief of Staff and Senior Counsel	DJ150039	3/2/2015
		Senior Counsel	DJ150084	5/28/2015
	Office of Legal Policy	Senior Counsel (2)	DJ140115	8/26/2014
			DJ140119	9/2/2014
		Researcher	DJ150092	6/26/2015
	Office on Violence Against Women	Confidential Assistant	DJ140120	9/2/2014
	Office of Public Affairs	Press Assistant (2)	DJ140126	9/22/2014
			DJ140134	9/30/2014
		Public Affairs Specialist	DJ140123	10/7/2014
		Chief Speechwriter	DJ150093	6/26/2015
	Office of the Associate Attorney General.	Deputy Chief of Staff and Counsel	DJ150002	10/3/2014
		Senior Counsel (3)	DJ140129	10/6/2014
			DJ150012	10/30/2014
			DJ140130	1/16/2015
		Deputy Director (Civil)	DJ150034	1/21/2015
		Counsel and Chief of Staff	DJ150041	2/4/2015
	Executive Office for United States Attorneys.	Counsel	DJ150016	11/3/2014
	Office of Legislative Affairs	Attorney Advisor and Intergovernmental Liaison.	DJ150011	1/6/2015
	Community Relations Service	Senior Counsel	DJ150032	1/16/2015
Department of Labor	Office of Public Affairs	Special Assistant (2)	DL140076	7/11/2014
			DL150071	6/25/2015
		Chief of Staff	DL150049	4/13/2015
		Press Secretary	DL150057	5/1/2015
	Office of the Assistant Secretary for Policy.	Senior Policy Advisor (2)	DL140081	7/28/2014
			DL150018	12/11/2014
		Associate Deputy Assistant Secretary.	DL150004	10/23/2014
	Office of the Secretary	Deputy White House Liaison	DL140083	7/29/2014
		Special Assistant (6)	DL140092	8/27/2014
			DL140093	8/28/2014
			DL150002	10/16/2014
			DL150015	12/2/2014
			DL150046	4/8/2015
			DL150060	5/18/2015
		Advisor	DL140091	8/28/2014
		Counselor	DL140095	9/2/2014
		Chief Economist	DL140090	8/18/2014
		Scheduler	DL150012	11/14/2014
		Director of Public Engagement	DL150017	12/5/2014
		Executive Assistant	DL150029	2/13/2015
		Policy Advisor	DL150030	2/13/2015
		Director of Scheduling and Advance.	DL150048	4/9/2015
		Special Advisor	DL150045	4/17/2015
		Policy Advisor	DL150066	6/19/2015
	Office of Congressional and Intergovernmental Affairs.	Legislative Officer	DL140080	8/5/2014
		Senior Legislative Officer (2)	DL140086	8/5/2014
			DL140078	8/6/2014
		Regional Representative	DL140097	9/11/2014
		Deputy Director of Intergovernmental Affairs.	DL140103	9/19/2014

SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
		Director of Intergovernmental Affairs.	DL140094	9/22/2014
		Chief of Staff and Senior Counselor.	DL150039	3/17/2015
		Legislative Officer (2)	DL150038	3/25/2015
			DL150067	6/19/2015
		Associate Director of Intergovernmental Affairs.	DL150055	4/30/2015
	Occupational Safety and Health Administration.	Chief of Staff	DL140089	8/7/2014
		Special Assistant	DL150040	3/19/2015
	Mine Safety and Health Administration.	Chief of Staff	DL140100	9/26/2014
		Special Assistant	DL150008	10/23/2014
	Employment and Training Administration.	Director of Center for Workforce Industry Partnerships.	DL150010	11/7/2014
		Deputy Chief of Staff	DL150069	6/26/2015
	Women's Bureau	Senior Advisor	DL150014	11/20/2014
		Policy Advisor	DL150032	3/3/2015
	Office of the Deputy Secretary	Special Assistant	DL150024	1/14/2015
		Senior Policy Advisor	DL150059	5/13/2015
	Wage and Hour Division	Senior Policy Advisor	DL150025	1/23/2015
		Senior Advisor	DL150056	4/30/2015
		Special Assistant	DL150061	5/21/2015
	Office of the Solicitor	Senior Counsel	DL150034	3/13/2015
		Counsel	DL150042	3/31/2015
		Special Counsel	DL150052	4/17/2015
	Employee Benefits Security Administration.	Special Assistant	DL150050	4/10/2015
	Office of Workers Compensation Programs.	Senior Policy Advisor	DL150051	4/17/2015
National Aeronautics and Space Administration.	Office of General Counsel	Special Projects Coordinator	NN140063	8/25/2014
	Office of Legislative and Intergovernmental Affairs.	Senior Advisor	NN140066	9/8/2014
		Management Analyst	NN150004	10/23/2014
	Office International and Interagency Relations.	International Affairs Specialist	NN150005	10/23/2014
	Office of Communications	Deputy Press Secretary and Strategic Communications Coordinator.	NN150058	5/20/2015
		Social Media Specialist	NN150059	5/20/2015
National Endowment for the Arts	Office of the Chairman	Scheduler	NA140007	8/18/2014
		Scheduler	NA140009	8/21/2014
		White House Liaison/Advisor	NA150002	12/5/2014
National Endowment for the Humanities.	Office of the Chairman	Director of Congressional Affairs	NH150002	12/12/2014
		White House Liaison and Chairman's Strategic Scheduler.	NH150004	12/19/2014
National Transportation Safety Board.	Office of Board Members	Special Assistant	TB150004	5/1/2015
		Special Assistant	TB150005	6/15/2015
Occupational Safety and Health Review Commission.	Office of Commissioners	Confidential Assistant	SH150004	6/1/2015
		Counsel	SH150005	6/29/2015
Office of Government Ethics	Office of Government Ethics	Confidential Assistant	GG140002	7/17/2014
Office of Management and Budget	Office of the Director	Assistant for Management (4)	BO140024	7/7/2014
			BO150028	5/5/2015
			BO150030	5/20/2015
			BO150031	5/20/2015
		Advisor and Assistant	BO140029	7/18/2014
		Confidential Assistant (3)	BO150014	2/3/2015
			BO150012	2/9/2015
			BO150025	4/8/2015
		Senior Advisor	BO150016	3/17/2015
	Office of Information and Regulatory Affairs.	Counselor	BO140034	9/8/2014
		Confidential Assistant	BO150007	12/11/2014
	Office of Federal Procurement Policy.	Confidential Assistant	BO140036	9/29/2014
	Office of Communications	Press Secretary	BO150001	10/6/2014

SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
		Deputy Press Secretary	BO150002	10/27/2014
	Office of Legislative Affairs	Confidential Assistant (2)	BO150004	11/17/2014
			BO150029	5/20/2015
		Legislative Analyst	BO150021	3/25/2015
	National Security Programs	Confidential Assistant	BO150022	3/17/2015
	Office of E-Government and Information Technology.	Confidential Assistant	BO150020	3/25/2015
	Natural Resource Programs	Confidential Assistant	BO150024	4/13/2015
	General Counsel	Confidential Assistant	BO150027	5/5/2015
Office of National Drug Control Policy.	Office of the Director	Associate Director for Intergovernmental Public Affairs.	QQ140004	7/16/2014
		Policy Advisor	QQ140005	7/25/2014
		Policy and Administrative Coordinator.	QQ140006	9/9/2014
		Policy and Administrative Coordinator.	QQ150002	1/20/2015
	Office of Public Affairs	Associate Director, Office of Public Affairs.	QQ140007	9/9/2014
	Office of Legislative Affairs	Program Support Specialist (Correspondence).	QQ150003	6/11/2015
Office of Personnel Management	Office of the Director	Senior Advisor	PM150004	11/14/2014
		Director of Advance	PM150017	5/5/2015
	Office of Congressional Relations	Intergovernmental Affairs Associate	PM150005	2/4/2015
	Office of Communications	Press Secretary	PM150013	4/2/2015
		Deputy Director of Communications and Digital Director.	PM150018	5/14/2015
	Office of the General Counsel	Senior Counsel	PM150020	6/19/2015
Office of Science and Technology Policy.	Office of the Director	Special Assistant (2)	TS140006	8/5/2014
			TS150003	11/25/2014
		Confidential Assistant (2)	TS150002	10/20/2014
			TS150004	1/6/2015
		Executive Assistant	TS150005	2/5/2015
Office of the United States Trade Representative.	Office of the Ambassador	Assistant United States Trade Representative for Intergovernmental Affairs and Public Engagement.	TN140007	7/24/2014
		Special Assistant (2)	TN150003	1/6/2015
			TN150002	1/20/2015
	Congressional Affairs	Senior Advisor	TN150008	1/20/2015
	Intergovernmental Affairs and Public Liaison.	Director for Private Sector Engagement.	TN150004	1/27/2015
	Public and Media Affairs	Deputy Press Secretary	TN150010	4/9/2015
	Intergovernmental Affairs and Public Liaison.	Director for Intergovernmental Affairs and Public Engagement.	TN150011	4/27/2015
Official Residence of the Vice President.	Official Residence of the Vice President.	Deputy Residence Manager	RV150001	7/24/2014
		Deputy Residence Manager	RV150002	6/30/2015
Overseas Private Investment Corporation.	Office of the Executive Staff	Senior Advisor (2)	PQ140008	7/10/2014
			PQ140010	7/10/2014
Pension Benefit Guaranty Corporation.	Deputy Chief Policy Office	Confidential Assistant	BG140001	9/23/2014
Securities And Exchange Commission.	Office of the Chief Accountant	Director, Office of the Chief Accountant.	SE140004	8/18/2014
	Office of the Chairman	Confidential Assistant	SE150003	4/17/2015
		Writer-Editor	SE150004	6/2/2015
Small Business Administration	Office of Government Contracting and Business Development.	Senior Advisor	SB140029	7/10/2014
	Office of Communications and Public Liaison.	Special Advisor for Stakeholder Outreach.	SB140030	7/10/2014
		Deputy Assistant Administrator for Communications and Public Liaison.	SB150008	11/6/2014
		Associate Administrator for Communications and Public Liaison.	SB150033	5/14/2015
		Speechwriter	SB150038	6/26/2015
	Office of the Administrator	Policy Advisor	SB140031	7/15/2014
		Director of Scheduling, Operations, and Advance.	SB140033	7/23/2014
		Director of Scheduling and Advance.	SB140035	9/11/2014

SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
		Confidential Assistant	SB150012	1/23/2015
		White House Liaison	SB150019	3/12/2015
		Special Assistant for Scheduling and Advance.	SB150027	4/9/2015
		Special Advisor	SB150029	5/5/2015
	Office of Congressional and Legislative Affairs.	Deputy Associate Administrator for Congressional and Legislative Affairs (2).	SB140034	7/23/2014
			SB150040	6/26/2015
		Special Advisor	SB150004	10/30/2014
		Deputy Assistant Administrator for Congressional and Legislative Affairs.	SB150031	5/1/2015
	Office of International Trade	Associate Administrator for International Trade.	SB140037	9/24/2014
		Senior Advisor for International Trade.	SB150017	2/11/2015
	Office of Capital Access	Senior Advisor	SB150005	10/30/2014
	Office of the General Counsel	Deputy General Counsel	SB150024	3/26/2015
	Office of Entrepreneurial Development.	Senior Advisor	SB150030	5/29/2015
	Office of Faith-Based and Community Initiatives.	Assistant Administrator for Public Engagement.	SB150036	6/4/2015
	Office of Intergovernmental Affairs	Associate Administrator for Intergovernmental Affairs.	SB150037	6/12/2015
Department of State	Foreign Policy Planning Staff	Senior Advisor	DS140112	7/8/2014
		Staff Assistant	DS140130	9/16/2014
		Writer-Editor (Speechwriter)	DS150035	2/26/2015
	Office of the Global Women's Issues.	Staff Assistant	DS140115	7/18/2014
		Staff Assistant	DS150064	4/28/2015
	Office of the United States Aids Coordinator.	Staff Assistant (2)	DS140105	7/24/2014
			DS140113	8/1/2014
		Senior Advisor	DS140114	7/31/2014
	Bureau of Western Hemisphere Affairs.	Senior Advisor	DS140117	7/29/2014
		Foreign Affairs Officer	DS150043	3/17/2015
	Bureau of Legislative Affairs	Legislative Management Officer (2)	DS140118	7/29/2014
			DS150099	6/25/2015
		Deputy Assistant Secretary	DS150081	5/20/2015
	Office of Faith Based Community Initiatives.	Staff Assistant	DS140119	7/31/2014
	Office of International Information Programs.	Staff Assistant	DS140123	8/20/2014
	Office of the Under Secretary for Economic Growth, Energy, and the Environment.	Senior Advisor (2)	DS140124	8/20/2014
			DS150083	6/5/2015
	Bureau of African Affairs	Staff Assistant	DS140125	8/29/2014
	Office of the Chief of Protocol	Protocol Officer (Visits) (2)	DS140121	9/2/2014
			DS150003	10/3/2014
		Protocol Officer (Gifts)	DS140122	9/15/2014
		Public Affairs Specialist	DS150004	10/17/2014
		Protocol Officer (Ceremonials)	DS150020	1/23/2015
		Protocol Officer	DS150041	2/6/2015
	Bureau of Public Affairs	Senior Advisor	DS140126	9/5/2014
		Staff Assistant (2)	DS150009	12/10/2014
			DS150063	3/13/2015
	Bureau of Economic and Business Affairs.	Staff Assistant	DS140128	9/16/2014
		Special Assistant (2)	DS150034	3/2/2015
			DS150077	6/15/2015
		Deputy Assistant Secretary	DS150084	5/21/2015
	Office of the Counselor	Special Assistant (2)	DS140127	9/29/2014
			DS150080	6/2/2015
		Staff Assistant	DS140120	10/16/2014
	Bureau of Energy Resources	Special Assistant	DS140135	9/30/2014
	Bureau of Political and Military Affairs.	Staff Assistant	DS150002	10/3/2014

SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
	Office of the Under Secretary for Management.	Special Assistant	DS150007	11/10/2014
		Staff Assistant	DS150074	4/28/2015
	Office of the Under Secretary for Civilian Security, Democracy, and Human Rights.	Senior Advisor	DS150008	11/10/2014
	Office of the Deputy Secretary for Management and Resources.	Senior Advisor	DS150013	12/19/2014
	Bureau of Arms Control, Verification, and Compliance.	Public Affairs Specialist	DS150015	1/13/2015
	Office of the Deputy Secretary	Senior Advisor	DS150021	1/23/2015
		Staff Assistant	DS150022	1/23/2015
	Office of the Secretary	Staff Assistant (4)	DS150032	1/23/2015
			DS150075	5/20/2015
			DS150090	6/5/2015
			DS150095	6/25/2015
	Office of Global Food Security	Staff Assistant	DS150044	3/6/2015
	Office of the Under Secretary for Civilian Security, Democracy, and Human Rights.	Staff Assistant	DS150042	3/25/2015
	Office of the Special Envoy for Climate Change.	Deputy Special Envoy for Climate Change.	DS150066	3/30/2015
	Bureau for Education and Cultural Affairs.	Senior Advisor	DS150036	4/8/2015
	Bureau of International Security and Nonproliferation.	Staff Assistant	DS150082	5/14/2015
	Bureau of Democracy, Human Rights and Labor.	Deputy Assistant Secretary (2)	DS150078	5/26/2015
			DS150096	6/12/2015
	Office of the Under Secretary for Arms Control and International Security Affairs.	Senior Advisor	DS150098	6/25/2015
Trade and Development Agency	Office of the Director	Public Affairs Specialist	TD140002	7/15/2014
Department of Transportation	Office of Assistant Secretary for Budget and Programs.	Special Assistant	DT140039	7/3/2014
	Office of the Secretary	Director of Scheduling and Advance.	DT140041	7/3/2014
		Deputy White House Liaison	DT140050	8/18/2014
		Special Assistant (2)	DT150007	11/5/2014
			DT150046	4/9/2015
		Director of Scheduling	DT150028	2/19/2015
		Special Assistant for Scheduling and Advance.	DT150047	4/9/2015
		White House Liaison	DT150054	4/29/2015
		Director of Advance	DT150065	5/28/2015
	Immediate Office of the Administrator.	Director for Governmental Affairs (2).	DT140046	7/22/2014
			DT140056	9/9/2014
		Associate Administrator for Communications and Legislative Affairs.	DT140058	9/19/2014
		Director of Communications	DT150018	1/2/2015
		Director of External Affairs	DT150051	4/21/2015
		Associate Administrator for Governmental, International, and Public Affairs.	DT140051	8/18/2014
		Director of Governmental, International and Public Affairs.	DT150041	4/1/2015
		Senior Advisor	DT150055	4/29/2015
	Office of the Assistant Secretary for Governmental Affairs.	Special Assistant	DT140049	7/24/2014
		Director of Governmental Affairs	DT150010	11/13/2014
		Associate Director for State and Local Governmental Affairs.	DT150013	11/25/2014
		Director of State and Local Governmental Affairs.	DT150037	3/4/2015
	Office of the General Counsel	Associate General Counsel	DT140057	9/19/2014
	Office of Public Affairs	Deputy Director of Public Affairs (2)	DT140060	9/19/2014
			DT150042	4/1/2015
		Deputy Press Secretary	DT150017	1/2/2015

SCHEDULE C—Continued

Agency name	Organization name	Position title	Authorization No.	Effective date
		Director of Strategic Communications.	DT150021	1/6/2015
		Chief Speechwriter	DT150019	1/7/2015
		Press Secretary and Senior Media Advisor.	DT150025	1/23/2015
		Assistant Press Secretary	DT150048	4/9/2015
		Director of Public Affairs	DT150062	5/20/2015
	Office of the Assistant Secretary for Aviation and International Affairs.	Special Assistant	DT140061	9/30/2014
	Office of the Assistant Secretary for Transportation Policy.	Associate Director for Public Engagement.	DT150045	4/9/2015
		Policy Advisor	DT150060	5/20/2015
	Office of Communications and Legislative Affairs.	Director of Communications	DT150067	5/29/2015
Department of the Treasury	Office of the Secretary	Associate Director (2)	DY140099	7/10/2014
			DY150087	4/10/2015
		Senior Advisor	DY140100	7/10/2014
		Counselor (2)	DY140104	7/15/2014
			DY140120	9/11/2014
		Deputy Executive Secretary	DY140109	7/25/2014
		Special Assistant (3)	DY140114	8/6/2014
			DY140116	8/20/2014
			DY150060	2/20/2015
		Deputy White House Liaison	DY150059	2/20/2015
		Director of Scheduling, Advance and Administration.	DY150103	6/11/2015
	Office of the Assistant Secretary (Legislative Affairs).	Special Assistant (2)	DY140108	8/4/2014
			DY150030	1/23/2015
	Office of the Assistant Secretary (Public Affairs).	Spokesperson (3)	DY140113	8/6/2014
			DY150082	3/13/2015
			DY150111	6/26/2015
		Senior Advisor	DY150008	11/14/2014
		Special Assistant	DY150009	11/14/2014
		Senior Digital Strategy Specialist	DY150088	4/9/2015
		Counselor	DY150101	6/2/2015
	Office of the Assistant Secretary for Financial Markets.	Senior Advisor	DY150014	12/3/2014
	Office of the Assistant Secretary for Management.	Special Assistant	DY150029	1/23/2015
	Office of the Under Secretary for Domestic Finance.	Senior Advisor	DY150074	3/6/2015
		Senior Advisor of Cybersecurity Strategy and Policy.	DY150091	4/30/2015
	United States Mint	Special Assistant	DY150075	3/6/2015
	Office of the Under Secretary for International Affairs.	Policy Advisor	DY150076	3/6/2015
		Senior Advisor	DY150102	6/4/2015
	Office of the Assistant Secretary (Economic Policy).	Special Assistant	DY150100	6/2/2015
United States International Trade Commission.	Office of the Chairman	Staff Assistant (Economics)	TC140015	7/29/2014
	Office of Commissioner Schmidtlein.	Staff Assistant (Confidential) Legal	TC150002	6/11/2015
Department of Veterans Affairs	Office of the Assistant Secretary for Public and Intergovernmental Affairs.	Special Assistant (2)	DV140048	10/3/2014
			DV150037	5/26/2015
	Office of the Secretary and Deputy	Special Assistant (2)	DV140049	10/3/2014
			DV150017	3/4/2015
		Special Assistant/White House Liaison.	DV150015	2/13/2015
		Special Assistant/Deputy Director	DV150014	3/4/2015
	Office of the Assistant Secretary for Congressional and Legislative Affairs.	Special Assistant	DV150042	6/12/2015

Authority: 5 U.S.C. 3301 and 3302; E.O.10577, 3 CFR, 1954–1958 Comp., p.218.

U.S. Office of Personnel Management.

Beth F. Cobert,

Acting Director.

[FR Doc. 2016–01009 Filed 1–19–16; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76884; File No. SR–BATS–2015–124]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of a Proposed Rule Change to Rule 14.11(i), Managed Fund Shares, To List and Trade Shares of the REX VolMAX Long VIX Weekly Futures Strategy ETF and the REX VolMAXX Inverse VIX Weekly Futures Strategy ETF of the Exchange Traded Concepts Trust

January 13, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 30, 2015, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II 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 filed a proposal to list and trade shares of the REX VolMAXX™ Long VIX Weekly Futures Strategy ETF and the REX VolMAXX™ Inverse VIX Weekly Futures Strategy ETF (each a ''Fund'' and collectively, the ''Funds'') of the Exchange Traded Concepts Trust (the ''Trust'') under BATS Rule 14.11(i) (''Managed Fund Shares''). The shares of the Funds are referred to herein as the ''Shares.''

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. *Purpose*

The Exchange proposes to list and trade the Shares under BATS Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange.[3] The Funds will be actively managed funds. The Shares will be offered by the Trust, which was established as a Delaware statutory trust on July 17, 2009. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Fund on Form N–1A (''Registration Statement'') with the Commission.[4] The Adviser is also registered as a Commodity Pool Operator. The REX VolMAXX™ Long VIX Weekly Futures Strategy ETF and the REX VolMAXX™ Inverse VIX Weekly Futures Strategy ETF and their subsidiaries, REX VolMAXX™ Long VIX Weekly Futures Strategy Subsidiary I and REX VolMAXX™ Inverse VIX Weekly Futures Strategy Subsidiary I, respectively, each a wholly-owned subsidiary of its associated Fund are organized under the laws of the Cayman Islands (each a ''Subsidiary'' and, collectively, the ''Subsidiaries''), will be subject to regulation by the CFTC and additional disclosure, reporting and recordkeeping rules imposed upon commodity pools.

Exchange Traded Concepts, LLC is the investment adviser (the ''Adviser'') to the Funds. Vident Investment Advisory, LLC is the sub-adviser (the ''Sub-Adviser'') to the Funds. SEI Investments Global Funds Services serves as administrator for the Trust (the ''Administrator''). Brown Brothers Harriman & Co. serves as custodian, transfer agent, and dividend disbursing agent for the Trust. SEI Investments Distribution Co. (''Distributor'') serves as the distributor for the Trust.

BATS Rule 14.11(i)(7) provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[5] In addition, Rule 14.11(i)(7) further requires that personnel who make decisions on the investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable investment company portfolio. Rule 14.11(i)(7) is similar to BATS Rule 14.11(b)(5)(A)(i), however, Rule 14.11(i)(7) in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. Neither the Adviser nor the Sub-Adviser is or is affiliated

[3] The Commission approved BATS Rule 14.11(i) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[4] *See* Registration Statement on Form N–1A for the Trust, dated December 29, 2015 (File Nos. 333–156529 and 811–22263). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement. The Commission has issued an order granting certain exemptive relief to the Company under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') (the ''Exemptive Order''). *See* Investment Company Act Release No. 30445, April 2, 2013 (File No. 812–13969).

[5] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser, the Sub-Adviser, and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

with a broker-dealer. In the event that (a) the Adviser becomes a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

REX VolMAXX Long VIX Weekly Futures Strategy ETF

According to the Registration Statement, the Fund seeks to provide investors with long exposure to the implied volatility of the broad-based, large-cap U.S. equity market by obtaining investment exposure to an actively managed portfolio of exchange-traded futures contracts based on the Chicago Board Options Exchange, Incorporated (''CBOE'') Volatility Index (the ''VIX Index'') (''VIX Futures Contracts'') with weekly and monthly expirations. The price at which a VIX Futures Contract trades represents the implied reading of the VIX Index upon the expiration of the VIX Futures Contract. The VIX Index is an index designed to measure the market price of volatility in large cap U.S. stocks over 30 days in the future and is calculated based on the prices of certain put and call options on the S&P 500. The VIX Index is calculated based on the premium paid by investors for certain options linked to the level of the S&P 500. During periods of market instability, the implied level of volatility of the S&P 500 typically increases and, consequently, the prices of options linked to the S&P 500 typically increase (assuming all other relevant factors remain constant or have negligible changes). This, in turn, causes the reading of the VIX Index to increase.

Unlike many indexes, the VIX Index is not an investable index. Rather, the VIX Index serves as a market volatility forecast. While the Fund generally will seek exposure to the VIX Index, the Fund is not an index tracking fund and will generally seek to enhance its performance by actively selecting VIX Futures Contracts of varying maturities for the Fund and, in fact, can be expected to perform very differently from the VIX Index over all periods of time.

Principal Holdings

The Fund will seek to achieve its investment objective by obtaining investment exposure to an actively managed portfolio of futures contracts based on VIX Futures Contracts with weekly and monthly expirations.[6] According to the Registration Statement, the Fund will obtain such exposure by investing, through both long and short positions, only in the following instruments: VIX Futures Contracts; [7] swap agreements that provide exposure to VIX Futures Contracts; [8] the securities of other investment companies,[9] other pooled investment vehicles,[10] and exchange-traded notes [11] that provide exposure to VIX Futures Contracts; options on securities, securities indices, and currencies; [12] repurchase agreements [13] and reverse repurchase agreements; [14] commercial paper; [15] U.S. government obligations; [16] and cash or cash equivalents [17] to collateralize its exposure to the VIX Futures Contracts and for investment purposes.

The Fund expects to gain exposure to certain of these investments by investing a portion of its assets in the Subsidiary. The Subsidiary will be advised by the Adviser.[18] The Fund's investment in the Subsidiary is intended to provide the Fund with exposure to markets (in general, the commodity markets) within the limits of current federal income tax laws applicable to investment companies such as the Fund, which limit the ability of investment companies to

[6] The Fund expects the notional value of its exposure to VIX Futures Contracts to be equal to approximately 100% of Fund assets at all times and the weighted average of time to expiry of the VIX Futures Contracts to be less than one month at all times.

[7] Consistent with the definition above, all VIX Futures Contracts held by the Fund will be exchange-traded.

[8] To the extent practicable, the Fund will invest in swaps cleared through the facilities of a centralized clearing house. To the extent that the Fund invests in swaps that are not centrally cleared, the Adviser will also attempt to mitigate the Fund's credit risk by transacting only with large, well-capitalized institutions using measures designed to determine the creditworthiness of a counterparty. The Adviser will take various steps to limit counterparty credit risk, as described in the Registration Statement. The Fund's investment in over-the-counter (''OTC'') derivatives, including OTC swaps, will not exceed 20% of its assets.

[9] The Fund may invest in the securities of other investment companies, including affiliated funds and money market funds, subject to applicable limitations under Section 12(d)(1) of the 1940 Act.

[10] Pooled investment vehicles include only the following instruments: Trust Issued Receipts (as defined in BATS Rule 14.11(f)); Commodity-Based Trust Shares (as defined in Rule 14.11(e)(4)); Currency Trust Shares (as defined in Rule 14.11(e)(5)); Commodity Index Trust Shares (as defined in Rule 14.11(e)(6)); Trust Units (as defined in Rule 14.11(e)(9)); and Paired Class Shares (as defined in NASDAQ Stock Market LLC Rule 5713). While the Funds may invest in inverse pooled investment vehicles, the Funds will not invest in leveraged (*e.g.,* 2X, –2X, 3X or –3X) pooled investment vehicles.

[11] An ETN is a senior unsecured debt obligation designed to track the total return of an underlying index, benchmark, or strategy, minus investor fees. ETNs are registered under the Securities Act of 1933 and are redeemable to the issuer. While the Funds may invest in inverse ETNs, the Funds will not invest in leveraged (*e.g.,* 2X, –2X, 3X or –3X) ETNs.

[12] All options written on indices or securities will be covered. For all OTC options, the Fund will seek, where possible, to use counterparties whose financial status is such that the risk of default is reduced; however, the risk of losses from default is still possible. The Sub-Adviser will monitor the financial standing of counterparties on an ongoing basis. As stated above, the Fund's investment in OTC derivatives, which includes OTC options, will not exceed 20% of its assets.

[13] The Fund follows certain procedures designed to minimize the risks inherent in repurchase agreements. Such procedures include effecting repurchase transactions only with large, well-capitalized, and well-established financial institutions whose condition will be continually monitored by the Sub-Adviser. It is the current policy of the Fund not to invest in repurchase agreements that do not mature within seven days if any such investment, together with any other illiquid assets held by the Fund, amount to more than 15% of the Fund's net assets. The investments of the Fund in repurchase agreements, at times, may be substantial when, in the view of the Sub-Adviser, liquidity or other considerations so warrant.

[14] Reverse repurchase agreements involve the sale of assets with an agreement to repurchase the assets at an agreed-upon price, date and interest payment and have the characteristics of borrowing. The Fund will establish a segregated account with the Trust's custodian bank in which the Fund will maintain cash, cash equivalents or other portfolio securities equal in value to the Fund's obligations in respect of reverse repurchase agreements. The Fund does not expect to engage, under normal circumstances, in reverse repurchase agreements with respect to more than 33⅓% of its assets.

[15] Commercial paper is a short-term obligation with a maturity ranging from one to 270 days issued by banks, corporations and other borrowers. Such investments are unsecured and usually discounted. The Funds may invest in commercial paper rated A–1 or A–2 by Standard and Poor's Ratings Services (''S&P'') or Prime-1 or Prime-2 by Moody's Investors Service, Inc. (''Moody's'').

[16] U.S. government obligations include securities issued or guaranteed as to principal and interest by the U.S. government, its agencies, or instrumentalities, such as U.S. Treasury obligations, receipts, STRIPS, and U.S. Treasury zero-coupon bonds.

[17] Cash or cash equivalents includes assets such as U.S. Treasury securities or overnight repurchase agreements.

[18] The Subsidiary is not registered under the 1940 Act and is not directly subject to its investor protections, except as noted in the Registration Statement. However, the Subsidiary is wholly-owned and controlled by the Fund and is advised by the Adviser. Therefore, because of the Fund's ownership and control of the Subsidiary, the Subsidiary would not take action contrary to the interests of the Fund or its shareholders. The Fund's Board of Trustees (''Board'') has oversight responsibility for the investment activities of the Fund, including its expected investment in the Subsidiary, and the Fund's role as the sole shareholder of the Subsidiary. The Adviser receives no additional compensation for managing the assets of the Subsidiary. The Subsidiary will also enter into separate contracts for the provision of custody, transfer agency, and accounting agent services with the same or with affiliates of the same service providers that provide those services to the Fund.

invest directly in certain futures contracts. The Subsidiary will have the same investment objective as the Fund. Except as otherwise noted, references to the Fund's investments may also be deemed to include the Fund's indirect investments through the Subsidiary. The Fund will invest up to 25% of its total assets in the Subsidiary.

The Fund may lend its portfolio securities in an amount not to exceed 33⅓% of the value of its total assets via a securities lending program through a lending agent approved by the Board, to certain creditworthy borrowers desiring to borrow securities to complete transactions and for other purposes. A securities lending program allows the Fund to receive a portion of the income generated by lending its securities and investing the respective collateral. The Fund will receive collateral for each loaned security which is at least equal to the current market value of that security, marked to market each trading day.

The Fund intends to qualify each year as a regulated investment company (a ''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended.[19] The Fund will invest its assets (including via the Subsidiary), and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M. Aside from its investments in the Subsidiary, the Fund will not invest in non-U.S. equity securities or options.

Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment) deemed illiquid by the Adviser[20] under the 1940 Act.[21] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include assets subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund's investments will be consistent with the Fund's investment objective and will not be used to achieve leveraged or inverse leveraged returns (*i.e.* two times or three times the Fund's benchmark).

REX VolMAXX™ Inverse VIX Weekly Futures Strategy ETF

According to the Registration Statement, the Fund seeks to provide investors with inverse exposure to the implied volatility of the broad-based, large-cap U.S. equity market by obtaining investment exposure to an actively managed portfolio of exchange-traded VIX Futures Contracts with weekly and monthly expirations. The price at which a VIX Futures Contract trades represents the implied reading of the VIX Index upon the expiration of the VIX Futures Contract. The VIX Index is an index designed to measure the market price of volatility in large cap U.S. stocks over 30 days in the future and is calculated based on the prices of certain put and call options on the S&P 500. The VIX Index is calculated based on the premium paid by investors for certain options linked to the level of the S&P 500. During periods of market instability, the implied level of volatility of the S&P 500 typically increases and, consequently, the prices of options linked to the S&P 500 typically increase (assuming all other relevant factors remain constant or have negligible changes). This, in turn, causes the reading of the VIX Index to increase.

Unlike many indexes, the VIX Index is not an investable index. Rather, the VIX Index serves as a market volatility forecast. While the Fund generally will seek exposure to the VIX Index, the Fund is not an index tracking fund and will generally seek to enhance its performance by actively selecting VIX Futures Contracts of varying maturities for the Fund and, in fact, can be expected to perform very differently from the VIX Index over all periods of time.

Principal Holdings

The Fund will seek to achieve its investment objective by obtaining investment exposure to an actively managed portfolio of futures contracts based on VIX Futures Contracts with weekly and monthly expirations.[22] According to the Registration Statement, the Fund will obtain such exposure by investing, through both long and short positions, only in the following instruments: VIX Futures Contracts; [23] swap agreements that provide exposure to VIX Futures Contracts; [24] the securities of other investment companies,[25] other pooled investment vehicles,[26] and exchange-traded notes [27] that provide exposure to VIX Futures Contracts; options on securities, securities indices, and currencies; [28]

[19] 26 U.S.C. 851.

[20] In reaching liquidity decisions, the Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[21] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

[22] The Fund expects the notional value of its exposure to VIX Futures Contracts to be equal to approximately 100% of Fund assets at the close of each trading day and the weighted average of time to expiry of the VIX Futures Contracts to be less than one month at all times.

[23] Consistent with the definition above, all VIX Futures Contracts held by the Fund will be exchange-traded.

[24] To the extent practicable, the Fund will invest in swaps cleared through the facilities of a centralized clearing house. To the extent that the Fund invests in swaps that are not centrally cleared, the Adviser will also attempt to mitigate the Fund's credit risk by transacting only with large, well-capitalized institutions using measures designed to determine the creditworthiness of a counterparty. The Adviser will take various steps to limit counterparty credit risk, as described in the Registration Statement. The Fund's investment in over-the-counter (''OTC'') derivatives, including OTC swaps, will not exceed 20% of its assets.

[25] The Fund may invest in the securities of other investment companies, including affiliated funds and money market funds, subject to applicable limitations under Section 12(d)(1) of the 1940 Act.

[26] Pooled investment vehicles include only the following instruments: Trust Issued Receipts (as defined in BATS Rule 14.11(f)); Commodity-Based Trust Shares (as defined in Rule 14.11(e)(4)); Currency Trust Shares (as defined in Rule 14.11(e)(5)); Commodity Index Trust Shares (as defined in Rule 14.11(e)(6)); Trust Units (as defined in Rule 14.11(e)(9)); and Paired Class Shares (as defined in NASDAQ Stock Market LLC Rule 5713).

[27] An ETN is a senior unsecured debt obligation designed to track the total return of an underlying index, benchmark, or strategy, minus investor fees. ETNs are registered under the Securities Act of 1933 and are redeemable to the issuer.

[28] All options written on indices or securities will be covered. For all OTC options, the Fund will seek, where possible, to use counterparties whose financial status is such that the risk of default is reduced; however, the risk of losses from default is still possible. The Sub-Adviser will monitor the

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repurchase agreements [29] and reverse repurchase agreements; [30] commercial paper; [31] U.S. government obligations; [32] and cash or cash equivalents [33] to collateralize its exposure to the VIX Futures Contracts and for investment purposes.

The Fund expects to gain exposure to certain of these investments by investing a portion of its assets in the Subsidiary. The Subsidiary will be advised by the Adviser.[34] The Fund's investment in the Subsidiary is intended to provide the Fund with exposure to markets (in general, the commodity markets) within the limits of current federal income tax laws applicable to investment companies such as the Fund, which limit the ability of investment companies to invest directly in certain futures contracts. The Subsidiary will have the same investment objective as the Fund. Except as otherwise noted, references to the Fund's investments may also be deemed to include the Fund's indirect investments through the Subsidiary. The Fund will invest up to 25% of its total assets in the Subsidiary.

The Fund may lend its portfolio securities in an amount not to exceed 33⅓% of the value of its total assets via a securities lending program through a lending agent approved by the Board, to certain creditworthy borrowers desiring to borrow securities to complete transactions and for other purposes. A securities lending program allows the Fund to receive a portion of the income generated by lending its securities and investing the respective collateral. The Fund will receive collateral for each loaned security which is at least equal to the current market value of that security, marked to market each trading day.

The Fund intends to qualify each year as a regulated investment company (a ''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended.[35] The Fund will invest its assets (including via the Subsidiary), and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M. Aside from its investments in the Subsidiary, the Fund will not invest in non-U.S. equity securities or options.

Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment) deemed illiquid by the Adviser [36] under the 1940 Act.[37] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include assets subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund's investments will be consistent with the Fund's investment objective and will not be used to achieve leveraged or inverse leveraged returns (*i.e.* two times or three times the Fund's benchmark).

Net Asset Value

According to the Registration Statement, the net asset value (''NAV'') of the Shares of each Fund will be calculated by dividing the value of the net assets of such Fund (*i.e.,* the value of its total assets less total liabilities) by the total number of Shares of the Fund outstanding. Expenses and fees, including the management and administration fees, are accrued daily and taken into account for purposes of determining NAV. The NAV of the Fund is generally determined at 4:15 p.m. Eastern Time each business day when the Exchange is open for trading. If the Exchange or market on which the Fund's investments are primarily traded closes early, the NAV may be calculated prior to its normal calculation time. Creation/redemption transaction order time cutoffs (as further described below) would also be accelerated.

Securities and other assets are generally valued at their market price using information provided by a pricing service or market quotations. VIX Futures Contracts are generally valued at their settlement price as determined

financial standing of counterparties on an ongoing basis. As stated above, the Fund's investment in OTC derivatives, which includes OTC options, will not exceed 20% of its assets.

[29] The Fund follows certain procedures designed to minimize the risks inherent in repurchase agreements. Such procedures include effecting repurchase transactions only with large, well-capitalized, and well-established financial institutions whose condition will be continually monitored by the Sub-Adviser. It is the current policy of the Fund not to invest in repurchase agreements that do not mature within seven days if any such investment, together with any other illiquid assets held by the Fund, amount to more than 15% of the Fund's net assets. The investments of the Fund in repurchase agreements, at times, may be substantial when, in the view of the Sub-Adviser, liquidity or other considerations so warrant.

[30] Reverse repurchase agreements involve the sale of assets with an agreement to repurchase the assets at an agreed-upon price, date and interest payment and have the characteristics of borrowing. The Fund will establish a segregated account with the Trust's custodian bank in which the Fund will maintain cash, cash equivalents or other portfolio securities equal in value to the Fund's obligations in respect of reverse repurchase agreements. The Fund does not expect to engage, under normal circumstances, in reverse repurchase agreements with respect to more than 33⅓% of its assets.

[31] Commercial paper is a short-term obligation with a maturity ranging from one to 270 days issued by banks, corporations and other borrowers. Such investments are unsecured and usually discounted. The Funds may invest in commercial paper rated A–1 or A–2 by Standard and Poor's Ratings Services (''S&P'') or Prime-1 or Prime-2 by Moody's Investors Service, Inc. (''Moody's'').

[32] U.S. government obligations include securities issued or guaranteed as to principal and interest by the U.S. government, its agencies, or instrumentalities, such as U.S. Treasury obligations, receipts, STRIPS, and U.S. Treasury zero-coupon bonds.

[33] Cash or cash equivalents includes assets such as U.S. Treasury securities or overnight repurchase agreements.

[34] The Subsidiary is not registered under the 1940 Act and is not directly subject to its investor protections, except as noted in the Registration Statement. However, the Subsidiary is wholly-owned and controlled by the Fund and is advised by the Adviser. Therefore, because of the Fund's ownership and control of the Subsidiary, the Subsidiary would not take action contrary to the interests of the Fund or its shareholders. The Fund's Board of Trustees (''Board'') has oversight responsibility for the investment activities of the Fund, including its expected investment in the Subsidiary, and the Fund's role as the sole shareholder of the Subsidiary. The Adviser receives no additional compensation for managing the assets of the Subsidiary. The Subsidiary will also enter into separate contracts for the provision of custody, transfer agency, and accounting agent services with the same or with affiliates of the same service providers that provide those services to the Fund.

[35] 26 U.S.C. 851.

[36] In reaching liquidity decisions, the Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[37] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

by CBOE. Listed options will generally be valued at the last sale price on the applicable exchange. Non-exchange traded derivatives, including OTC-traded options and swaps, will normally be valued on the basis of quotations or equivalent indication of value supplied by a third-party pricing service or broker-dealer who makes markets in such instruments. Repurchase agreements and reverse repurchase agreements will generally be valued at bid prices received from independent pricing services as of the announced closing time for trading in such instruments. U.S government obligations are generally priced at a quoted market price from an active market, generally the midpoint between the bid/ask quotes. U.S. government obligations that mature within sixty days may be valued using amortized cost. Money market funds would generally be valued at their current Net Asset Value per share. Certain short-term debt securities will be valued on the basis of amortized cost.

Exchange-traded securities, including those exchange-traded securities of other investment companies, other pooled investment vehicles, and exchange-traded notes, generally will be valued at the official closing price on the listing exchange. Non-exchange traded securities will be valued at their net asset value.

For more information regarding the valuation of Fund investments in calculating the Fund's NAV, see the Registration Statement.

The Shares

The Funds will issue and redeem Shares on a continuous basis at the NAV per Share only in large blocks of a specified number of Shares or multiples thereof (''Creation Units'') in transactions with authorized participants who have entered into agreements with the Distributor. The Adviser currently anticipates that a Creation Unit will consist of at least 25,000 Shares, though this number may change from time to time, including prior to listing of the Shares. The exact number of Shares that will constitute a Creation Unit will be disclosed in the Registration Statement. Once created, Shares of each Fund may trade on the secondary market in amounts less than a Creation Unit.

Although the Adviser anticipates that purchases and redemptions for Creation Units will generally be executed on an all-cash basis, the consideration for purchase of Creation Units of the Fund may consist of an in-kind deposit of a designated portfolio of securities (including any portion of such assets for which cash may be substituted) (*i.e.,* the ''Deposit Assets''), and the ''Cash Component'' computed as described below. Together, the Deposit Assets and the Cash Component constitute the ''Fund Deposit,'' which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The specific terms surrounding the creation and redemption of shares are at the discretion of the Adviser.

The Deposit Assets and Fund Securities (as defined below), as the case may be, in connection with a purchase or redemption of a Creation Unit, generally will correspond pro rata, to the extent practicable, to the assets held by the Fund.

The Cash Component will be an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the ''Deposit Amount,'' which will be an amount equal to the market value of the Deposit Assets, and serve to compensate for any differences between the NAV per Creation Unit and the Deposit Amount. Each Fund generally offers Creation Units partially or entirely for cash. The Administrator will make available through the National Securities Clearing Corporation (''NSCC'') on each business day, prior to the opening of business on the Exchange, the list of names and the required number or par value of each Deposit Security and the amount of the Cash Component to be included in the current Fund Deposit (based on information as of the end of the previous business day) for the Fund.

The identity and number or par value of the Deposit Assets may change pursuant to changes in the composition of each Fund's portfolio as rebalancing adjustments and corporate action events occur from time to time. The composition of the Deposit Assets may also change in response to adjustments to the weighting or composition of the holdings of the Fund.

Each Fund reserves the right to permit or require the substitution of a ''cash in lieu'' amount to be added to the Cash Component to replace any Deposit Security that may not be available in sufficient quantity for delivery or that may not be eligible for transfer through the Depository Trust Company (''DTC'') or the clearing process through the NSCC.[38]

Except as noted below, all creation orders must be placed for one or more Creation Units and must be received by the Distributor at a time specified by the Adviser. Currently, such orders must be received in proper form no later than 3:00 p.m. Eastern Time on the date such order is placed in order for creation of Creation Units to be effected based on the NAV of Shares of the Fund as next determined on such date after receipt of the order in proper form. The ''Settlement Date'' is generally the third business day after the transmittal date. On days when the Exchange or the bond markets close earlier than normal, the Fund may require orders to create or to redeem Creation Units to be placed earlier in the day.

To be eligible to place orders with the Distributor to create a Creation Unit of a Fund, an entity must be (i) a ''Participating Party,'' *i.e.,* a broker-dealer or other participant in the clearing process through the Continuous Net Settlement System of the NSCC, a clearing agency that is registered with the Commission; or (ii) a DTC Participant, and, in each case, must have executed an agreement with the Trust, the Distributor and the Administrator with respect to creations and redemptions of Creation Units (''Participant Agreement'').

A standard creation transaction fee may be imposed to offset the transfer and other transaction costs associated with the issuance of Creation Units.

Shares of the Funds may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Distributor and only on a business day. The Administrator will make available through the NSCC, prior to the opening of business on the Exchange on each business day, the designated portfolio of securities (including any portion of such securities for which cash may be substituted) that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day (''Fund Securities''). The redemption proceeds for a Creation Unit generally will consist of a specified amount of cash less a redemption transaction fee. The Fund generally will redeem Creation Units entirely for cash.

A standard redemption transaction fee may be imposed to offset transfer and other transaction costs that may be incurred by the Fund.

Redemption requests for Creation Units of the Funds must be submitted to the Distributor by or through an authorized participant by a time specified by the Adviser. Currently, such requests must be received no later than 3:00 p.m. Eastern Time on any business day, in order to receive that day's NAV. The authorized participant

[38] The Adviser represents that, to the extent the Trust permits or requires a ''cash in lieu'' amount, such transactions will be effected in the same or equitable manner for all authorized participants.

must transmit the request for redemption in the form required by the Fund to the Distributor in accordance with procedures set forth in the authorized Participant Agreement.

Additional information regarding the Shares and the Funds, including investment strategies, risks, creation and redemption procedures, fees and expenses, portfolio holdings disclosure policies, distributions, taxes and reports to be distributed to beneficial owners of the Shares can be found in the Registration Statement or on the Web site for the Fund, as applicable.

Availability of Information

Each Fund's Web site, which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Web sites will include additional quantitative information updated on a daily basis, including, for the respective Fund: (1) The prior business day's reported NAV, the closing market price or the midpoint of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[39] daily trading volume, and a calculation of the premium and discount of the closing market price or Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Daily trading volume information will be available in the financial section of newspapers, through subscription services such as Bloomberg, Thomson Reuters, and International Data Corporation, which can be accessed by authorized participants and other investors, as well as through other electronic services, including major public Web sites. On each business day, before commencement of trading in Shares during Regular Trading Hours [40] on the Exchange, each Fund will disclose on its Web site the identities and quantities of the portfolio instruments (the ''Disclosed Portfolio'') held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.[41] The Disclosed Portfolio will include, as applicable: ticker symbol or other identifier, a description of the holding, identity of the asset upon which the derivative is based, the strike price for any options, the quantity of each security or other asset held as measured by select metrics, maturity date, coupon rate, effective date, market value and percentage weight of the holding in the portfolio. The Web site and information will be publicly available at no charge.

In addition, for each Fund, an estimated value, defined in BATS Rule 14.11(i)(3)(C) as the ''Intraday Indicative Value,'' that reflects an estimated intraday value of the Fund's portfolio, will be disseminated. Moreover, the Intraday Indicative Value will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Trading Hours.[42] In addition, the quotations of certain of the Fund's holdings may not be updated for purposes of calculating Intraday Indicative Value during U.S. trading hours where the market on which the underlying asset is traded settles prior to the end of the Exchange's Regular Trading Hours.

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of each Fund on a daily basis and provide an estimate of that value throughout the trading day.

Intraday price quotations on U.S. government securities, repurchase agreements, and reverse repurchase agreements of the type held by the Funds are available from major broker-dealer firms and from third-parties, which may provide prices free with a time delay, or ''live'' with a paid fee. Major broker-dealer firms will also provide intraday quotes on swaps of the type held by the Funds. Pricing information related to exchange-listed instruments, including exchange-listed options, securities of other investment companies, pooled investment vehicles, and exchange-traded notes, will be available directly from the listing exchange. Pricing information related to money market fund shares will be available through issuer Web sites and publicly available quotation services such as Bloomberg, Markit and Thomson Reuters. For VIX Futures Contracts, such intraday information is available directly from CBOE. Intraday price information is also available through subscription services, such as Bloomberg and Thomson Reuters, which can be accessed by authorized participants and other investors.

Information regarding market price and volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be generally available daily in the print and online financial press. Quotation and last sale information for the Shares will be available on the facilities of the CTA.

Initial and Continued Listing

The Shares will be subject to BATS Rule 14.11(i), which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, each Fund must be in compliance with Rule 10A–3 under the Act.[43] A minimum of 100,000 Shares of each Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Funds. The Exchange will halt trading in the Shares under the conditions specified in BATS Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the instruments composing the Disclosed Portfolio of a Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of a Fund may be halted.

[39] The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[40] Regular Trading Hours are 9:30 a.m. to 4:00 p.m. Eastern Time.

[41] Under accounting procedures to be followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[42] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available Intraday Indicative Values published via the Consolidated Tape Association (''CTA'') or other data feeds.

[43] *See* 17 CFR 240.10A–3.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. BATS will allow trading in the Shares from 8:00 a.m. until 5:00 p.m. Eastern Time. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in BATS Rule 11.11(a), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01, with the exception of securities that are priced less than $1.00, for which the minimum price variation for order entry is $0.0001.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Fund Shares. The Exchange may obtain information regarding trading in the Shares, exchange-listed options, exchange listed equity securities, and the underlying futures via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliates of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[44] In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA's Trade Reporting and Compliance Engine (''TRACE''). The Exchange prohibits the distribution of material non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) BATS Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value is disseminated; (4) the risks involved in trading the Shares during the Pre-Opening[45] and After Hours Trading Sessions[46] when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to each Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Circular will reference that each Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Funds and the applicable NAV calculation time for the Shares. The Information Circular will disclose that information about the Shares of the Funds will be publicly available on the Funds' respective Web site. In addition, the Information Circular will reference that the Trust is subject to various fees and expenses described in the Registration Statement.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[47] in general and Section 6(b)(5) of the Act[48] 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, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed 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 BATS Rule 14.11(i). The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. If the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser to the investment company shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. Neither the Adviser nor the Sub-Adviser is or is affiliated with a broker-dealer. In the event that (a) the Adviser becomes a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. The Exchange may obtain information regarding trading in the Shares and the underlying futures via the ISG from other exchanges who are members or affiliates of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[49] In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA's TRACE.

According to the Registration Statement, the REX VolMAXX Long VIX Weekly Futures Strategy ETF expects the notional value of its exposure to VIX Futures Contracts to be equal to approximately 100% of Fund assets at all times and the weighted average of time to expiry of the VIX Futures Contracts to be less than one month at all times. According to the Registration Statement, the REX VolMAXX™

[44] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.* The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange also notes that all of the futures contracts in the Disclosed Portfolio for the Fund will trade on markets that are a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[45] The Pre-Opening Session is from 8:00 a.m. to 9:30 a.m. Eastern Time.

[46] The After Hours Trading Session is from 4:00 p.m. to 5:00 p.m. Eastern Time.

[47] 15 U.S.C. 78f.

[48] 15 U.S.C. 78f(b)(5).

[49] *See* note 44, *supra.*

Inverse VIX Weekly Futures Strategy ETF expects the notional value of its exposure to VIX Futures Contracts to be equal to approximately 100% of Fund assets at the close of each trading day and the weighted average of time to expiry of the VIX Futures Contracts to be less than one month at all times.

Additionally, each Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment). The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include assets subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding each Fund and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value will be disseminated by one or more major market data vendors at least every 15 seconds during Regular Trading Hours. On each business day, before commencement of trading in Shares during Regular Trading Hours, each Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Pricing information will be available on the Fund's Web site including: (1) The prior business day's reported NAV, the closing market price or the Bid/Ask Price, daily trading volume, and a calculation of the premium and discount of the closing market price or Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Additionally, information regarding market price and trading of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information for the Shares will be available on the facilities of the CTA. The Web sites for the Funds will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted under the conditions specified in BATS Rule 11.18. Trading may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Finally, trading in the Shares will be subject to BATS Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding each Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

Intraday price quotations on securities, repurchase agreements, and reverse repurchase agreements of the type held by the Fund are available from major broker-dealer firms and from third-parties, which may provide prices free with a time delay, or ''live'' with a paid fee. Major broker-dealer firms will also provide intraday quotes on swaps of the type held by the Fund. Pricing information related to exchange-listed instruments, including exchange-listed options, securities of other investment companies, pooled investment vehicles, and exchange-traded notes, will be available directly from the listing exchange. Pricing information related to money market fund shares will be available through issuer Web sites and publicly available quotation services such as Bloomberg, Markit and Thomson Reuters. For VIX Futures Contracts, such intraday information is available directly from CBOE. Intraday price information is also available through subscription services, such as Bloomberg and Thomson Reuters, which can be accessed by authorized participants and other investors.

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 in that it will facilitate the listing and trading of additional types of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. 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 as well as trade information for certain fixed income instruments as reported to FINRA's TRACE. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

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 Exchange notes that the proposed rule change, rather will facilitate the listing and trading of additional actively-managed exchange-traded products that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange 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–BATS–2015–124 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2015–124. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2015–124, and should be submitted on or before February 10, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[50]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–00896 Filed 1–19–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76895; File No. SR–CBOE–2015–121]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 8.3 Relating to Appointment Costs

January 13, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on December 31, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b-4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CBOE Rule 8.3 relating to the appointment costs for options on the Russell 2000 Index (''RUT options'') and P.M.-Settled options on the Standard & Poor's 500 (''SPXPM options''). The text of the proposed rule change is provided below.

(additions are *underlined;* deletions are [bracketed])

* * * * *

Chicago Board Options Exchange, Incorporated

Rules

* * * * *

Rule 8.3. Appointment of Market-Makers

(a)–(b) No change.

(c) Market-Maker Appointments. Absent an exemption by the Exchange, an appointment of a Market-Maker confers the right to quote electronically and in open outcry in the Market-Maker's appointed classes during Regular Trading Hours as described below. Subject to paragraph (e) below, a Market-Maker may change its appointed classes upon advance notification to the Exchange in a form and manner prescribed by the Exchange.

(i) Hybrid Classes. Subject to paragraphs (c)(iv) and (e) below, a Market-Maker can create a Virtual Trading Crowd (''VTC'') appointment, which confers the right to quote electronically during Regular Trading Hours in an appropriate number of Hybrid classes (as defined in Rule 1.1(aaa)) selected from ''tiers'' that have been structured according to trading volume statistics, except for the AA tier. All classes within a specific tier will be assigned an ''appointment cost'' depending upon its tier location. The following table sets forth the tiers and related appointment costs.

Tier	Hybrid Option Classes	Appointment cost
AA	• Options on the CBOE Volatility Index (VIX)	.499
	• Options on the iShares Russell 2000 Index Fund (IWM)	.25
	• Options on the NASDAQ 100 Index (NDX)	.50
	• Options on the S&P 100 (OEX)	.40
	• Options on Standard & Poor's Depositary Receipts (SPY)	.25
	• Options on the Russell 2000 Index (RUT)	[.25].*50*
	• Options on the S&P 100 (XEO)	.10
	• Morgan Stanley Retail Index Options (MVR)	.25
	• Options on the iPath S&P 500 VIX Short-Term Futures Index ETN (VXX)	.10
	• P.M.-Settled options on the Standard & Poor's 500 (SPXPM)	[1.0].*50*
A*	Hybrid Classes 1–60	.10
B*	Hybrid Classes 61–120	.05
C*	Hybrid Classes 121–345	.04
D*	Hybrid Classes 346–570	.02

[50] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

Tier	Hybrid Option Classes	Appointment cost
E*	Hybrid Classes 571–999	.01
F*	All Remaining Hybrid Classes	.001

* Excludes Tier AA.

(ii)—(vi) No change.
(d)—(e) No change.
* * * * *

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this rule change is to amend CBOE Rule 8.3 relating to the appointment costs for options on RUT options and SPXPM options. CBOE proposes to assign an appointment cost of .50 to each of RUT options and SPXPM options, effective February 1, 2016.

While the appointment costs of Tier AA classes are not subject to quarterly rebalancing under Rule 8.3(c)(iv), the Exchange regularly reviews the appointment costs of Tier AA classes to ensure that they continue to be appropriate.[5] The Exchange determines appointment costs of Tier AA classes based on several factors, including, but not limited to, competitive forces and trading volume. After evaluating these factors, the Exchange has determined to assign an appointment cost of .50 to each of RUT options and SPXPM options.

The Exchange believes increasing the appointment cost for RUT options is reasonable given its increase in trading volume on the Exchange and other competitive forces. For example, when classes have higher volume, demand by Market-Makers for appointments to electronically quote in those classes may increase, and thus it is appropriate to charge a higher appointment cost for that class.[6] The Exchange notes that even if a Market-Maker is unwilling to pay the higher appointment cost to maintain an appointment in RUT options to quote electronically during regular trading hours pursuant to Rule 8.3(c)(i) (for example, because it would need an additional trading permit to cover the cost or because it would need to eliminate appointments in other classes), the Market-Maker can continue to have an appointment in the class to trade open outcry.[7]

The Exchange believes that decreasing the appointment cost for SPXPM options is reasonable given its trading volume and other competitive forces. The Exchange believes the proposed rule change will foster competition by incentivizing more Market-Makers to obtain an appointment in SPXPM due to the lower appointment cost, which may increase liquidity in the class, as well as quote electronically in other Hybrid option classes using the excess capacity resulting from the decreased appointment cost in SPXPM options. The Exchange believes that the appointment cost decrease for SPXPM options will promote competition and efficiency.

The Exchange will announce the new appointment costs for RUT and SPXPM options via Regulatory Circular at least 10 business days before February 1, 2016, which the Exchange believes provides Market-Makers with sufficient notice to update their appointments (if necessary) via the appointments Web site or obtain an additional trading permit (if necessary).[8]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[10] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[11] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Rebalancing of appointment costs does not raise any new or unique issues. The Exchange reviews and rebalances appointment costs for Tier AA classes regularly and Tier A through F classes quarterly, both of which may result an increase in appointment costs of some classes and a decrease in appointment costs of other classes. The Exchange believes rebalancing appointment costs of Tier AA classes based on trading volume and other competitive forces promotes just and equitable principles of trade. The Exchange believes increasing the appointment cost for RUT options promotes competition and efficiency by aligning the appointment cost with the higher demand for appointments in that class and competitive forces related to that class.

[5] The Exchange reviews the appointment costs of classes in Tiers A through F every calendar quarter pursuant to an evaluation of trading volume statistics. The Exchange announces the quarterly rebalance via Regulatory Circular at least 10 business days before the rebalancing takes effect. *See* Rule 8.3(c)(iv).

[6] This is demonstrated by the appointment costs of classes in Tiers A through F, which are based solely on trading volume—classes with higher volume have higher appointment costs.

[7] *See* Rule 8.3(c)(ii) (which provides all Market-Makers with an appointment to trade open outcry in all Hybrid classes traded on the Exchange).

[8] The Exchange notes that this timeframe is consistent with the deadline to announce quarterly rebalancing under Rule 8.3(c)(iv), which may result in an increase in appointment costs of some classes and a decrease in appointment costs of other classes.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *Id.*

The Exchange believes decreasing the appointment cost for SPXPM options promotes competition and efficiency by incentivizing more Market-Makers to obtain an appointment in SPXPM due to the lower appointment cost, which may increase liquidity in the class, as well as quote electronically in other Hybrid option classes using the excess capacity resulting from the decreased appointment cost in SPXPM options. The Exchange believes this may result in more liquidity and competitive pricing, which ultimately benefits investors. The proposed rule change does not result in unfair discrimination, as the revised appointment costs for RUT and SPXPM options will apply to all Market-Makers.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE 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. CBOE does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it will apply to all Market-Makers (and only Market-Makers can have appointments to quote electronically). CBOE does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change only applies to CBOE's Market-Maker appointment process. The Exchange believes the proposed rule change will promote competition, as discussed above.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) [13] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2015–121 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2015–121. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2015–121 and should be submitted on or before February 10, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–00905 Filed 1–19–16; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, January 21, 2016 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Piwowar, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;
Institution and settlement of administrative proceedings;
Consideration of amicus participation;
Post-argument discussion; and
Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please

contact the Office of the Secretary at (202) 551–5400.

Dated: January 14, 2016.

Brent J. Fields,

Secretary.

[FR Doc. 2016–01130 Filed 1–15–16; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76892; File No. SR–MIAX–2016–01]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

January 13, 2016.

Pursuant to the provisions of 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 January 12, 2016, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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 is filing a proposal to amend the MIAX Options Fee Schedule (''Fee Schedule'') to eliminate certain Web CRD Fees which relate to Series 56 and will no longer apply from and after January 4, 2016 and to include certain Web CRD Fees which relate to Series 57 and Web-based delivery of continuing education that will apply from and after January 4, 2016.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX'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 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 purpose of the proposed rule change is to amend the Fee Schedule to delete the Continuing Education Fees and the Qualification Examination Fee which relate to the Series 56 registration category under the Regulatory Fees section of the Fee Schedule. The Financial Industry Regulatory Authority (''FINRA'') is retiring the Proprietary Traders Qualification Examination (Series 56) and the S501 Proprietary Traders Continuing Education Program and replacing them with the Securities Trader Qualification Examination (Series 57) and the S101 Continuing Education Program, including via Web-based delivery.[3]

Specifically, the Exchange proposes to delete the (i) $60.00 Continuing Education Fee for Series 56 and (ii) $195.00 Series 56 Examination Fee. The Exchange also proposes to delete the phrase ''except the Series 56'' with respect to the $100.00 Continuing Education Fee for All Registrations except the Series 56. The Exchange further proposes to add a (i) $55.00 Continuing Education Fee for All Registrations if Web-based and (ii) $120.00 Series 57 Examination Fee.

MIAX is proposing such Fee Schedule amendments in consultation with FINRA and the other exchanges, and anticipates that the other exchanges will make corresponding changes to their respective fee schedules.[4]

Background

MIAX has amended its rules to establish the Securities Trader and Securities Trader Principal registration categories, to establish the Series 57 examination as the appropriate qualification examination for Securities Traders and retire the Series 56 examination for Proprietary Traders, and to establish S101 as the appropriate continuing education program for Securities Traders and retire the S501 continuing education program for Proprietary Traders, from and after January 4, 2016. The Exchange also amended its rules to provide for Web-based delivery of the continuing education Regulatory Element for registered persons from and after January 4, 2016.[5]

In accordance with MIAX's amended rules relating to the new Securities Trader registration category, individual Members and associated persons of Members [6] engaged in proprietary trading, the execution of transactions on an agency basis, or the direct supervision of such activities, with respect to transactions in equity, preferred or convertible debt securities, or foreign currency options on the Exchange, will be required to register with the Exchange as Securities Traders and be qualified by passing the new Securities Trader qualification examination (Series 57) being implemented by FINRA, unless grandfathered as provided for in the Rules. In addition, the Series 57 examination replaces the Series 56 examination for those exchange registration categories, such as the Proprietary Trader Principal registration category, where the Series 56 examination is currently an acceptable prerequisite.[7]

The Exchange has further amended its Rules, in consultation with FINRA and the other exchanges, to provide for Web-based delivery of the CE Regulatory Element for registered persons. The personalized S101 CE Program will be the required CE Program for all registered persons including Securities Traders.[8]

Proposal

The Exchange proposes to amend its Fee Schedule to delete the (i) $60.00 Continuing Education Fee for Series 56, (ii) $195.00 Series 56 Examination Fee, and (iii) the phrase ''except the Series 56'' with respect to the $100.00 Continuing Education Fee for All

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 75783 (August 28, 2015), 80 FR 53369 (September 3, 2015) (approving SR–FINRA–2015–017) and 75581 (July 31, 2015), 80 FR 47018 (August 6, 2015) (approving SR–FINRA–2015–015) collectively referred to herein as the ''FINRA Amendments''. According to the approval orders, FINRA's expected effective date for the FINRA Amendments is January 4, 2016.

[4] *See* Securities Exchange Act Release Nos. 76391 (November 9, 2015), 80 FR 70862 (November 16, 2015) (SR–FINRA–2015–044) and 75581 (July 31, 2015), 80 FR 47018 (August 6, 2015) (SR–FINRA–2015–015).

[5] *See* Securities Exchange Act Release No. 76691 (December 18, 2015), 80 FR 80425 (December 24, 2015) (SR–MIAX–2015–71).

[6] Other than any person associated with a Member whose trading activities are conducted principally on behalf of an investment company that is registered with the Commission pursuant to the Investment Company Act of 1940 and that controls, is controlled by or is under common control, with the Member. *See id.*

[7] *See supra* note 5. These amended rules will become effective as of January 4, 2016.

[8] *Id.*

Registrations except the Series 56, since such CE fee will become applicable to all registration categories without exception. The Exchange further proposes to add a (i) $55.00 Continuing Education Fee for All Registrations which will be applicable for Web-based delivery of the CE Regulatory Element for registered persons, and (ii) $120.00 Series 57 Examination Fee which will be applicable with respect to the new Securities Trader Qualification Examination (Series 57).

The $100.00 fee charged for administration of the S101 CE program applicable to registrants required to take examinations other than the Series 56 will remain in effect, and become applicable to all registrants, if a CE session is conducted at a testing center from January 4, 2016 through no later than six months thereafter when the CE program will no longer be offered at testing centers. A new $55.00 fee will be applicable to all registrants from and after January 4, 2016 for Web-based administration of the S101 CE program. The $195.00 fee currently charged for the Series 56 examination will be replaced with a $120.00 fee for the Series 57 examination from and after January 4, 2016. Therefore, the Exchange is proposing to add the $55.00 Web-based delivery CE fee and $120.00 Series 57 examination fee to the current Fee Schedule. Additionally, the $60.00 fee currently charged for administration of the S501 CE Program applicable to Series 56 is being retired from and after January 4, 2016. Therefore, the Exchange is proposing to delete both the $195.00 Series 56 examination fee and $60.00 S501 CE fee from the current Fee Schedule.

Since the Series 57 and the S101 CE Program will fall within FINRA's jurisdiction, the related fees will be billed directly through FINRA commencing as of January 4, 2016.[9]

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[10] in general, and furthers the objectives of Section 6(b)(4) of the Act[11] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and issuers and other persons using its facilities.

The Exchange believes that the proposal is fair, equitable and not unreasonably discriminatory because the fee change applies equally to all Members and persons associated with Members. The proposed deletion of the S501 Continuing Education Fees and Series 56 Qualification Examination Fee is further reasonable because such CE program and exam will be replaced by the S101 CE program (including via Web-based delivery) and Series 57 Qualification Examination program. In addition, the Exchange believes that the fees added to the Fee Schedule and amended fee are equitably allocated and not unfairly discriminatory as they will apply uniformly to all Members and persons associated with the Members who choose [sic] to take the Series 57 examination and participate in the continuing education program through FINRA.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange further believes that the proposal does not impose any burden on competition because it believes that the other exchanges will also be making the same changes to their fee schedules.[12]

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[13] and Rule 19b–4(f)(2)[14] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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–MIAX–2016–01 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–MIAX–2016–01. 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 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–MIAX–2016–01 and should be submitted on or before February 10, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–00971 Filed 1–19–16; 8:45 am]

BILLING CODE 8011–01–P

[9] *See supra* note 4.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

[12] *See supra* notes 3 and 4.

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 240.19b–4(f)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76821; File No. SR–OCC–2015–805]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of No Objection to Advance Notice Filing, as Modified by Amendment Nos. 1, 2 and 3, Concerning The Options Clearing Corporation's Non-Bank Liquidity Facility

January 4, 2016.

On November 5, 2015, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the advance notice SR–OCC–2015–805 pursuant to Section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010 (''Payment, Clearing and Settlement Supervision Act'') [1] and Rule 19b–4(n)(1)(i) under the Securities Exchange Act of 1934 (''Exchange Act'').[2] On November 11, 2015, OCC filed Amendment No.1 to the advance notice, which amended and replaced in its entirety the advance notice as originally submitted on November 5, 2015. On November 17, 2005, OCC filed Amendment No. 2 to the advance notice, which partially amended the advance notice as submitted on November 11, 2015. On November 24, 2015, OCC filed Amendment No. 3 to the advance notice, which amends and replaces in its entirety the advance notice as submitted on November 11, 2015, and amended on November 17, 2015. The advance notice was published for comment in the **Federal Register** on December 18, 2015.[3] The Commission did not receive any comments on the advance notice publication. This publication serves as a notice that the Commission does not object to the changes set forth in the advance notice.

I. Description of the Advance Notice

OCC filed this advance notice to renew its non-bank liquidity facility (''Non-Bank Liquidity Facility'') with certain proposed changes. Specifically, OCC is proposing to: (i) Extend the existing confirmation (''Existing Confirmation'') [4] for one year under the Master Repurchase Agreement (''MRA'') with the same terms and conditions; (ii) enter into a second confirmation (''Second Confirmation,'' and collectively with the Existing Confirmation, ''Confirmations'') under the MRA, also on the same terms and conditions except with a June 2016 expiration date; and (iii) maintain, between the Confirmations, an aggregate commitment amount of no less than $1 billion and no greater than $1.5 billion under the Non-Bank Liquidity Facility with the existing institutional investor (''Counterparty'') and its agent.[5] According to OCC, the Second Confirmation has the same terms, conditions, operations, and mechanics as the Existing Confirmation, except for the expiration date and commitment amount.

OCC also has requested that the Commission not object to its proposal to renew the Existing Confirmation and the Second Confirmation annually on the same terms and conditions [6] with the same Counterparty without filing an advance notice, provided that there has been no negative change to the Counterparty's credit profile or the Counterparty has not experienced a material adverse change (as defined below) since entering into the Confirmations or the latest renewal of the either Confirmation, whichever is later.

Background

OCC's overall liquidity plan includes access to a diverse set of liquidity funding sources, which include bank borrowing arrangements (*i.e.,* OCC's syndicated credit facility [7]) and the Non-Bank Liquidity Facility. OCC states that the Non-Bank Liquidity Facility is designed to reduce the concentration of OCC's counterparty exposure in its overall liquidity plan by diversifying its lender base among banks and non-bank, non-clearing member institutional investors, such as pension funds or insurance companies.

The currently-approved Non-Bank Liquidity Facility is comprised of two parts: The MRA and the Existing Confirmation, which contains certain individualized terms and conditions of transactions executed between OCC, an institutional investor and its agent. The MRA is structured like a typical repurchase arrangement in which the buyer (*i.e.,* the Counterparty) purchases from OCC, from time to time, United States government securities (''Eligible Securities'').[8]

Under the arrangement, OCC, as the seller, transfers Eligible Securities to the buyer in exchange for a payment by the buyer to OCC in immediately available funds (''Purchase Price''). The buyer will simultaneously agree to transfer the purchased securities back to OCC at a specified later date (''Repurchase Date'') or on OCC's demand against the transfer of funds by OCC to the buyer in an amount equal to the outstanding Purchase Price plus the accrued and unpaid price differential (together, ''Repurchase Price''), which is the interest component of the Repurchase Price.

The Confirmations establish tailored provisions of the actual repurchase transactions permitted under the MRA. OCC provides that, by entering into the Confirmation, the Counterparty is obligated to enter repurchase transactions even if OCC experiences a material adverse change,[9] to make funds available to OCC within 60 minutes of OCC's delivery of eligible securities, and to not rehypothecate purchased securities.[10] The Confirmations also set

[1] 12 U.S.C. 5465(e)(1). The Financial Stability Oversight Council designated OCC a systemically important financial market utility (''FMU'') on July 18, 2012. *See* Financial Stability Oversight Council 2012 Annual Report, Appendix A, *http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf.* Therefore, OCC is required to comply with the Payment, Clearing, and Settlement Supervision Act and file advance notices with the Commission. *See* 12 U.S.C. 5465(e).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] Securities Exchange Act Release No. 76641 (December 14, 2015), 80 FR 79114 (December 18, 2015) (SR–OCC–2015–805).

[4] The Existing Confirmation is the original $1 billion Master Confirmation executed under the Master Repurchase Agreement, as described in Securities Exchange Act Release No. 73979 (January 2, 2015), 80 FR 1062 (January 8, 2015) (SR–OCC–2014–809).

[5] OCC represents that it intends for the commitment amount of the extended Existing Confirmation to be $500 million and the commitment amount of the Second Confirmation to be $500 million. OCC states that it will have the flexibility to change the commitment amount of each Confirmation at each renewal provided that at all times OCC would maintain the aggregate commitment level between the two Confirmations under the Non-Bank Liquidity Facility at no less than $1 billion and no greater than $1.5 billion. According to OCC, the MRA and any effective Confirmation(s) constitute the Non-Bank Liquidity Facility.

[6] For the purposes of clarity, OCC states that it will not consider changes to the costs of entering into a Confirmation, or the rate of a transaction permitted under a Confirmation, to be a change to a term or condition that will require the filing of a subsequent advance notice filing provide that such costs or rate is at the then prevailing market rate.

[7] *See* Securities Exchange Act Release No. 76062 (October 1, 2015), 80 FR 64028 (October 22, 2015) (SR–OCC–2015–803).

[8] OCC states that it will use United States government securities that are included in clearing fund contributions by clearing members and margin deposits of any clearing member that has been suspended by OCC for the repurchase arrangements. Article VIII, Section 5(e) of OCC's By-Laws and OCC Rule 1104(b) authorize OCC to obtain funds from third parties through securities repurchases using these sources. The officers who may exercise this authority include the Executive Chairman and the President.

[9] OCC represents that, in this context, a ''material adverse change'' is defined as a change that would have a materially adverse effect on the business or financial condition of a company.

[10] *See* Securities Exchange Act Release No. 73979 (January 2, 2015), 80 FR 1062 (January 8, 2015) (SR–OCC–2014–809).

forth the terms and maximum dollar amounts of the transaction permitted under the MRA.

Extension of the Existing Confirmation

To provide continued access to liquidity resources, OCC proposes to extend the Existing Confirmation under the Non-Bank Liquidity Facility. OCC represents that the extended Existing Confirmation will have the same terms, conditions, operations, and mechanics as the Existing Confirmation entered into under the Non-Bank Liquidity Facility, but for the expiration date, which will be January 2017, and the commitment amount, which will be $500 million.

According to OCC, the extended Existing Confirmation will continue to state that OCC is entitled to receive funds from the Non-Bank Liquidity Facility within 60 minutes of requesting such monies and delivering eligible securities. OCC also states that the buyer will not be able to rehypothocate eligible securities sold to it in a Non-Bank Liquidity Facility transaction, and OCC will be able to substitute eligible securities held by the buyer. Additionally, OCC represents that it will have early termination rights for any transaction entered into under the Non-Bank Liquidity Facility as well as have additional protections in the case of ''material adverse changes'' to OCC. For example, OCC states that it will require that material adverse changes to OCC, such as the failure of a clearing member, will not be deemed a default event. OCC believes this provision is important because it provides OCC with certainty of funding, even in adverse or difficult market conditions. According to OCC, this commitment to provide funding will be a key distinction from ordinary repurchase arrangements and a key requirement for OCC.

Second Confirmation

OCC proposes to enter into the Second Confirmation that will permit transactions of up to $500 million and will expire in June 2016. According to OCC, the Second Confirmation will have the same terms, conditions, operations, and mechanics as the Existing Confirmation of the Non-Bank Liquidity Facility, but for the commitment amount and the term.

OCC believes that the Second Confirmation, with a June 2016 expiration date, will help ensure continued access to a minimum amount of liquidity to OCC by staggering the expiration of the committed liquidity funding sources. OCC's current committed liquidity funding sources, which are its syndicated credit facility [11] and the Existing Confirmation, currently expire each year in October and January, respectively. OCC believes that staggering the expiration dates of Confirmations under the Non-Bank Liquidity Facility in relationship to each other and in relationship to the other liquidity funding source in OCC's overall liquidity plan will mitigate the risk of a precipitous decrease in OCC's access to liquidity as a result of a an unsuccessful renewal of any one funding source.

Aggregate Commitment Amount Under the Non-Bank Liquidity Facility

OCC's current aggregate committed funding available under its Non-Bank Liquidity Facility ($1.0 billion) and its bank syndicated credit facility ($2.0 billion) is $3.0 billion. OCC proposes to maintain the aggregate commitment amount under the Non-Bank Liquidity Facility at no lower than $1.0 billion and no higher than $1.5 billion, so that the aggregate total funding available is between $3.0 billion and $3.5 billion. OCC believes that this will provide it with the flexibility to: (i) React to shifting liquidity needs in a swift manner within funding parameters approved by the Commission, and (ii) reallocate the amount of funding available under the Confirmations at the time either of the Confirmations is to be renewed to manage liquidity needs and enhance its ability to ensure continual liquidity resources.

OCC states that it will continue to evaluate the aggregate commitment amount of the Non-Bank Liquidity Facility so that OCC's available liquidity resources remain properly calibrated to its activities and settlement obligations, and to the extent: (i) OCC determines its liquidity needs merit funding levels below the $1.0 billion or above the $1.5 billion thresholds for the Non-Bank Liquidity Facility, (ii) OCC should seek to change the terms and conditions of the Non-Bank Liquidity Facility, or (iii) the Counterparty has experienced a negative change to its credit profile or a material adverse change since entering into the Confirmations or the latest renewal of the either Confirmation, OCC will submit a proposal with the Commission for approval first.

II. Discussion and Commission Findings

Although the Payment, Clearing and Settlement Supervision Act does not specify a standard of review for an advance notice, its stated purpose is instructive.[12] The stated purpose is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important FMUs and strengthening the liquidity of systemically important FMUs.[13] Section 805(a)(2) of the Payment, Clearing and Settlement Supervision Act [14] authorizes the Commission to prescribe risk management standards for the payment, clearing, and settlement activities of designated clearing entities and financial institutions engaged in designated activities for which it is the Supervisory Agency or the appropriate financial regulator. Section 805(b) of the Payment, Clearing and Settlement Supervision Act [15] states that the objectives and principles for the risk management standards prescribed under Section 805(a) shall be to:

- Promote robust risk management;
- promote safety and soundness;
- reduce systemic risks; and
- support the stability of the broader financial system.

The Commission has adopted risk management standards under Section 805(a)(2) of the Payment, Clearing and Settlement Supervision Act [16] and the Exchange Act (''Clearing Agency Standards'').[17] The Clearing Agency Standards require registered clearing agencies to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.[18] Therefore, it is appropriate for the Commission to review advance notices against these Clearing Agency Standards and the objectives and principles of these risk management standards as described in Section 805(b) of the Payment, Clearing and Settlement Supervision Act.[19]

The Commission believes that the proposal in the advance notice is consistent with the Clearing Agency Standards, in particular, Exchange Act Rule 17Ad–22(d)(11).[20] Exchange Act Rule 17Ad–22(d)(11) [21] requires that

[11] *See* Securities Exchange Act Release No. 76062 (October 1, 2015), 80 FR 64028 (October 22, 2015) (SR–OCC–2015–803).

[12] *See* 12 U.S.C. 5461(b).

[13] *Id.*

[14] 12 U.S.C. 5464(a)(2).

[15] 12 U.S.C. 5464(b).

[16] 12 U.S.C. 5464(a)(2).

[17] *See* Exchange Act Rule 17Ad–22. 17 CFR 240.17Ad–22. Securities Exchange Act Release No. 68080 (October 22, 2012), 77 FR 66220 (November 2, 2012) (S7–08–11).

[18] *Id.*

[19] 12 U.S.C. 5464(b).

[20] 17 CFR 240.17Ad–22(d)(11).

[21] *Id.*

registered clearing agencies ''establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable . . . establish default procedures that ensure that the clearing agency can take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of a participant default.'' The proposal will allow OCC to obtain short-term funds to address liquidity demands arising out of the default or suspension of a clearing member, in anticipation of a potential default or suspension of clearing members or the insolvency of a bank or another securities or commodities clearing organization. The changes should help OCC minimize losses in the event of such a default, suspension, or insolvency, by allowing it to obtain funds on extremely short notice to ensure clearance and settlement of transactions in options and other contracts without interruption. Therefore, the Commission believes that the proposal is consistent with Exchange Act Rule 17Ad–22(d)(11).[22]

By ensuring that OCC has continued access to its Non-Bank Liquidity Facility, the Commission believes the proposal contained in the Advance Notice is consistent with the objectives and principles described in Section 805(b) of the Act,[23] including that it is consistent with promoting robust risk management, and promoting safety and soundness. The Commission believes that the proposal is consistent with promoting robust risk management because it allows OCC to maintain access to a committed liquidity resource to help meet its settlement obligations in a manner that is timely and does not increase OCC's counterparty exposure to clearing members or clearing member affiliated commercial banking institutions. In addition, the proposal will provide OCC the ability to adjust the aggregate commitment level of its Non-Bank Liquidity Facility—to no lower than $1 billion and no greater than $1.5 billion—to meet changing liquidity demands. The Commission also believes that the proposal is consistent with promoting safety and soundness of OCC. As stated above, the Non-Bank Liquidity Facility now will include two Confirmations with staggered expiration dates, which should mitigate the risk of a precipitous decrease in liquidity resources in the event OCC is unable to renew any one of its committed liquidity sources.

For these reasons, stated above, the Commission does not object to the advance notice.

VI. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Payment, Clearing and Settlement Supervision Act,[24] that the Commission DOES NOT OBJECT to the proposed change, and authorizes OCC to implement the change in the advance notice (SR–OCC–2015–805) as of the date of this notice.

By the Commission.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–00976 Filed 1–19–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76888; File No. SR–CBOE–2015–122]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to COPS

January 13, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 31, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the contributor compensation structure of the Customized Option Pricing Service (''COPS''). There is no new proposed rule text.

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 purpose of the proposed rule change is to extend the contributor compensation structure of the Exchange's COPS,[5] specifically, the COPS data revenue-sharing plan. The Exchange is not proposing to change the fees for COPS data.

Background

COPS provides market participants with an ''end-of-day'' [6] file and ''historical'' [7] files of valuations for Flexible Exchange (''FLEX'') [8] options and certain over-the-counter (''OTC'') options (collectively, ''COPS Data''). Market Data Express, LLC (''MDX''), an affiliate of CBOE, offers COPS Data for sale to all market participants. COPS Data is available to ''Subscribers'' for internal use and internal distribution only, and to ''Customers'' who, pursuant to a written vendor agreement between MDX and a Customer, may distribute the COPS Data externally (*i.e.,* act as a

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[22] *Id.*

[23] 12 U.S.C. 5464(b).

[24] 12 U.S.C. 5465(e)(1)(I).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release Nos. 34–67813 (September 10, 2012), 77 FR 56903 (September 14, 2012) (SR–CBOE–2012–083); 34–67928 (September 26, 2012), 77 FR 60161 (October 2, 2012) (SR–CBOE–2012–090); 34–70705 (October 17, 2013), 78 FR 63265 (October 23, 2013) (SR–CBOE–2013–097); 34–70845 (November 12, 2013), 78 FR 69168 (November 18, 2013) (SR–CBOE–2013–104); 34–72621 (July 16, 2014), 79 FR 42616 (July 22, 2014) (SR–CBOE–2014–057); 34–74159 (January 28, 2015), 80 FR 5863 (February 23, 2015) (SR–CBOE–2015–007); and 34–74937 (May 12, 2015), 80 FR 28319 (May 18, 2015) (SR–CBOE–2015–046).

[6] ''End of day'' refers to data that is distributed prior to the opening of the next trading day.

[7] ''Historical'' COPS data consists of COPS data that is over one month old (*i.e.,* copies of the ''end-of-day'' COPS file that are over one month old).

[8] FLEX options are exchange traded options that provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices.

vendor) and/or use and distribute the COPS Data internally.

COPS Data consists of indicative [9] values for four categories of ''customized'' options. The first category of options is all open series of FLEX options listed on any exchange that offers FLEX options for trading.[10] The second category is OTC options that have the same degree of customization as FLEX options. The third category includes options with strike prices expressed in percentage terms. Values for such options are expressed in percentage terms and are theoretical values.[11] The fourth category includes ''exotic'' options.[12]

The Exchange uses values produced by CBOE Trading Permit Holders (''TPHs'') to produce COPS Data. Participating CBOE TPHs submit values to MDX on options series specified by MDX on a daily basis. These values are generated by the TPHs' internal pricing models. The valuations that MDX ultimately publishes are an average of multiple contributions of values from participating CBOE TPHs. For each value provided by MDX through COPS, MDX includes a corresponding indication of the number of TPH contributors that factored into that value.

CBOE TPHs that meet the following objective qualification criteria are allowed to contribute values to MDX for purposes of producing COPS Data. Interested CBOE TPHs must be approved by the Exchange, have the ability to provide valuations to MDX in a timely manner each day after the close of trading, and sign a services agreement with CBOE. Interested CBOE TPHs must also have the ability to provide both indicative and implied volatility valuations on several different types of options, including (i) options on all open FLEX series traded on any exchange that offers FLEX options for trading, (ii) options on any potential new FLEX options series, (iii) OTC options that have the same degree of customization as FLEX options, (iv) customized options where the strike price is expressed in percentage terms (the valuations provided to MDX must also be expressed in percentage terms), and (v) exotic options. In addition, interested CBOE TPHs must participate in a testing phase with MDX. The values submitted by a TPH during the testing phase and in live production must meet MDX's quality control standards designed to ensure the integrity and accuracy of COPS Data. MDX has implemented procedures including monthly performance reviews to help ensure the integrity and accuracy of COPS Data.

To help ensure that MDX receives numerous values from multiple TPHs on a consistent basis, MDX shares revenue from the sale of COPS Data with participating CBOE TPHs.[13] The amount of revenue that MDX shares with participating TPHs is a percentage of the total revenue received by MDX from the sale of COPS Data. The revenue sharing is based on the following table:

Number of participating TPHs	Total revenue share %	Revenue share per TPH %
3	21	7
4	24	6
5 or more	30	30 divided by the number of participating TPHs.

If only three TPHs participate, MDX shares 21% of total revenue with each TPH receiving a 7% share. If four TPHs participate, MDX shares 24% of total revenue with each TPH receiving a 6% share. If five or more TPHs participate, MDX shares 30% of total revenue divided equally among the TPHs. There are currently three participating TPHs.

In July 2014, the Exchange submitted a proposed rule change to, among other things, temporarily change the COPS contributor compensation structure from a revenue sharing plan to a fixed payment structure for a six-month period (''Fixed Payment Period'').[14] In May 2015, the Exchange submitted a proposed rule change to change the COPS contributor compensation structure for the remainder of 2015.[15] Pursuant to that proposed rule change, as of May 1, 2015, all revenue from the sale of COPS Data was paid to COPS contributors, with revenue divided equally among COPS contributors. As described in that proposed rule change, MDX would transition back to the revenue share plan described above on January 1, 2016.

Proposal

The Exchange proposes to extend the current COPS contributor compensation structure for six months. All revenue from the sale of COPS Data will continue to be paid to COPS contributors through June 30, 2016. The revenue will continue to be divided equally among COPS contributors. The Exchange had hoped that at the end of 2015, COPS revenue would be at a level such that the COPS contributors would receive a revenue share roughly in line with the fixed payments they received during the Fixed Payment Period. This has not yet occurred. The payments to COPS contributors are intended to, at a minimum, help COPS contributors cover their costs of producing valuations for COPS while the Exchange continues to grow the COPS business. MDX will transition back to the revenue share plan described above on July 1, 2016.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange

[9] ''Indicative'' values are indications of potential market prices only and as such are neither firm nor the basis for a transaction.

[10] Current FLEX options open interest spans over 2,000 series on over 300 different underlying securities.

[11] These values are theoretical in that they are indications of potential market prices for options that have not traded (*i.e.* do not yet exist). Market participants sometimes express option values in percentage terms rather than in dollar terms because they find it is easier to assess the change, or lack of change, in the marketplace from one day to the next when values are expressed in percentage terms.

[12] Exotic options are options which are generally traded OTC and are more complex than standard options, usually relating to determination of payoff. An exotic option may also include a non-standard underlying instrument, developed for a particular client or for a particular market.

[13] The fees that MDX charges for COPS Data are set forth on the Price List on the MDX Web site (*www.marketdataexpress.com*). MDX currently charges a fee per option per day for ''end-of-day'' COPS data. The amount of the fee is reduced based on the number of options valuations purchased.

[14] *See* Securities Exchange Act Release No. 34–72621 (July 16, 2014), 79 FR 42616 (July 22, 2014) (SR–CBOE–2014–057).

[15] Securities Exchange Act Release No. 34–74937 (May 12, 2015), 80 FR 28319 (May 18, 2015) (SR–CBOE–2015–046). The Exchange is not proposing to eliminate the revenue share plan, but rather extend its temporary suspension as described in this rule filing.

and, in particular, the requirements of Section 6(b) of the Act.[16] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[17] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[18] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed rule change is not designed to permit unfair discrimination between CBOE TPHs because all COPS data revenue would be divided equally among TPH contributors for an additional six months. The Exchange believes the proposed rule change is consistent with the protection of investors and the public interest in that it would provide incentive for all of the COPS contributors to continue to participate in COPS while the Exchange continues to grow the COPS business, thereby helping to maintain the quality of COPS Data.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE 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. To the contrary, the Exchange believes the proposal is procompetitive in that it will incentivize COPS contributors to continue producing quality valuations to help keep COPS competitive with other similar market data products.[19]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule 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 if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change 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,[20] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[21] and Rule 19b–4(f)(6) thereunder.[22]

A proposed rule change filed under Rule 19b–4(f)(6)[23] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[24] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. 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 believes that the proposal is consistent with the protection of investors and the public interest because it help COPS contributors cover their costs of producing valuations for COPS while the Exchange continues to grow the COPS business, and thereby assist the Exchange with maintaining its current roster of TPH contributors. The Commission believes that it is consistent with the protection of investors and the public interest to waive the 30-day operative delay so that the proposal may take effect upon filing and allow the current COPS contributor compensation structure to continue without interruption. For this reason, the Commission designates the proposed rule change to be operative upon filing.[25]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov. Please include File Number SR–CBOE–2015–122 on the subject line.*

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2015–122. 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

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *Id.*

[19] Market data vendors including SuperDerivatives, Markit, Prism, and Bloomberg's BVAL service produce option value data that is similar to COPS Data. The Options Clearing Corporation (''OCC'') also produces FLEX option value data that is similar to the FLEX option value data that is included in COPS.

[20] The Exchange has fulfilled this requirement.

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(6).

[23] 17 CFR 240.19b–4(f)(6).

[24] 17 CFR 240.19b–4(f)(6)(iii).

[25] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2015–122 and should be submitted on or before February 10, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–00899 Filed 1–19–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76894; File No. SR–ISE Gemini–2015–17]

Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Amend Rule 804(g)

January 13, 2016.

On November 12, 2015, ISE Gemini, LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to require clearing member approval before a market maker could resume trading after the activation of a market-wide speed bump under Exchange Rule 804(g). The proposed rule change was published for comment in the **Federal Register** on November 30, 2015.[3] The Commission has received no comment letters on the proposal.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether these proposed rule changes should be disapproved. The 45th day for this filing is January 14, 2016.

The Commission is extending the 45-day 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 and take action on the Exchange's proposed rule change.

Accordingly, pursuant to section 19(b)(2)(A)(ii)(I) of the Act[5] and for the reasons stated above, the Commission designates February 28, 2016 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rulechange (File No. SR–ISE Gemini–2015–17).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–00904 Filed 1–19–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76890; File No. SR–NYSEArca–2015–130]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Market Data Fees for the NYSE Arca Options Product

January 13, 2016.

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 31, 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, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the fees for NYSE Arca Options Product, as set forth on the NYSE Arca Options Proprietary Market Data Fee Schedule (''Fee Schedule''). The Exchange proposes to establish a multiple data feed fee effective January 1, 2016. Specifically, the Exchange proposes to establish a new monthly fee, the ''Multiple Data Feed Fee,'' that would apply to data recipients that take a data feed for NYSE Arca Options Product in more than two locations. Data recipients taking NYSE Arca Options Product in more than two locations would be charged $200 per additional location per product per month. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the fees for NYSE Arca Options Product,[4] as set forth on the NYSE Arca Options Proprietary Market Data Fee Schedule (''Fee Schedule''). The Exchange proposes to establish a multiple data feed fee effective January 1, 2016. Specifically, the Exchange proposes to establish a new monthly fee, the ''Multiple Data Feed Fee,'' that would apply to data recipients that take a data feed for NYSE Arca Options Product in more than two locations. Data recipients

[26] 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. 76505 (November 23, 2015), 80 FR 74824.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2)(A)(ii)(I).

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release Nos. 76023 (Sept. 29, 2015), 80 FR 60208 (Oct. 5, 2015) (SR–NYSEArca–2015–83). The single fee for the NYSE Arca Options Product set forth on the Fee Schedule is comprised of three data feeds: Arca Options Top, Arca Options Deep and Arca Options Complex products.

taking NYSE Arca Options Product in more than two locations would be charged $200 per additional location per product per month. No new reporting would be required.[5]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of section 6 of the Act,[6] in general, and sections 6(b)(4) and 6(b)(5) of the Act,[7] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The fees are also equitable and not unfairly discriminatory because they will apply to all data recipients that choose to subscribe to NYSE Arca Options Product.

The Exchange believes that it is reasonable to require data recipients to pay a modest additional fee taking a data feed for a market data product in more than two locations, because such data recipients can derive substantial value from being able to consume the product in as many locations as they want. In addition, there are administrative burdens associated with tracking each location at which a data recipient receives the product. The Multiple Data Feed Fee is designed to encourage data recipients to better manage their requests for additional data feeds and to monitor their usage of data feeds. The proposed fee is designed to apply to data feeds received in more than two locations so that each data recipient can have one primary and one backup data location before having to pay a multiple data feed fee. The Exchange notes that this pricing is consistent with similar pricing adopted in 2013 by the Consolidated Tape Association (''CTA'').[8] The Exchange also notes that the OPRA Plan imposes a similar charge of $100 per connection for circuit connections in addition to the primary and backup connections.[9]

The Exchange notes that NYSE Arca Options Product is entirely optional. The Exchange is not required to make NYSE Arca Options Product available or to offer any specific pricing alternatives to any customers, nor is any firm required to purchase NYSE Arca Options Product. Firms that do purchase NYSE Arca Options Product do so for the primary goals of using it to increase revenues, reduce expenses, and in some instances compete directly with the Exchange (including for order flow); those firms are able to determine for themselves whether NYSE Arca Options Product or any other similar products are attractively priced or not.

Firms that do not wish to purchase NYSE Arca Options Product have a variety of alternative market data products from which to choose,[10] or if NYSE Arca Options Product does not provide sufficient value to firms as offered based on the uses those firms have or planned to make of it, such firms may simply choose to conduct their business operations in ways that do not use NYSE Arca Options Product or use it at different levels or in different configurations. The Exchange notes that broker-dealers are not required to purchase proprietary market data to comply with their best execution obligations.[11]

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010), upheld reliance by the Securities and Exchange Commission (''Commission'') upon the existence of competitive market mechanisms to set reasonable and equitably allocated fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.'

Id. at 535 (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323). The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [12]

As explained below in the Exchange's Statement on Burden on Competition, the Exchange believes that there is substantial evidence of competition in the marketplace for proprietary market data and that the Commission can rely upon such evidence in concluding that the fees established in this filing are the product of competition and therefore satisfy the relevant statutory standards.[13] In addition, the existence of alternatives to these data products, such as options data from other sources, as described below, further ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can select such alternatives.

As the *NetCoalition* decision noted, the Commission is not required to undertake a cost-of-service or ratemaking approach. The Exchange believes that, even if it were possible as a matter of economic theory, cost-based pricing for proprietary market data would be so complicated that it could not be done practically or offer any significant benefits.[14]

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[5] Data vendors currently report a unique Vendor Account Number for each location at which they provide a data feed to a data recipient. The Exchange considers each Vendor Account Number a location. For example, if a data recipient has five Vendor Account Numbers, representing five locations, for the receipt of the NYSE Arca Options Product, that data recipient will pay the Multiple Data Feed fee with respect to three of the five locations, or $600.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4), (5).

[8] *See* Securities Exchange Act Release No. 70010 (July 19, 2013), 78 FR 44984 (July 25, 2013) (SR–CTA/CQ–2013–04).

[9] *See* ''Direct Access Fee,'' Options Price Reporting Authority Fee Schedule Fee Schedule PRA Plan at *http://www.opradata.com/pdf/fee_schedule.pdf.*

[10] For example, Chicago Board Options Exchange (''CBOE'') charges, for its ''Complex Order Book Feed,'' a Distributor Fee of $3,000 per month, a Professional User Fee of $25 per month and a Non-Professional User Fee of $1 per month. *See* the CBOE ''Complex Order Book Feed'' product and pricing information, available at *https://www.cboe.org/MDX/CSM/OBOOKMain.aspx.* NASDAQ OMX PHLX LLC (''PHLX'') also offers a market data product entitled ''PHLX Orders,'' which includes order and last sale information for complex strategies and other market data, and charges a $3,000 internal monthly fee ($3,500 for external), $2,000 per Distributor and $500 per subscriber. *See* PHLX ''PHLX Orders'' market data product and pricing information, available at *http://www.nasdaqtrader.com/Micro.aspx?id=PHLXOrders* and *http://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions#PHLX,* respectively.

[11] *See* FINRA Regulatory Notice 15–46, ''Best Execution,'' November 2015.

[12] *NetCoalition,* 615 F.3d at 535.

[13] Section 916 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the ''Dodd-Frank Act'') amended paragraph (A) of Section 19(b)(3) of the Act, 15 U.S.C. 78s(b)(3), to make clear that all exchange fees for market data may be filed by exchanges on an immediately effective basis.

[14] The Exchange believes that cost-based pricing would be impractical because it would create enormous administrative burdens for all parties and the Commission to cost-regulate a large number of participants and standardize and analyze extraordinary amounts of information, accounts, and reports. In addition, and as described below, it is impossible to regulate market data prices in isolation from prices charged by markets for other services that are joint products. Cost-based rate regulation would also lead to litigation and may distort incentives, including those to minimize costs and to innovate, leading to further waste. Under cost-based pricing, the Commission would be burdened with determining a fair rate of return, and the industry could experience frequent rate increases based on escalating expense levels. Even in industries historically subject to utility regulation, cost-based ratemaking has been discredited. As such, the Exchange believes that cost-based ratemaking would be inappropriate for proprietary market data and inconsistent with Congress's direction that the Commission use its

For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory.

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. An exchange's ability to price its proprietary market data feed products is constrained by actual competition for the sale of proprietary market data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary data.

The Existence of Actual Competition

The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary for the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with each other for options trades and sales of market data itself, providing ample opportunities for entrepreneurs who wish to compete in any or all of those areas, including producing and distributing their own options market data. Proprietary options data products are produced and distributed by each individual exchange, as well as other entities, in a vigorously competitive market. Indeed, the U.S. Department of Justice (''DOJ'') (the primary antitrust regulator) has expressly acknowledged the aggressive actual competition among exchanges, including for the sale of proprietary market data. In 2011, the DOJ stated that exchanges ''compete head to head to offer real-time equity data products. These data products include the best bid and offer of every exchange and information on each equity trade, including the last sale.'' [15] Similarly, the options markets vigorously compete with respect to options data products.[16]

Moreover, competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary options data products and therefore constrain markets from overpricing proprietary options market data. Broker-dealers send their order flow to multiple venues, rather than providing them all to a single venue, which in turn reinforces this competitive constraint. Options markets, similar to the equities markets, are highly fragmented.[17]

If an exchange succeeds in competing for quotations, order flow, and trade executions, then it earns trading revenues and increases the value of its proprietary options market data products because they will contain greater quote and trade information. Conversely, if an exchange is less successful in attracting quotes, order flow, and trade executions, then its options market data products may be less desirable to customers using them in support of order routing and trading decisions in light of the diminished content; options data products offered by competing venues may become correspondingly more attractive. Thus, competition for quotations, order flow, and trade executions puts significant pressure on an exchange to maintain both execution and data fees at reasonable levels.

In addition, in the case of products that are also redistributed through market data vendors, such as Bloomberg and Thompson Reuters, the vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Vendors will not elect to make available NYSE Arca Options Product unless their customers request it, and customers will not elect to pay the proposed fees unless NYSE Arca Options Product can provide value by sufficiently increasing revenues or reducing costs in the customer's business in a manner that will offset the fees. All of these factors operate as constraints on pricing proprietary data products.

Joint Product Nature of Exchange Platform

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, proprietary market data and trade executions are a paradigmatic example of joint products with joint costs. The decision of whether and on which platform to post an order will depend on the attributes of the platforms where the order can be posted, including the execution fees, data availability and quality, and price and distribution of data products. Without a platform to post quotations, receive orders, and execute trades, exchange data products would not exist.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's platform for posting quotes, accepting orders, and executing transactions and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs.

Moreover, an exchange's broker-dealer customers generally view the costs of transaction executions and market data as a unified cost of doing business with the exchange. A broker-dealer will only choose to direct orders to an exchange if the revenue from the transaction exceeds its cost, including the cost of any market data that the broker-dealer chooses to buy in support of its order routing and trading decisions. If the costs of the transaction are not offset by its value, then the broker-dealer may choose instead not to purchase the product and trade away from that exchange. There is substantial evidence of the strong correlation between order flow and market data purchases. For example, in September 2015, more than 80% of the transaction volume on each of NYSE Arca and NYSE Arca's affiliates New York Stock Exchange LLC (''NYSE'') and NYSE MKT LLC (''NYSE MKT'') was executed by market participants that purchased one or more proprietary market data products (the 20 firms were not the

authority to foster the development of the national market system, and that market forces will continue to provide appropriate pricing discipline. *See* Appendix C to NYSE's comments to the Commission's 2000 Concept Release on the Regulation of Market Information Fees and Revenues, which can be found on the Commission's Web site at *http://www.sec.gov/rules/concept/s72899/buck1.htm.*

[15] Press Release, U.S. Department of Justice, Assistant Attorney General Christine Varney Holds Conference Call Regarding NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandoning Their Bid for NYSE Euronext (May 16, 2011), available at *http://www.justice.gov/iso/opa/atr/speeches/2011/at-speech-110516.html*; see also Complaint in U.S. v. Deutsche Borse AG and NYSE Euronext, Case No. 11–cv–2280 (D.C. Dist.) ¶ 24 (''NYSE and Direct Edge compete head-to-head . . . in the provision of real-time proprietary equity data products.'').

[16] *See, e.g.,* Securities Exchange Act Release No. 67466 (July 19, 2012), 77 FR 43629 (July 25, 2012) (SR–Phlx–2012–93), which describes a variety of options market data products and their pricing.

[17] *See, e.g.,* Press Release, TABB Says US Equity Options Market Makers Need Scalable Technology to Compete in Today's Complex Market Structure (February 25, 2013), available at *http://www.tabbgroup.com/PageDetail.aspx?PageID=16&ItemID=1231;* Fragmentation Vexes Options Markets (April 21, 2014), available at *http://marketsmedia.com/fragmentation-vexes-options-market/.*

same for each market). A supra-competitive increase in the fees for either executions or market data would create a risk of reducing an exchange's revenues from both products.

Other market participants have noted that proprietary market data and trade executions are joint products of a joint platform and have common costs.[18] The Exchange agrees with and adopts those discussions and the arguments therein. The Exchange also notes that the economics literature confirms that there is no way to allocate common costs between joint products that would shed any light on competitive or efficient pricing.[19]

Analyzing the cost of market data product production and distribution in isolation from the cost of all of the inputs supporting the creation of market data and market data products will inevitably underestimate the cost of the data and data products because it is impossible to obtain the data inputs to create market data products without a fast, technologically robust, and well-regulated execution system, and system and regulatory costs affect the price of both obtaining the market data itself and creating and distributing market data products. It would be equally misleading, however, to attribute all of an exchange's costs to the market data portion of an exchange's joint products. Rather, all of an exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

As noted above, the level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including 13 options self-regulatory organization (''SRO'') markets. Three of the 13 have launched operations since December 2012.[20] The Exchange believes that these new entrants demonstrate that competition is robust.

Competition among trading platforms can be expected to constrain the aggregate return that each platform earns from the sale of its joint products, but different trading platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platforms may choose to pay rebates to attract orders, charge relatively low prices for market data products (or provide market data products free of charge), and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market data products, and setting relatively low prices for accessing posted liquidity. For example, BATS Global Markets (''BATS'') and Direct Edge, which previously operated as ATSs and obtained exchange status in 2008 and 2010, respectively, provided certain market data at no charge on their Web sites in order to attract more order flow, and used revenue rebates from resulting additional executions to maintain low execution charges for their users.[21] In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering.

Existence of Alternatives

The large number of SROs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO is currently permitted to produce and sell proprietary data products, and many currently do, including but not limited to the Exchange, NYSE MKT, CBOE, C2 Options Exchange, Inc., ISE, ISE Gemini, NASDAQ, PHLX, BX, BATS and Miami Exchange.

The fact that proprietary data from vendors can bypass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products. By way of example, BATS and NYSE Arca both published proprietary data on the Internet before registering as exchanges. Second, because a single order or transaction report can appear in an SRO proprietary product, a non-SRO proprietary product, or both, the amount of data available via proprietary products is greater in size than the actual number of orders and transaction reports that exist in the marketplace. Because market data users can find suitable substitutes for most proprietary market data products, a market that overprices its market data products stands a high risk that users may substitute another source of market data information for its own.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid and inexpensive. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TrackECN, BATS and Direct Edge. As noted above, BATS launched as an ATS in 2006 and became an exchange in 2008, while Direct Edge began operations in 2007 and obtained exchange status in 2010. As noted above, three new options exchanges have launched operations since December 2012.[22]

In determining the proposed fees, the Exchange considered the competitiveness of the market for proprietary options data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to

[18] *See* Securities Exchange Act Release No. 72153 (May 12, 2014), 79 FR 28575, 28578 n.15 (May 16, 2014) (SR–NASDAQ–2014–045) (''[A]ll of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.''). *See also* Securities Exchange Act Release No. 62907 (Sept. 14, 2010), 75 FR 57314, 57317 (Sept. 20, 2010) (SR–NASDAQ–2010–110), and Securities Exchange Act Release No. 62908 (Sept. 14, 2010), 75 FR 57321, 57324 (Sept. 20, 2010) (SR–NASDAQ–2010–111).

[19] *See generally* Mark Hirschey, Fundamentals of Managerial Economics, at 600 (2009) (''It is important to note, however, that although it is possible to determine the separate marginal costs of goods produced in variable proportions, it is impossible to determine their individual average costs. This is because common costs are expenses necessary for manufacture of a joint product. Common costs of production—raw material and equipment costs, management expenses, and other overhead—cannot be allocated to each individual by-product on any economically sound basis. . . . Any allocation of common costs is wrong and arbitrary.''). This is not new economic theory. *See, e.g.,* F. W. Taussig, ''A Contribution to the Theory of Railway Rates,'' *Quarterly Journal of Economics* V(4) 438, 465 (July 1891) (''Yet, surely, the division is purely arbitrary. These items of cost, in fact, are jointly incurred for both sorts of traffic; and I cannot share the hope entertained by the statistician of the Commission, Professor Henry C. Adams, that we shall ever reach a mode of apportionment that will lead to trustworthy results.'').

[20] *See* Securities Exchange Act Release Nos. 70050 (July 26, 2013), 78 FR 46622 (August 1, 2013) (approving exchange registration for Topaz Exchange, LLC) (known as ISE Gemini); 68341 (December 3, 2012), 77 FR 73065 (December 7, 2012) (approving exchange registration for Miami International Securities Exchange LLC (''Miami Exchange'')); and 75650 (August 7, 2015), 80 FR 48600 (August 13, 2015) (establishing rules governing the trading of options on the EDGX options market).

[21] This is simply a securities market-specific example of the well-established principle that in certain circumstances more sales at lower margins can be more profitable than fewer sales at higher margins; this example is additional evidence that market data is an inherent part of a market's joint platform.

[22] *See supra* note 20.

establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to section 19(b)(3)(A) [23] of the Act and subparagraph (f)(2) of Rule 19b–4 [24] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B) [25] 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 No. SR–NYSEArca–2015–130 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEArca–2015–130. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEArca–2015–130, and should be submitted on or before February 10, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–00901 Filed 1–19–16; 8:45 am]

BILLING CODE 8011–01–P

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f)(2).

[25] 15 U.S.C. 78s(b)(2)(B).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76893; File No. SR–ISE–2015–30]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Amend Rule 804(g)

January 13, 2016.

On November 10, 2015, International Securities Exchange, LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to require clearing member approval before a market maker could resume trading after the activation of a market-wide speed bump under Exchange Rule 804(g). The proposed rule change was published for comment in the **Federal Register** on November 30, 2015.[3] The Commission has received no comment letters on the proposal.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether these proposed rule changes should be disapproved. The 45th day for this filing is January 14, 2016.

The Commission is extending the 45-day 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 and take action on the Exchange's proposed rule change.

Accordingly, pursuant to section 19(b)(2)(A)(ii)(I) of the Act [5] and for the reasons stated above, the Commission designates February 28, 2016 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 76506 (November 23, 2015), 80 FR 74829.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2)(A)(ii)(I).

disapprove, the proposed rule change (File No. SR–ISE–2015–30).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–00903 Filed 1–19–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76891; File No. SR–BATS–2015–102]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Designation of Longer Period for Commission Action on a Proposed Rule Change To Adopt Rule 11.27 Regarding the Data Collection Requirements of the Tick Size Pilot Program

January 13, 2016.

On November 13, 2015, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt Exchange Rule 11.27 to implement the data collection requirements set forth in the Regulation NMS Plan to Implement a Tick Size Pilot Program.[3] The proposed rule change was published for comment in the **Federal Register** on December 1, 2015.[4] The Commission has received one comment letter on the proposal.[5]

Section 19(b)(2) of the Act [6] provides that, within 45 days of the publication of the notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is January 15, 2016.

The Commission is extending this 45-day time period. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposal.

Accordingly, pursuant to section 19(b)(2) of the Act,[7] the Commission designates February 29, 2016, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File No. SR–BATS–2015–102).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Robert W. Errett.

Deputy Secretary.

[FR Doc. 2016–00902 Filed 1–19–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76887; File No. SR–DTC–2015–011]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving Proposed Rule Change Regarding the Acknowledgment of End-of-Day Net-Net Settlement Balances by Settling Banks

January 13, 2016.

On November 16, 2015, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–DTC–2015–011 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] to amend DTC's Settlement Service Guide (''Guide'') [3] in order to establish a new practice whereby any Settling Bank [4] that (i) fails to affirmatively acknowledge its end-of-day net-net settlement balance,[5] or (ii) does not notify DTC of its refusal to settle on behalf of a Participant or Participants for which it is the designated Settling Bank will be deemed to have acknowledged its end-of-day net-net settlement balance 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 30, 2015.[6] 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 DTC:

Background. The DTC [7] end-of-day net settlement structure depends upon the use of Settling Banks.[8] Each Participant must designate a Settling Bank to settle on its behalf. Any Participant that is a bank may settle for itself.[9] Today, a Settling Bank that settles for other Participants must acknowledge its end-of-day net-net settlement balance for the group of Participants for which it settles, or notify DTC if it refuses to settle for any Participant for which it is the designated Settling Bank, by the later of 4:15 p.m. and the time that is 30 minutes after the Settling Bank end-of-day net-net settlement balances are first made available by DTC (''Acknowledgment Cutoff Time'').[10]

If a Settling Bank notifies DTC that it refuses to settle for a Participant, DTC would recalculate the Settling Bank's net-net settlement balance by excluding the net settlement balance of the Participant for which the Settling Bank refused to settle.[11] DTC would then provide the Settling Bank with its adjusted net-net settlement balance (''Post-Refusal Adjusted Balance''). The Settling Bank may not refuse to settle for any other Participant on that day and must immediately respond to DTC to

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[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015) (order approving the Tick Size Pilot) (''Approval Order'').

[4] *See* Securities Exchange Act Release No. 76524 (November 25, 2015), 80 FR 75141.

[5] *See* Letter from Mary Lou Von Kaenel, Managing Director, Financial Information Forum, to Robert W. Errett, Deputy Secretary, Commission, dated December 22, 2015.

[6] 15 U.S.C. 78s(b)(2).

[7] *Id.*

[8] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *Available at http://www.dtcc.com/~/media/Files/Downloads/legal/service-guides/Settlement.pdf* for an overview of the end-of-day net settlement process.

[4] A ''Settling Bank'' is a DTC participant (''Participant'') that is a bank and that settles for itself and may settle for other Participants, including other bank Participants.

[5] The end-of-day net-net figure is the net of all Participants' net balances after cross-endorsement with the National Securities Clearing Corporation for which a Settling Bank settles, including its own accounts.

[6] *See* Securities Exchange Act Release No. 76510 (November 23, 2015), 80 FR 74819 (November 30, 2015) (SR–DTC–2015–011).

[7] Terms not otherwise defined herein have the meaning set forth in the DTC Rules (the ''Rules''), *available at http://www.dtcc.com/legal/rules-and-procedures.aspx.*

[8] *See* the Guide, *supra* note 3, pp. 17–18.

[9] *See* Rule 9(B), *supra* note 7.

[10] Currently, a Settling Bank that settles only for itself may opt out of the requirement to acknowledge its balance, but it cannot refuse to settle for itself.

[11] Any Participant for which its designated Settling Bank has refused to settle on its behalf remains obligated to DTC for the payment of any net debit balance and must make another arrangement to timely pay that amount by Fedwire.

acknowledge its Post-Refusal Adjusted Balance.

After the Acknowledgment Cutoff Time and any adjustments, DTC will prepare and submit to the National Settlement Service (''NSS'') provided by the Federal Reserve Banks (individually and collectively, the ''Fed'') a file (''NSS File'') reflecting the net debits or credits from and to all Settling Banks. NSS will process a debit or credit of each Settling Bank's Fed account (''Fed Account''), as applicable.[12]

Today, failure of a Settling Bank to timely respond to DTC after posting of final settlement figures creates uncertainty with respect to timely completion of settlement at DTC. The proposed rule change will address this issue as discussed below.

Proposal. To promote settlement certainty, DTC has proposed to treat a Settling Bank that fails to timely provide its affirmative acknowledgement of its end-of-day net-net settlement balance or notify DTC of its refusal to settle for one or more Participants for which it is the designated Settling Bank, as having been deemed to acknowledge its end-of-day net-net settlement balance.

DTC has proposed to modify the Guide to provide that a Settling Bank that (i) fails to affirmatively acknowledge its end-of-day net-net settlement balance, or (ii) does not notify DTC of its refusal to settle on behalf of a Participant or Participants for which it is the designated Settling Bank, by the Acknowledgement Cutoff Time, will be deemed to have acknowledged its end-of-day net-net settlement balance.[13] The Settling Bank's balance will then, in the ordinary course of settlement processing, be debited from or credited to its Fed Account through the NSS process. Likewise, DTC has proposed that the Guide provide that a Settling Bank that fails to acknowledge immediately upon receipt its Post-Refusal Adjusted Balance, if any, will be deemed to have acknowledged its Post-Refusal Adjusted Balance and the Post-Refusal Adjusted Balance will then, in the ordinary course of settlement processing, be debited from or credited to its designated Fed Account through the NSS process.

DTC will continue to maintain flexibility and allow for a Settling Bank to request extra time if the Settling Bank has a reason that it cannot affirmatively acknowledge or refuse its net-net settlement balance so long as the Settling Bank notifies DTC accordingly at or before the Acknowledgement Cutoff Time, or, in the case of a Post-Refusal Adjusted Balance, it notifies DTC immediately where it is unable to affirmatively acknowledge its Post-Refusal Adjusted Balance. In this regard, the Guide will be updated to clarify that the Settling Bank is required to notify DTC of its request for extra time via a dedicated DTC Settlement phone ''hotline'' prior to the Acknowledgment Cutoff Time. In the event that DTC provides the Settling Bank with a Post-Refusal Adjusted Balance, the Settling Bank will be required to notify DTC of its request for extra time immediately via the hotline. Any Settling Bank that timely complies with this notification requirement will not be deemed to have acknowledged its net-net Settlement Balance or its Post-Refusal Adjusted Balance.[14]

If, after the initial release of final settlement figures, a Settling Bank's net-net settlement balance is adjusted for any reason, other than as a result of the Settling Bank's refusal to settle, then the Acknowledgment Cutoff Time for that Settling Bank will be extended to 30 minutes after DTC advises the Settling Bank of the adjusted net-net settlement balance.

DTC will attempt to contact the Settling Bank if DTC does not receive a response in the form of (i) an acknowledgment or refusal prior to the Acknowledgment Cutoff Time, (ii) an immediate acknowledgment of a Post-Refusal Adjusted Balance, or (iii) a notification from the Settling Bank that it cannot acknowledge or refuse, as described in the preceding paragraph.[15] If DTC is able to contact the Settling Bank and the Settling Bank notifies DTC that it cannot, at that time, acknowledge or refuse its net-net settlement balance, or Post-Refusal Adjusted Balance, as applicable, then the Settling Bank will not be deemed to have acknowledged its net-net settlement balance. However, if the Settling Bank cannot be reached, the Settling Bank will be deemed to have acknowledged its net-net settlement balance or Post-Refusal Adjusted Balance, as applicable.

DTC will update the Guide to clarify that each Settling Bank must ensure that it maintains accurate contact details with DTC so that DTC may contact the Settling Bank regarding settlement issues. Settling Banks must update any contact details by contacting their DTC Relationship Manager.

The Fed's cutoff for NSS processing, unless extended, is 5:30 p.m. In order to facilitate timely processing of the NSS File, DTC will maintain discretion to exclude a Settling Bank's balance from the NSS File if the Settling Bank (i)(A) does not acknowledge its net-net settlement balance by the Acknowledgment Cutoff Time, or (B) does not immediately acknowledge its Post-Refusal Adjusted Balance; and (ii) is not deemed to have acknowledged its net-net settlement balance or Post-Refusal Adjusted Balance because it has notified DTC that it is unable to affirmatively acknowledge its net-net settlement balance or to refuse to settle on behalf of a Participant. If DTC proceeds to process the NSS File excluding the Settling Bank's debit balance, then the Settling Bank must pay the debit balance via Fedwire. If DTC proceeds to process the NSS File excluding the Settling Bank's credit balance, then DTC will pay the credit balance via Fedwire after the Settling Bank acknowledges its settlement balance.

The text of the Guide will also state that a Settling Bank which settles on behalf of others that timely notifies DTC that it cannot acknowledge or refuse its end-of-day net-net settlement balance will not be assessed a flat fee for failure to acknowledge or notify DTC of its refusal to settle. However, such a Settling Bank will be charged interest with respect to any borrowing DTC is required to make to complete settlement that day for any Participant that the Settling Bank settles on behalf of, if the Settling Bank has not timely refused to settle for that Participant.

Additionally, DTC will revise the Guide to:

(i) Clarify that it is DTC's Settlement Operations group that controls and coordinates the settling of Participant and Settling Bank accounts on DTC's systems;

(ii) define the Federal Reserve Banks individually and collectively within the Guide's text as the ''Fed'' unless indicated otherwise;

(iii) clarify text for descriptive purposes, and consistent with the Rules, that Participants make formal arrangements for a Settling Bank to be

[12] The Guide currently provides that if NSS is unavailable then, if instructed by DTC, Settling Banks in a net-net debit balance must remit payments to DTC via Fedwire by the later of 5:00 p.m. or 1 hour after net settlement balances are first made available. This provision will be clarified to note an operational detail that all such payments must be remitted prior to the close of Fedwire.

[13] DTC will provide reminders to Settling Banks when they have not affirmatively acknowledged their settlement balance. Notwithstanding delivery of reminders, once a Settling Bank is deemed to have acknowledged its balance, it may not notify DTC of a refusal to settle for a Participant for which it is the designated Settling Bank.

[14] If the problem is due to a connectivity issue with DTC, DTC may then direct the Settling Bank to submit its acknowledgement/refusal instruction via email or as otherwise specified by DTC at that time.

[15] DTC uses the most recent contact information provided by the Settling Bank to its DTC Relationship Manager for this purpose.

designated as the Settling Bank to settle with DTC on the Participant's behalf;

(iv) clarify that certain online reports DTC provides Participants and Settling Banks through the processing day reflect ''intraday'' gross debits and credits, and net debit and credit balances;

(v) clarify that a Settling Bank's end-of-day net-net settlement balance includes the Settling Bank's own settlement obligations as a Participant if it settles for itself;

(vi) add text for the purpose of context, consistent with the Rules, that each Participant is obligated to settle timely with DTC and if its Settling Bank refuses to settle for it then it must make alternative arrangements to make payment to DTC via Fedwire;

(vii) add text for the purpose of context, consistent with the Rules, that a Participant that acts as its own Settling Bank may not refuse to settle for itself and that it will be in default if it does not fund its settlement obligation;

(viii) for clarity, change the heading to an existing example of how a Settling Bank's settlement balance is calculated from ''Settlement Example'' to ''Example of the Calculation of a DTC Settling Bank's Net-Net Settlement Balance'';

(ix) remove the provision from the Guide indicating that that a Settling Bank that settles only for itself will need to affirmatively opt out in order to not be required to affirmatively acknowledge its settlement balance, and add text simply stating that a Settling Bank that settles only for itself will not be required to acknowledge its settlement balance;

(x) clarify the interest charged to Participants for a failure to settle;

(xi) delete references to a Settling Bank's failure to timely settle its settlement balance from being referred to as a ''failure to settle'' and remove references to related procedures as being ''failure-to-settle'' procedures, as the terminology could be confused with an individual Participant's failure to meet its settlement obligation;

(xii) rewrite text in the Guide in light of the proposed changes, as applicable, including Addendum A of the Guide, to incorporate proposed changes, consolidate text, clarify text for readability and eliminate duplication;

(xiii) clarify certain Settling Bank and settlement processing timeframes;

(xiv) apply initial capitalization as appropriate for the terms ''Participant'' and ''Settling Bank'' where they are used as defined terms;

(xv) remove references to Participant Terminal System (PTS) functions, which are no longer used for DTC settlement processing; and

(xvi) insert the title of the Guide on the Guide's front page.

Implementation. The effective date of the proposed rule change will be announced via a DTC Important Notice.

II. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act [16] 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 such organization. The Commission believes the proposal is consistent with Section 17A(b)(3)(F) of the Act [17] and Rule 17Ad–22(d)(5),[18] 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 to promote the prompt and accurate clearance and settlement of securities transactions.[19] As described above, the change will reduce delays in the settlement process by allowing DTC to collect net debits and release net credits within scheduled timeframes despite the failure of a Settling Bank to affirmatively acknowledge its end-of-day net-net settlement balance or notify DTC of its refusal to settle for a Participant for which it is the designated Settling Bank on a timely basis. This requirement will reduce uncertainty and associated risks that may currently arise from Failure to Acknowledge, thus facilitating the prompt and accurate clearance and settlement of securities transactions.

Consistency with Rule 17Ad–22(d)(5). Rule 17Ad–22(d)(5) under the Act requires a clearing agency, such as DTC, to establish, implement, maintain and enforce written policies and procedures reasonably designed to employ money settlement arrangements that eliminate or strictly limit the clearing agency's settlement bank risks and require funds transfers to the clearing agency to be final when effected.[20] As described above, the change should reduce DTC's credit and liquidity risk by mitigating the risk that end-of-day net-net debit settlement balances would not be paid due to the failure of a Settling Bank to respond to DTC after posting of final settlement figures. The change also should create an arrangement that reduces delays in the settlement process by allowing DTC to collect net debits and release net credits within scheduled timeframes, which will limit the settlement risk to DTC. As such, the Commission believes that the proposal is consistent with Rule 17Ad–22(d)(5).[21]

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 [22] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that proposed rule change SR–DTC–2015–011 be, and hereby is, *approved.*[23]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–00898 Filed 1–19–16; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(2)(C).

[17] 15 U.S.C. 78q–1(b)(3)(F).

[18] 17 CFR 240.17Ad–22(d)(5).

[19] 15 U.S.C. 78q–1(b)(3)(F).

[20] 17 CFR 240.17Ad–22(d)(5).

[21] *Id.*

[22] 15 U.S.C. 78q–1.

[23] 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).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76886; File No. SR–NASDAQ–2015–166]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Chapter XV, Entitled ''Options Pricing''

January 13, 2016.

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 30, 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 Chapter XV, entitled ''Options Pricing,'' at Section 2, which governs pricing for Exchange members using the NASDAQ Options Market (''NOM''), the Exchange's facility for executing and routing standardized equity and index options.

The Exchange purposes [sic] to amend it [sic] Customer,[3] Professional[4] and NOM Market Maker[5] Penny Pilot Options[6] Rebate to Add Liquidity tiers. While the changes proposed herein are effective upon filing, the Exchange has designated the amendments [sic] become operative on January 4, 2016.

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 certain amendments to the NOM transaction fees set forth at Chapter XV, Section 2 for executing and routing standardized equity and index options under the Penny Pilot Options program. The proposed changes are as follows:

Note ''c'' of Chapter XV, Section 2(1)

- Proposal to amend note ''c'' criteria, at part (2), to decrease the percentage of total industry customer equity and ETF option ADV contract per day in a month from 1.40% to 1.30%.
- The Exchange is bolding the numbers and letters in this paragraph for ease of reference.

NOM Market Maker Penny Pilot Options Rebate To Add Liquidity Tiers

- Proposal to amend Tier 6 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity to remove an existing qualification from Tier 6.

These rule changes are described in greater detail below.

Note ''c'' of Chapter XV, Section 2(1)

The Exchange currently pays Customer and Professional Rebates to Add Liquidity based on an eight tier rebate structure. For purposes of qualifying for a Customer and Professional Rebate to Add Liquidity tier, the Exchange determines the applicable percentage of total industry customer equity and ETF option average daily volume by including the Participant's Penny Pilot and Non-Penny Pilot volume that adds liquidity.[7]

The Exchange proposes, beginning January 4, 2016, to amend note ''c,'' which permits Participants that qualify for the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity[8] 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

[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 that 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). *See* NOM Rules at Chapter I, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants.

[5] A ''Non-NOM Market Maker'' 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.

[6] *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 [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.

[7] Tiers 6 and 7 are exceptions because these tiers 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] Tier 8 of the Customer and Professional Rebate to Add Liquidity Tiers currently 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 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.

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.'' [9]

The Exchange proposes to amend the criteria in note ''c'' at part (2) to decrease the percentage of total industry customer equity and ETF option ADV contract per day in a month from 1.40% to 1.30%. The Exchange believes that this decrease will offer Participants an opportunity to qualify for the part (2) incentive and receive a $0.05 per contract [10] additional rebate, in addition to the Tier 8 rebate, by amending the qualification to require less volume.[11] The Exchange believes that this incentive will continue to encourage Participants to add even more liquidity on NOM to earn a higher Tier 8 rebate. The Exchange is not amending the other criteria, (1) and (3), in note ''c'' to qualify for an additional rebate.

The Exchange also proposes to bold the numbers and letters that define the various parts of note 'c'' for ease of reference.

NOM Market Maker Penny Pilot Options Rebate To Add Liquidity Tiers

The Exchange proposes, beginning January 4, 2016, to amend Tier 6 of the NOM Market Maker Penny Pilot Option Rebate to Add Liquidity to eliminate one of the criteria for qualifying for the $0.42 per contract Tier 6 rebate. Currently, Participants that add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.80% of total industry customer equity and ETF option ADV contracts per day in a month and qualify for the Tier 7 or Tier 8 Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options or Participants that add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.90% of total industry customer equity and ETF option ADV contracts per day in a month or 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 of 1.40% or more of total industry customer equity and ETF option ADV contracts per day in a month receive a $0.42 per contract NOM Market Maker Penny Pilot Options Rebate to Add Liquidity.

The Exchange proposes to remove the option to qualify for the Tier 6 NOM Market Maker Penny Pilot Options rebate by adding 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. With this proposal, Participants will be able to qualify for the Tier 6 NOM Market Maker Rebate by either (1) adding NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.80% of total industry customer equity and ETF option ADV contracts per day in a month and qualifies [sic] for the Tier 7 or Tier 8 Customer and/or Professional Rebate to Add Liquidity in Penny Pilot Options or (2) adding NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.90% of total industry customer equity and ETF option ADV contracts per day in a month. While the Exchange is eliminating one of the methods to qualify for the Tier 6 NOM Market Maker Penny Pilot Options rebate, the Exchange believes that the rebate tier will continue to incentivize NOM Participants to continue to add liquidity to NOM.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with 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 the Exchange 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.'' [14] 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.'' [15] 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.[16] NOM Market Makers have obligations to the market and regulatory requirements,[17] which normally do not apply to other market participants. A NOM Market Maker has the obligation to make continuous markets, engage in a course of dealings reasonably calculated to

[9] 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.

[10] Note ''c'' offers three distinct incentives for Participants that qualify for the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity. The part (2) rebate, as amended, would be paid to Participants that added Customer, Professional, Firm, NOM Market Maker [sic], Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.30% or more of total industry customer equity and ETF option ADV contracts per day in a month.

[11] Only Participants that qualify for the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity are eligible for the note ''c'' incentives. The incentives are in addition to the Tier 8 rebate.

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] *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.1

[15] *See* Professional Filing.

[16] *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.

[17] 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.

contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a [sic] course of dealings.[18]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, for example, the Commission indicated that market forces should generally determine the price of non-core market data because national market system regulation ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [19] Likewise, in *NetCoalition* v. *NYSE Arca, Inc.* [20] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[21] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [22]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . .'' [23] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

Note ''c'' of Chapter XV, Section 2(1)

The Exchange's proposal to amend note ''c,'' at part (2) to decrease the percentage of total industry customer equity and ETF option ADV contract per day in a month from 1.40% to 1.30% in part (2) to qualify for the additional Tier 8 NOM Market Maker [sic] Penny Pilot Option rebate is reasonable because additional Participants may qualify for this incentive because of the lower volume requirement. The Exchange believes that this incentive will continue to encourage Participants to add even more liquidity on NOM to earn a higher rebate. Participants that qualify for this incentive would be paid the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity of $0.48 per contract plus the additional part (2) note ''c'' rebate of $0.05 per contract for a total rebate of $0.53 per contract.

The Exchange's proposal to amend note ''c,'' at part (2) to decrease the percentage of total industry customer equity and ETF option ADV contract per day in a month from 1.40% to 1.30% in part (2) to qualify for the additional Tier 8 NOM Market Maker [sic] Penny Pilot Option rebate is equitable and not unfairly discriminatory because, today, all Participants may qualify for the Tier 8 Customer and Professional Rebate to Add Liquidity in Penny Pilot Options and therefore are qualified to earn the additional note ''c'' rebates.[24] The Exchange will uniformly pay the Tier 8 and additional note ''c'' rebates to all Participants that transact the qualifying volume, respectively.

The Exchange's proposal to bold the numbers and letters in note ''c'' is reasonable, equitable and not unfairly discriminatory because it will provide an easier point of reference for each criteria and rebate. Also, this proposed amendment is non-substantive.

NOM Market Maker Penny Pilot Options Rebate To Add Liquidity Tiers

The Exchange's proposal to amend Tier 6 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity to eliminate one of the criteria to qualify for the $0.42 per contract Tier 6 rebate is reasonable because, despite the elimination of one of the methods to qualify for the Tier 6 NOM Market Maker Penny Pilot Options rebate, the Exchange believes that the Tier 6 rebate will continue to incentivize Participants to add liquidity to NOM in order to receive the rebate.

The Exchange's proposal to amend Tier 6 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity to eliminate one of the criteria to qualify for the $0.42 per contract Tier 6 rebate is equitable and not unfairly discriminatory because the elimination of the qualifying language in Tier 6 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity will uniformly apply to all Participants. No Participant will be entitled to the Tier 6 NOM Market Maker Penny Pilot Options Rebate to Add Liquidity by adding 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. Also, it is important to note that NOM Market Makers have obligations to the market and regulatory requirements,[25] which normally do not apply to other market participants. The Exchange believes that offering rebates to these market participants is equitable and not unfairly discriminatory in light of their obligations.

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. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed amendments to the Customer, Professional and NOM Market Maker Penny Pilot Options Rebate to Add Liquidity tiers do not impose an undue burden on inter-market competition because the Exchange's execution services are completely voluntary and subject to extensive competition.

Note ''c'' of Chapter XV, Section 2(1)

The Exchange's proposal to amend note ''c,'' at part (2) to decrease the

[18] *Id.*

[19] Securities Exchange Act Release No. 51808 at 37499 (June 9, 2005) (''Regulation NMS Adopting Release'').

[20] *NetCoalition* v. *NYSE Arca, Inc.,* 615 F.3d 525 (D.C. Cir. 2010).

[21] *See NetCoalition,* at 534.

[22] *Id.* at 537.

[23] *Id.* at 539 (quoting ArcaBook Order, 73 FR at 74782–74783).

[24] Note ''c'' offers three distinct incentives for Participants that qualify for the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity.

[25] *See* note 17 above.

percentage of total industry customer equity and ETF option ADV contract per day in a month from 1.40% to 1.30% to qualify for the additional Tier 8 rebate does not impose an undue burden on intra-market competition because, today, all Participants may qualify for the Tier 8 Customer and Professional Penny Pilot Options Rebates to Add Liquidity and qualify to earn the note ''c'' additional rebates. The Exchange will uniformly pay the Tier 8 and additional note ''c'' rebates to all Participants that transact the qualifying volume, respectively.

Customer liquidity is critically important to the market and benefits all market participants. Greater customer liquidity benefits all market participants by providing more trading opportunities and attracting greater participation by specialists and market makers. An increase in the activity of these market participants in turn facilitates tighter spreads. All Participants are eligible for these rebates if they transact the requisite volume. All Participants are eligible for the note ''c'' incentives if they transact the requisite volume. 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 bold the numbers and letters in note ''c'' do not impose an undue burden on intra-market competition because the amendment is non-substantive.

NOM Market Maker Penny Pilot Options Rebate To Add Liquidity Tiers

The Exchange's proposal to amend Tier 6 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity to eliminate one of the criteria to qualify for the $0.42 per contract Tier 6 rebate does not impose an undue burden on intra-market competition because the elimination of the qualifying language in Tier 6 of the NOM Market Maker Penny Pilot Options Rebate to Add Liquidity will uniformly apply to all Participants. No Participant will be entitled to the Tier 6 NOM Market Maker Penny Pilot Options Rebate to Add Liquidity by adding 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. The Exchange believes that offering rebates to these market participants is equitable and not unfairly discriminatory in light of their obligations.[26]

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.[27]

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–2015–166 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–2015–166. 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–2015–166, and should be submitted on or before February 10, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–00897 Filed 1–19–16; 8:45 am]

BILLING CODE 8011–01–P

[26] *See* note 17 above.

[27] 15 U.S.C. 78s(b)(3)(A)(ii).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission Investor Advisory Committee will hold a meeting on Thursday, January 21, 2016, in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE., Washington, DC. The meeting will begin at 10:00 a.m. (ET) and will be open to the public. Seating will be on a first-come, first-served basis. Doors will open at 9:00 a.m. Visitors will be subject to security checks. The meeting will be webcast on the Commission's Web site at *www.sec.gov.*

On December 23, 2015, the Commission issued notice of the Committee meeting (Release No. 33–10000), indicating that the meeting is open to the public (except during that portion of the meeting reserved for an administrative work session during lunch), and inviting the public to submit written comments to the

Committee. This Sunshine Act notice is being issued because a quorum of the Commission may attend the meeting.

The agenda for the meeting includes: remarks from Commissioners; a discussion of fixed income market structure and pre-trade price transparency; a discussion of a draft letter from the Investor as Owner subcommittee regarding Financial Accounting Standards Board proposed amendments to the Statement of Financial Accounting Concepts and Notes to Financial Statements concerning disclosure materiality; an update on crowdfunding rules; a discussion of NASDAQ listing standards—shareholder approval rules; subcommittee reports; and a nonpublic administrative work session during lunch.

For further information, please contact the Office of the Secretary at (202) 551–5400.

Dated: January 14, 2016.

Brent J. Fields,

Secretary.

[FR Doc. 2016–01129 Filed 1–15–16; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76889; File No. SR–NYSEMKT–2015–113]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Market Data Fees for the NYSE Amex Options Product

January 13, 2016.

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 31, 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, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[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 amend the fees for NYSE Amex Options Product,[4] as set forth on the NYSE Amex Options Proprietary Market Data Fee Schedule (''Fee Schedule''). The Exchange proposes to establish a multiple data feed fee effective January 1, 2016. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the fees for NYSE Amex Options Product,[5] as set forth on the NYSE Amex Options Proprietary Market Data Fee Schedule (''Fee Schedule''). The Exchange proposes to establish a multiple data feed fee effective January 1, 2016. Specifically, the Exchange proposes to establish a new monthly fee, the ''Multiple Data Feed Fee,'' that would apply to data recipients that take a data feed for NYSE Amex Options Product in more than two locations. Data recipients taking NYSE Amex Options Product in more than two locations would be charged $200 per additional location per product per month. No new reporting would be required.[6]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of section 6 of the Act,[7] in general, and sections 6(b)(4) and 6(b)(5) of the Act,[8] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The fees are also equitable and not unfairly discriminatory because they will apply to all data recipients that choose to subscribe to NYSE Amex Options Product.

The Exchange believes that it is reasonable to require data recipients to pay a modest additional fee taking a data feed for a market data product in more than two locations, because such data recipients can derive substantial value from being able to consume the product in as many locations as they want. In addition, there are administrative burdens associated with tracking each location at which a data recipient receives the product. The Multiple Data Feed Fee is designed to encourage data recipients to better manage their requests for additional data feeds and to monitor their usage of data feeds. The proposed fee is designed to apply to data feeds received in more than two locations so that each data recipient can have one primary and one backup data location before having to pay a multiple data feed fee. The Exchange notes that this pricing is consistent with similar pricing adopted in 2013 by the Consolidated Tape Association (''CTA'').[9] The Exchange also notes that the OPRA Plan imposes a similar charge of $100 per connection for circuit connections in addition to the primary and backup connections.[10]

The Exchange notes that NYSE Amex Options Product is entirely optional.

[4] *See* Securities Exchange Act Release Nos. 76022 (Sept. 29, 2015), 80 FR 60201 (Oct. 5, 2015) (SR–NYSEMKT–2015–68) (Notice). The single fee for the NYSE Amex Options Product set forth on the Fee Schedule is comprised of three data feeds: Amex Options Top, Amex Options Deep, and Amex Options Complex.

[5] *See* Securities Exchange Act Release Nos. 76022 (Sept. 29, 2015), 80 FR 60201 (Oct. 5, 2015) (SR–NYSEMKT–2015–68) (Notice). The single fee for the NYSE Amex Options Product set forth on the Fee Schedule is comprised of three data feeds: Amex Options Top, Amex Options Deep, and Amex Options Complex.

[6] Data vendors currently report a unique Vendor Account Number for each location at which they provide a data feed to a data recipient. The Exchange considers each Vendor Account Number a location. For example, if a data recipient has five Vendor Account Numbers, representing five locations, for the receipt of the NYSE Amex Options Product, that data recipient will pay the Multiple Data Feed fee with respect to three of the five locations, or $600.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4), (5).

[9] *See* Securities Exchange Act Release No. 70010 (July 19, 2013), 78 FR 44984 (July 25, 2013) (SR–CTA/CQ–2013–04).

[10] *See* ''Direct Access Fee,'' Options Price Reporting Authority Fee Schedule Fee Schedule PRA Plan at *http://www.opradata.com/pdf/fee_schedule.pdf*

The Exchange is not required to make NYSE Amex Options Product available or to offer any specific pricing alternatives to any customers, nor is any firm required to purchase NYSE Amex Options Product. Firms that do purchase NYSE Amex Options Product do so for the primary goals of using it to increase revenues, reduce expenses, and in some instances compete directly with the Exchange (including for order flow); those firms are able to determine for themselves whether NYSE Amex Options Product or any other similar products are attractively priced or not.

Firms that do not wish to purchase NYSE Amex Options Product have a variety of alternative market data products from which to choose,[11] or if NYSE Amex Options Product does not provide sufficient value to firms as offered based on the uses those firms have or planned to make of it, such firms may simply choose to conduct their business operations in ways that do not use NYSE Amex Options Product or use it at different levels or in different configurations. The Exchange notes that broker-dealers are not required to purchase proprietary market data to comply with their best execution obligations.[12]

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010), upheld reliance by the Securities and Exchange Commission (''Commission'') upon the existence of competitive market mechanisms to set reasonable and equitably allocated fees for proprietary market data:

> In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.'

Id. at 535 (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323). The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [13]

As explained below in the Exchange's Statement on Burden on Competition, the Exchange believes that there is substantial evidence of competition in the marketplace for proprietary market data and that the Commission can rely upon such evidence in concluding that the fees established in this filing are the product of competition and therefore satisfy the relevant statutory standards.[14] In addition, the existence of alternatives to these data products, such as options data from other sources, as described below, further ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can select such alternatives.

As the *NetCoalition* decision noted, the Commission is not required to undertake a cost-of-service or ratemaking approach. The Exchange believes that, even if it were possible as a matter of economic theory, cost-based pricing for proprietary market data would be so complicated that it could not be done practically or offer any significant benefits.[15]

For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory.

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. An exchange's ability to price its proprietary market data feed products is constrained by actual competition for the sale of proprietary market data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary data.

The Existence of Actual Competition.

The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary for the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with each other for options trades and sales of market data itself, providing ample opportunities for entrepreneurs who wish to compete in any or all of those areas, including producing and distributing their own options market data. Proprietary options data products are produced and distributed by each individual exchange, as well as other entities, in a vigorously competitive market. Indeed, the U.S. Department of Justice (''DOJ'') (the primary antitrust regulator) has expressly acknowledged the aggressive actual competition among exchanges, including for the sale of proprietary market data. In 2011, the DOJ stated that exchanges ''compete head to head to offer real-time equity data products. These data products include the best bid and offer of every exchange and information on each equity trade, including the last sale.'' [16] Similarly, the options markets

[11] For example, Chicago Board Options Exchange (''CBOE'') charges, for its ''Complex Order Book Feed,'' a Distributor Fee of $3,000 per month, a Professional User Fee of $25 per month and a Non-Professional User Fee of $1 per month. *See* the CBOE ''Complex Order Book Feed'' product and pricing information, available at *https://www.cboe.org/MDX/CSM/OBOOKMain.aspx.* NASDAQ OMX PHLX LLC (''PHLX'') also offers a market data product entitled ''PHLX Orders,'' which includes order and last sale information for complex strategies and other market data, and charges a $3,000 internal monthly fee ($3,500 for external), $2,000 per Distributor and $500 per subscriber. *See* PHLX ''PHLX Orders'' market data product and pricing information, available at *http://www.nasdaqtrader.com/Micro.aspx?id=PHLXOrders* and *http://www.nasdaqtrader.com/Trader.aspx?id=DPPriceListOptions#PHLX,* respectively.

[12] *See* FINRA Regulatory Notice 15–46, ''Best Execution,'' November 2015.

[13] *NetCoalition,* 615 F.3d at 535.

[14] Section 916 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the ''Dodd-Frank Act'') amended paragraph (A) of section 19(b)(3) of the Act, 15 U.S.C. 78s(b)(3), to make clear that all exchange fees for market data may be filed by exchanges on an immediately effective basis.

[15] The Exchange believes that cost-based pricing would be impractical because it would create enormous administrative burdens for all parties and the Commission to cost-regulate a large number of participants and standardize and analyze extraordinary amounts of information, accounts, and reports. In addition, and as described below, it is impossible to regulate market data prices in isolation from prices charged by markets for other services that are joint products. Cost-based rate regulation would also lead to litigation and may distort incentives, including those to minimize costs and to innovate, leading to further waste. Under cost-based pricing, the Commission would be burdened with determining a fair rate of return, and the industry could experience frequent rate increases based on escalating expense levels. Even in industries historically subject to utility regulation, cost-based ratemaking has been discredited. As such, the Exchange believes that cost-based ratemaking would be inappropriate for proprietary market data and inconsistent with Congress's direction that the Commission use its authority to foster the development of the national market system, and that market forces will continue to provide appropriate pricing discipline. *See* Appendix C to NYSE's comments to the Commission's 2000 Concept Release on the Regulation of Market Information Fees and Revenues, which can be found on the Commission's Web site at *http://www.sec.gov/rules/concept/s72899/buck1.htm.*

[16] Press Release, U.S. Department of Justice, Assistant Attorney General Christine Varney Holds Conference Call Regarding NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandoning Their Bid for NYSE Euronext (May 16, 2011), available at *http://www.justice.gov/iso/opa/atr/speeches/2011/at-speech-110516.html;* see also Complaint in U.S. v. Deutsche Borse AG and NYSE Euronext, Case No. 11–cv–2280 (D.C. Dist.) ¶ 24 (''NYSE and Direct Edge compete head-to-head . . . in the provision of real-time proprietary equity data products.'').

vigorously compete with respect to options data products.[17]

Moreover, competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary options data products and therefore constrain markets from overpricing proprietary options market data. Broker-dealers send their order flow to multiple venues, rather than providing them all to a single venue, which in turn reinforces this competitive constraint. Options markets, similar to the equities markets, are highly fragmented.[18]

If an exchange succeeds in competing for quotations, order flow, and trade executions, then it earns trading revenues and increases the value of its proprietary options market data products because they will contain greater quote and trade information. Conversely, if an exchange is less successful in attracting quotes, order flow, and trade executions, then its options market data products may be less desirable to customers using them in support of order routing and trading decisions in light of the diminished content; options data products offered by competing venues may become correspondingly more attractive. Thus, competition for quotations, order flow, and trade executions puts significant pressure on an exchange to maintain both execution and data fees at reasonable levels.

In addition, in the case of products that are also redistributed through market data vendors, such as Bloomberg and Thompson Reuters, the vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Vendors will not elect to make available NYSE Amex Options Product unless their customers request it, and customers will not elect to pay the proposed fees unless NYSE Amex Options Product can provide value by sufficiently increasing revenues or reducing costs in the customer's business in a manner that will offset the fees. All of these factors operate as constraints on pricing proprietary data products.

Joint Product Nature of Exchange Platform

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, proprietary market data and trade executions are a paradigmatic example of joint products with joint costs. The decision of whether and on which platform to post an order will depend on the attributes of the platforms where the order can be posted, including the execution fees, data availability and quality, and price and distribution of data products. Without a platform to post quotations, receive orders, and execute trades, exchange data products would not exist.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's platform for posting quotes, accepting orders, and executing transactions and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs.

Moreover, an exchange's broker-dealer customers generally view the costs of transaction executions and market data as a unified cost of doing business with the exchange. A broker-dealer will only choose to direct orders to an exchange if the revenue from the transaction exceeds its cost, including the cost of any market data that the broker-dealer chooses to buy in support of its order routing and trading decisions. If the costs of the transaction are not offset by its value, then the broker-dealer may choose instead not to purchase the product and trade away from that exchange. There is substantial evidence of the strong correlation between order flow and market data purchases. For example, in September 2015, more than 80% of the transaction volume on each of NYSE MKT and NYSE MKT's affiliates New York Stock Exchange LLC (''NYSE'') and NYSE Arca, Inc. (''NYSE Arca'') was executed by market participants that purchased one or more proprietary market data products (the 20 firms were not the same for each market). A supra-competitive increase in the fees for either executions or market data would create a risk of reducing an exchange's revenues from both products.

Other market participants have noted that proprietary market data and trade executions are joint products of a joint platform and have common costs.[19] The Exchange agrees with and adopts those discussions and the arguments therein. The Exchange also notes that the economics literature confirms that there is no way to allocate common costs between joint products that would shed any light on competitive or efficient pricing.[20]

Analyzing the cost of market data product production and distribution in isolation from the cost of all of the inputs supporting the creation of market data and market data products will inevitably underestimate the cost of the data and data products because it is impossible to obtain the data inputs to create market data products without a fast, technologically robust, and well-regulated execution system, and system and regulatory costs affect the price of both obtaining the market data itself and creating and distributing market data products. It would be equally misleading, however, to attribute all of an exchange's costs to the market data portion of an exchange's joint products. Rather, all of an exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The

[17] *See, e.g.,* Securities Exchange Act Release No. 67466 (July 19, 2012), 77 FR 43629 (July 25, 2012) (SR–Phlx–2012–93), which describes a variety of options market data products and their pricing.

[18] *See, e.g.,* Press Release, TABB Says US Equity Options Market Makers Need Scalable Technology to Compete in Today's Complex Market Structure (February 25, 2013), available at *http://www.tabbgroup.com/PageDetail.aspx?PageID=16&ItemID=1231;* Fragmentation Vexes Options Markets (April 21, 2014), available at *http://marketsmedia.com/fragmentation-vexes-options-market/.*

[19] *See* Securities Exchange Act Release No. 72153 (May 12, 2014), 79 FR 28575, 28578 n.15 (May 16, 2014) (SR–NASDAQ–2014–045) (''[A]ll of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.''). *See also* Securities Exchange Act Release No. 62907 (Sept. 14, 2010), 75 FR 57314, 57317 (Sept. 20, 2010) (SR–NASDAQ–2010–110), and Securities Exchange Act Release No. 62908 (Sept. 14, 2010), 75 FR 57321, 57324 (Sept. 20, 2010) (SR–NASDAQ–2010–111).

[20] *See generally* Mark Hirschey, ''Fundamentals of Managerial Economics,'' at 600 (2009) (''It is important to note, however, that although it is possible to determine the separate marginal costs of goods produced in variable proportions, it is impossible to determine their individual average costs. This is because common costs are expenses necessary for manufacture of a joint product. Common costs of production—raw material and equipment costs, management expenses, and other overhead—cannot be allocated to each individual by-product on any economically sound basis. . . . Any allocation of common costs is wrong and arbitrary.''). This is not new economic theory. *See, e.g.,* F.W. Taussig, ''A Contribution to the Theory of Railway Rates,'' *Quarterly Journal of Economics* V(4) 438, 465 (July 1891) (''Yet, surely, the division is purely arbitrary. These items of cost, in fact, are jointly incurred for both sorts of traffic; and I cannot share the hope entertained by the statistician of the Commission, Professor Henry C. Adams, that we shall ever reach a mode of apportionment that will lead to trustworthy results.'').

total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

As noted above, the level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including 13 options self-regulatory organization (''SRO'') markets. Three of the 13 have launched operations since December 2012.[21] The Exchange believes that these new entrants demonstrate that competition is robust.

Competition among trading platforms can be expected to constrain the aggregate return that each platform earns from the sale of its joint products, but different trading platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platforms may choose to pay rebates to attract orders, charge relatively low prices for market data products (or provide market data products free of charge), and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market data products, and setting relatively low prices for accessing posted liquidity. For example, BATS Global Markets (''BATS'') and Direct Edge, which previously operated as ATSs and obtained exchange status in 2008 and 2010, respectively, provided certain market data at no charge on their Web sites in order to attract more order flow, and used revenue rebates from resulting additional executions to maintain low execution charges for their users.[22] In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering.

[21] *See* Securities Exchange Act Release Nos. 70050 (July 26, 2013), 78 FR 46622 (August 1, 2013) (approving exchange registration for Topaz Exchange, LLC) (known as ISE Gemini); 68341 (December 3, 2012), 77 FR 73065 (December 7, 2012) (approving exchange registration for Miami International Securities Exchange LLC (''Miami Exchange'')); and 75650 (August 7, 2015), 80 FR 48600 (August 13, 2015) (establishing rules governing the trading of options on the EDGX options market).

[22] This is simply a securities market-specific example of the well-established principle that in certain circumstances more sales at lower margins can be more profitable than fewer sales at higher margins; this example is additional evidence that market data is an inherent part of a market's joint platform.

Existence of Alternatives

The large number of SROs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO is currently permitted to produce and sell proprietary data products, and many currently do, including but not limited to the Exchange, NYSE Arca, CBOE, C2 Options Exchange, Inc., ISE, ISE Gemini, NASDAQ, PHLX, BX, BATS and Miami Exchange.

The fact that proprietary data from vendors can bypass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products. By way of example, BATS and NYSE Arca both published proprietary data on the Internet before registering as exchanges. Second, because a single order or transaction report can appear in an SRO proprietary product, a non-SRO proprietary product, or both, the amount of data available via proprietary products is greater in size than the actual number of orders and transaction reports that exist in the marketplace. Because market data users can find suitable substitutes for most proprietary market data products, a market that overprices its market data products stands a high risk that users may substitute another source of market data information for its own.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid and inexpensive. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TrackECN, BATS and Direct Edge. As noted above, BATS launched as an ATS in 2006 and became an exchange in 2008, while Direct Edge began operations in 2007 and obtained exchange status in 2010. As noted above, three new options exchanges have launched operations since December 2012.[23]

In determining the proposed fees, the Exchange considered the competitiveness of the market for proprietary options data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

[23] *See supra* note 21.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to section 19(b)(3)(A) [24] of the Act and subparagraph (f)(2) of Rule 19b–4 [25] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B) [26] 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 No. SR–NYSEMKT–2015–113 on the subject line.

[24] 15 U.S.C. 78s(b)(3)(A).

[25] 17 CFR 240.19b–4(f)(2).

[26] 15 U.S.C. 78s(b)(2)(B).

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEMKT–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 such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEMKT–2015–113, and should be submitted on or before February 10, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–00900 Filed 1–19–16; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14593 and #14594]

Kansas Disaster #KS–00095

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Kansas dated 1/11/2016.

Incident: Flooding.

Incident Period: 12/26/2015 through 12/29/2015.

Effective Date: 1/11/2016.

Physical Loan Application Deadline Date: 3/11/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 10/11/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Cherokee.

Contiguous Counties:

Kansas: Crawford, Labette.

Missouri: Jasper, Newton.

Oklahoma: Craig, Ottawa.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.625
Homeowners Without Credit Available Elsewhere	1.813
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14593 6 and for economic injury is 14594 0.

The States which received an EIDL Declaration # are Kansas, Missouri, Oklahoma.

(Catalog of Federal Domestic Assistance Numbers 59008)

Dated: January 11, 2016.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2016–00921 Filed 1–19–16; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 9408]

U.S. Department of State Advisory Committee on Private International Law (ACPIL): Public Meeting on Family Law

The Office of the Assistant Legal Adviser for Private International Law, Department of State, gives notice of a public meeting to discuss an upcoming meeting at the Hague Conference on Private International Law (''Hague Conference'') on the topic of international parentage and surrogacy. The public meeting will take place on Tuesday, February 9, 2016 from 1 p.m. until 4 p.m. EST. This is not a meeting of the full Advisory Committee.

In March 2015, the Council on General Affairs and Policy of the Hague Conference decided that an Experts' Group should be convened to explore the feasibility of advancing work on private international law issues surrounding the status of children, including issues arising from international surrogacy arrangements. The first meeting of the Experts' Group will be held February 15–18, 2016, in The Hague.

The purpose of the public meeting is to obtain the views of concerned stakeholders on matters that might be addressed at the upcoming Experts' Group meeting. Those who cannot attend but wish to comment are welcome to do so by email to Michael Coffee at *coffeems@state.gov.*

Time and Place: The meeting will take place from 1 p.m. until 4 p.m. EST in Room 9.04, State Department Annex 17, 600 19th Street NW., Washington, DC 20522. Participants should plan to arrive at the North Entrance by 12:40 p.m. for visitor screening. If you are unable to attend the public meeting and would like to participate from a remote location, teleconferencing will be available.

Public Participation: This meeting is open to the public, subject to the capacity of the meeting room. Access to the building is strictly controlled. For pre-clearance purposes, those planning to attend should email *pil@state.gov* providing full name, address, date of birth, citizenship, driver's license or passport number, and email address. This information will greatly facilitate entry into the building. A member of the public needing reasonable accommodation should email *pil@state.gov* not later than February 2, 2016. Requests made after that date will be considered, but might not be able to be fulfilled. If you would like to

[27] 17 CFR 200.30–3(a)(12).

participate by telephone, please email *pil@state.gov* to obtain the call-in number and other information.

Data from the public is requested pursuant to Public Law 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities.

The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Security Records System of Records Notice (State–36) at *https://foia.state.gov/_docs/SORN/State-36.pdf* for additional information.

Dated: January 11, 2016.

Michael S. Coffee,

Attorney-Adviser, Office of Private International Law, Office of the Legal Adviser, U.S. Department of State.

[FR Doc. 2016–01029 Filed 1–19–16; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice: 9410]

Culturally Significant Objects Imported for Exhibition Determinations: ''Peter Fischli David Weiss: How to Work Better'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015), I hereby determine that the objects to be included in the exhibition ''Peter Fischli David Weiss: How to Work Better,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Solomon R. Guggenheim Museum, New York, New York, from on about February 5, 2016, until on or about April 20, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: January 13, 2016.

Mark Taplin,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–01012 Filed 1–19–16; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 9409]

60-Day Notice of Proposed Information Collection: Application for Employment as a Locally Employed Staff or Family Member

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to March 21, 2016.

ADDRESSES: You may submit comments by any of the following methods:

- *Web:* Persons with access to the Internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2015–0075'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: CookSH@state.gov.*
- *Regular Mail:* Send written comments to: U.S. Department of State—SA–44, HR/OE, Suite 1300, Attention: Sabrina Cook, 1800 G Street NW., Washington, DC 20006.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Sabrina Cook, Bureau of Human Resources, Office of Overseas Employment, U.S. Department of State, Washington, DC 20006, who may be reached on 202–663–2909 or at *CookSH@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Application for Employment as a Locally Employed Staff or Family Member.
- *OMB Control Number:* 1405–0189.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Human Resources, Office of Overseas Employment (HR/OE).
- *Form Number:* DS–0174.
- *Respondents:* Candidates seeking employment at U.S. Missions abroad, including family members of Foreign Service, Civil Service, and uniformed service members officially assigned to the Mission and under Chief of Mission authority.
- *Estimated Number of Respondents:* 40,000.
- *Estimated Number of Responses:* 40,000.
- *Average Time per Response:* 1 hour.
- *Total Estimated Burden Time:* 40,000 hours.
- *Frequency:* On Occasion.
- *Obligation To Respond:* Required to Obtain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection:

The DS–0174, Application for Employment as a Locally Employed Staff or Family Member, is needed to meet information collection

requirements for recruitments conducted at approximately 170 U.S. embassies and consulates throughout the world. Current employment application forms do not meet the unique requirements of Mission recruitment (*e.g.,* language skills and hiring preferences) under the FS Act of 1980 and 22 U.S.C. 2669(c). The DS–0174 is needed to improve data gathering and to clarify interpretation of candidate responses.

Methodology:

Candidates for employment use the DS–0174 to apply for Mission-advertised positions throughout the world. Mission recruitments generate approximately 40,000 applications per year. Data that HR and hiring officials extract from the DS–0174 determines eligibility for employment, qualifications for the position, and selections according to Federal policies.

Dated: January 11, 2016.

William E. Schaal,

Director, HR/EX, Department of State.

[FR Doc. 2016–01021 Filed 1–19–16; 8:45 am]

BILLING CODE 4710–15–P

DEPARTMENT OF STATE

[Public Notice 9413]

Culturally Significant Objects Imported for Exhibition Determinations: ''Van Dyck, Rembrandt, and the Portrait Print'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015), I hereby determine that the objects to be included in the exhibition ''Van Dyck, Rembrandt, and the Portrait Print,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at The Art Institute of Chicago, Chicago, Illinois, from on or about March 5, 2016, until on or about August 7, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: January 12. 2016.

Mark Taplin,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–01001 Filed 1–19–16; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 9412]

Culturally Significant Objects Imported for Exhibition Determinations: ''A Japanese Constellation: Toyo Ito, SANAA and Beyond'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015), I hereby determine that the objects to be included in the exhibition ''A Japanese Constellation: Toyo Ito, SANAA and Beyond,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Museum of Modern Art, New York, New York, from on or about March 13, 2016, until on or about July 4, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: January 12, 2016.

Mark Taplin,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–01002 Filed 1–19–16; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 9411]

Culturally Significant Objects Imported for Exhibition Determinations: ''Asia in Amsterdam'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015), I hereby determine that the objects to be included in the exhibition ''Asia in Amsterdam,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Peabody Essex Museum, Salem, Massachusetts, from on about February 27, 2016, until on or about June 5, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: January 13, 2016.

Mark Taplin,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–01007 Filed 1–19–16; 8:45 am]

BILLING CODE 4710–05–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES.**

DATES: December 1–31, 2015.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22 (f) for the time period specified above:

Approvals by Rule Issued Under 18 CFR 806.22(f):

1. WPX Energy Appalachia, LLC, Pad ID: Alder Run LP #5H, ABR–201512001, Cooper Township, Clearfield County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 3, 2015.

2. Chesapeake Appalachia, LLC, Pad ID: DPH, ABR–201103011.R1, Windham Township, Wyoming County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: December 3, 2015.

3. SWN Production Company, LLC, Pad ID: Depue Well #2H, ABR–201009098.R1, Franklin Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 3, 2015.

4. SWN Production Company, LLC, Pad ID: Hollenbeck ABR, ABR–201010017.R1, Franklin Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 3, 2015.

5. SWEPI LP, Pad ID: Bergey 1, ABR–201009056.R1, Gaines Township, Tioga County, Pa.; Consumptive Use of Up to 4.9900 mgd; Approval Date: December 3, 2015.

6. SWEPI LP, Pad ID: Spencer 729, ABR–201009065.R1, Liberty Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 3, 2015.

7. SWEPI LP, Pad ID: Burke 285, ABR–201009096.R1, Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 3, 2015.

8. SWEPI LP, Pad ID: Patterson 570, ABR–201009097.R1, Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 3, 2015.

9. SWEPI LP, Pad ID: Heath 418, ABR–201010011.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 3, 2015.

10. SWEPI LP, Pad ID: East Point Fish & Game Club 726, ABR–201010014.R1, Liberty Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 3, 2015.

11. Carrizo (Marcellus), LLC, Pad ID: Erickson Family Trust Pad, ABR–201107009.R1, Woodward Township, Clearfield County, Pa.; Consumptive Use of Up to 2.1000 mgd; Approval Date: December 8, 2015.

12. Carrizo (Marcellus), LLC, Pad ID: Cowfer B (CC–09) Pad, ABR–201107010.R1, Gulich Township, Clearfield County, Pa.; Consumptive Use of Up to 2.1000 mgd; Approval Date: December 8, 2015.

13. Carrizo (Marcellus), LLC, Pad ID: Hegarty (CC–04) Pad, ABR–201107013.R1, Beccaria Township, Clearfield County, Pa.; Consumptive Use of Up to 2.1000 mgd; Approval Date: December 8, 2015.

14. Carrizo (Marcellus), LLC, Pad ID: River Hill Power Karthaus Pad, ABR–201107014.R1, Karthaus Township, Clearfield County, Pa.; Consumptive Use of Up to 2.1000 mgd; Approval Date: December 8, 2015.

15. Chief Oil & Gas, LLC, Pad ID: W & L Wilson Drilling Pad #1, ABR–201103014.R1, Lemon Township, Wyoming County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: December 8, 2015.

16. Chief Oil & Gas, LLC, Pad ID: PMG Annie Drilling Pad #1, ABR–201103015.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: December 8, 2015.

17. Chief Oil & Gas, LLC, Pad ID: Noble Drilling Pad #1, ABR–201104015.R1, Brooklyn Township, Susquehanna County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: December 8, 2015.

18. EOG Resources, Incorporated, Pad ID: NICHOLS 1H Pad, ABR–201008090.R1, Smithfield Township, Bradford County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: December 8, 2015.

19. SWN Production Company, LLC, Pad ID: WY 09 OTTEN PAD, ABR–201512002, Forkston Township, Wyoming County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: December 11, 2015.

20. Cabot Oil & Gas Corporation, Pad ID: AbbottD P2, ABR–201512003, Bridgewater Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.2500 mgd; Approval Date: December 11, 2015.

21. Cabot Oil & Gas Corporation, Pad ID: HowellG P1, ABR–201512004, Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.2750 mgd; Approval Date: December 11, 2015.

22. Cabot Oil & Gas Corporation, Pad ID: Jeffers Farm P5, ABR–201512005, Gibson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.2500 mgd; Approval Date: December 11, 2015.

23. Cabot Oil & Gas Corporation, Pad ID: JonesP P1, ABR–201512006, Forest Lake Township and Jessup Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.2500 mgd; Approval Date: December 11, 2015.

24. Chesapeake Appalachia, LLC, Pad ID: Dziuba, ABR–201103012.R1, Tuscarora Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: December 11, 2015.

25. Chesapeake Appalachia, LLC, Pad ID: Burke, ABR–201103019.R1, Wilmot Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: December 11, 2015.

26. Chesapeake Appalachia, LLC, Pad ID: Jones Pad, ABR–201103022.R1, Standing Stone Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: December 11, 2015.

27. Chesapeake Appalachia, LLC, Pad ID: Sarah, ABR–201103041.R1, Athens Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: December 11, 2015.

28. Chesapeake Appalachia, LLC, Pad ID: Barclay, ABR–201103044.R1, Franklin Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: December 11, 2015.

29. Chesapeake Appalachia, LLC, Pad ID: Hi-Lev, ABR–201103051.R1, Troy Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: December 11, 2015.

30. Chesapeake Appalachia, LLC, Pad ID: Acton, ABR–201103313.R1, Rome Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: December 11, 2015.

31. Chief Oil & Gas, LLC, Pad ID: Kerrick Drilling Pad #1, ABR–201103040.R1, Asylum Township, Bradford County, Pa.; Consumptive Use

of Up to 2.0000 mgd; Approval Date: December 11, 2015.

32. EOG Resources, Incorporated, Pad ID: TYLER Pad, ABR–201008153.R1, Springfield Township, Bradford County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: December 11, 2015.

33. WPX Energy Appalachia, LLC, Pad ID: Alder Run Land LP 2H, ABR–20100454.R1, Cooper Township, Clearfield County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: December 11, 2015.

34. EOG Resources, Incorporated, Pad ID: SGL 90 E Pad, ABR–201512008, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: December 21, 2015.

35. EOG Resources, Incorporated, Pad ID: DEMEO 1H Pad, ABR–201009106.R1, Ridgebury Township, Bradford County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: December 21, 2015.

36. SWN Production Company, LLC, Pad ID: Tall Maples, ABR–201010056.R1, Elkland Township, Sullivan County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: December 21, 2015.

37. Seneca Resources Corporation, Pad ID: C09–E, ABR–201512009, Shippen Township, Cameron County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 21, 2015.

38. SWEPI LP, Pad ID: Owlett 843, ABR–201009058.R1, Middlebury Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 21, 2015.

39. SWEPI LP, Pad ID: Seymour 599, ABR–201009063.R1, Sullivan Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 21, 2015.

40. SWEPI LP, Pad ID: Schmelzle 703, ABR–201009064.R1, Union Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 21, 2015.

41. SWEPI LP, Pad ID: Empson 899, ABR–201009095.R1, Deerfield Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 21, 2015.

42. SWEPI LP, Pad ID: Red Run Mountain Inc. 739, ABR–201010006.R1, McIntyre Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 21, 2015.

43. SWEPI LP, Pad ID: Heuer 701, ABR–201010010.R1, Union Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 21, 2015.

44. SWEPI LP, Pad ID: Redl 600, ABR–201010013.R1, Sullivan Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 21, 2015.

45. SWEPI LP, Pad ID: Signor 578, ABR–201010023.R1, Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 21, 2015.

46. SWEPI LP, Pad ID: Harman 565, ABR–201010028.R1, Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 21, 2015.

47. SWEPI LP, Pad ID: Hudson 575, ABR–201010029.R1, Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 21, 2015.

48. XTO Energy Incorporated, Pad ID: Renn Unit A, ABR–201103033.R1, Jordan Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 21, 2015.

49. XTO Energy Incorporated, Pad ID: PA TRACT 8524H, ABR–201104023.R1, Chapman Township, Clinton County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 21, 2015.

50. SWEPI LP, Pad ID: Old Possessions Hunting Club 485, ABR–201008117.R1, Sullivan Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: December 21, 2015.

51. SWN Production Company, LLC, Pad ID: GU–X SEYMOUR PAD, ABR–201512010, Stevens Township, Bradford County; and Rush Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: December 23, 2015.

52. Carrizo (Marcellus), LLC, Pad ID: Baker North, ABR–201012040.R1, Forest Lake Township, Susquehanna County, Pa.; Consumptive Use of Up to 2.1000 mgd; Approval Date: December 23, 2015.

53. Triana Energy, LLC, Pad ID: Triana-Young Pad A, ABR–20100677.R1, Hector Township, Potter County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: December 23, 2015.

54. Carrizo (Marcellus), LLC, Pad ID: Giangrieco Pad, ABR–201107011.R1, Forest Lake Township, Susquehanna County, Pa.; Consumptive Use of Up to 2.1000 mgd; Approval Date: December 28, 2015.

55. Chesapeake Appalachia, LLC, Pad ID: Stempel, ABR–201104020.R1, Asylum Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: December 28, 2015.

56. Chesapeake Appalachia, LLC, Pad ID: Crain, ABR–201104028.R1, Rome Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: December 28, 2015.

57. Chesapeake Appalachia, LLC, Pad ID: MPC New, ABR–201104030.R1, Cherry Township, Sullivan County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: December 28, 2015.

58. EXCO Resources (PA), LLC, Pad ID: Houseknecht Drilling Pad #1, ABR–201012014.R1, Davidson Township, Sullivan County, Pa.; Consumptive Use of Up to 8.0000 mgd; Approval Date: December 28, 2015.

59. EXCO Resources (PA), LLC, Pad ID: Doebler Drilling Pad #1, ABR–201012033.R1, Penn Township, Lycoming County, Pa.; Consumptive Use of Up to 8.0000 mgd; Approval Date: December 28, 2015.

60. Talisman Energy USA Inc., Pad ID: 05 040 Cook, ABR–201010021.R1, Orwell Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: December 28, 2015.

61. Talisman Energy USA Inc., Pad ID: 05 022 DeCristo, ABR–201010026.R1, Warren Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: December 28, 2015.

62. Talisman Energy USA Inc., Pad ID: 05 129 Upham R, ABR–201010032.R1, Pike Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: December 28, 2015.

63. Talisman Energy USA Inc., Pad ID: 05 097 Hartnett, ABR–201010045.R1, Warren Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: December 28, 2015.

64. Talisman Energy USA Inc., Pad ID: 05 056 Miller, ABR–201010098.R1, Warren Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: December 28, 2015.

65. Talisman Energy USA Inc., Pad ID: 05 073 Harvey, ABR–201011031.R1, Orwell Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: December 28, 2015.

66. Talisman Energy USA Inc., Pad ID: 05 028 Neville V, ABR–201011033.R1, Warren Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: December 28, 2015.

67. Talisman Energy USA Inc., Pad ID: 05 082 Abell Living Trust, ABR–201011052.R1, Warren Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: December 28, 2015.

68. Talisman Energy USA Inc., Pad ID: 05 180 Peck Hill Farm, ABR–201011056.R1, Windham Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: December 28, 2015.

69. Talisman Energy USA Inc., Pad ID: 05 058 Vough, ABR–201011063.R1, Orwell Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: December 28, 2015.

70. Talisman Energy USA Inc., Pad ID: 05 165 Hutchinson, ABR–201011064.R1, Warren Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: December 28, 2015.

71. Talisman Energy USA Inc., Pad ID: 05 223 Wheaton, ABR–201011072.R1, Windham Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: December 28, 2015.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: January 14, 2016.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2016–01000 Filed 1–19–16; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2016–03]

Petition for Exemption; Summary of Petition Received; Freeport-McMoRan, Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before February 9, 2016.

ADDRESSES: Send comments identified by docket number FAA–2015–0477 using any of the following methods:

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

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Brittany Newton, 202–267–6691, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on January 13, 2016.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2015–0477.

Petitioner: Freeport-McMoRan, Inc.

Section(s) of 14 CFR Affected: 14 CFR 91.119(c)

Description of Relief Sought: The petitioner requests an amendment to Exemption No. 11593 to include exemption from the prohibition in 14 CFR 91.119(c) from operating closer than 500 feet to any person, vessel, vehicle, or structure. The petitioner requests an amendment to condition number 26 contained in Exemption No. 11593 to enable them to operate the Maveric sUAS as close as 50 feet from nonparticipants without barriers or structures present for the purpose of surveying and mine-related services conducted primarily in remote unpopulated and access controlled areas.

[FR Doc. 2016–00991 Filed 1–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Damage Tolerance and Fatigue Evaluation of Composite Rotorcraft Structures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. To obtain type certification of a rotorcraft, an applicant must show that the rotorcraft complies with specific certification requirements. To show compliance, the applicant must submit substantiating data.

DATES: Written comments should be submitted by February 19, 2016.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson at (202) 267–1416, or by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your

comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0753.

Title: Damage Tolerance and Fatigue Evaluation of Composite Rotorcraft Structures.

Form Numbers: None.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 10, 2015 (80 FR 69772). The ''Damage Tolerance and Fatigue Evaluation of Composite Rotorcraft Structures'' final rule (76 FR 74655) revised parts 27 and 29 of Title 14 of the Code of Federal Regulations to add new certification standards for normal and transport category rotorcraft to address advances in structural damage tolerance and fatigue substantiation technology for composite rotorcraft structures. To obtain type certification of a rotorcraft, an applicant must show that the rotorcraft complies with specific certification requirements. To show compliance, the applicant must submit substantiating data. FAA engineers or designated engineer representatives from industry review the required data submittals to determine if the rotorcraft complies with the applicable minimum safety requirements for damage tolerance and fatigue evaluation of composite structures and that the rotorcraft has no unsafe features in the composite structures.

Respondents: Approximately 6 applicants for certification for 10.5 part 27 rotorcraft and 6 part 29 rotorcraft.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 54.5 hours.

Estimated Total Annual Burden: 109 hours.

Issued in Washington, DC, on January 13, 2016.

Ronda Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2016–00974 Filed 1–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: FAA Airport Master Record

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. Aeronautical information is required by the FAA in order to carry out agency missions such as those related to aviation flying safety, flight planning, airport engineering and federal grants analysis, aeronautical chart and flight information publications, and the promotion of air commerce as required by statute.

DATES: Written comments should be submitted by February 19, 2016.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson at (202) 267–1416, or by email at: *Ronda.Thompson@faa.gov*.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0015.

Title: FAA Airport Master Record.

Form Numbers: FAA Forms 5010–1, 5010–2, 5010–3, 5010–5.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 10, 2015 (80 FR 69771). 49 U.S.C. 329(b) empowers and directs the Secretary of Transportation to collect and disseminate information on civil aeronautics. Aeronautical information is required by the FAA in order to carry out agency missions such as those related to aviation flying safety, flight planning, airport engineering and federal grants analysis, aeronautical chart and flight information publications, and the promotion of air commerce as required by statute. The safety information collected includes, but is not limited to, the following: Airport name, associated city, airport owner and airport manager, airport latitude, longitude, elevation, runway description, services available, runway approach light systems, communications frequency, airport use, number of operations and based aircraft, obstruction data, and pertinent general remarks.

Respondents: Approximately 19,800 Airport owners/managers and state inspectors.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 1 hour.

Estimated Total Annual Burden: 8,870 hours.

Issued in Washington, DC on January 13, 2016.

Ronda Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2016–00975 Filed 1–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: FAA Acquisition Management System (FAAAMS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The FAA Acquisition Management System establishes policies and internal procedures for FAA acquisition. The information collection is necessary to solicit, award, and administer contracts for supplies, equipment, services, facilities, and real property to fulfill FAA's mission.

DATES: Written comments should be submitted by February 19, 2016.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson at (202) 267–1416, or by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0595.

Title: FAA Acquisition Management System (FAAAMS).

Form Numbers: None.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 10, 2015 (80 FR 69771). Section 348 of Public Law 104–50 directed FAA to establish an acquisition system. The information collection is carried out as an integral part of FAA's acquisition process. Various portions of the AMS describe information needed from vendors seeking or already doing business with FAA. FAA contracting offices collect the information to plan, solicit, award, administer and close individual contracts. The FAA small business office collects information to promote and increase small business participation in FAA contracts.

Respondents: Approximately 15,298 vendors.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 7.5 hours.

Estimated Total Annual Burden: 2,000,719 hours.

Issued in Washington, DC, on January 13, 2016.

Ronda Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2016–00985 Filed 1–19–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities; Information Collection Renewal; Comment Request; Leasing

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

In accordance with the requirements of the PRA, the OCC 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 OCC is soliciting comment concerning the renewal of its information collection titled, ''Leasing.''

DATES: Comments must be received by March 21, 2016.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0206, 400 7th Street SW., Suite 3E–218, mail stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the OMB for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the collection of information set forth in this document.

The OCC is proposing to extend OMB approval of the following information collection:

Title: Leasing.

OMB Number: 1557–0206.

Description: This submission covers an existing regulation and involves no change to the regulation or to the information collection requirements. The OCC requests only that OMB approve its burden estimates and extend the expiration date.

Under 12 CFR 23.4(c), national banks must liquidate or release property that is no longer subject to lease (off-lease property) within five years from the date of the lease expiration. If a national bank wishes to extend the five-year holding period for up to an additional five years, it must obtain OCC approval. Permitting a national bank to extend the holding period may result in cost savings. It also may provide flexibility for a national bank that experiences unusual or unforeseen conditions that would make it imprudent to dispose of the off-lease property prior to the expiration of the five-year holding

period. Section 23.4(c) requires a national bank seeking an extension to provide a clearly convincing demonstration as to why any additional holding period is necessary. In addition, a national bank must value off-lease property at the lower of current fair market value or book value promptly after the property comes off-lease. These requirements enable the OCC to ensure that a national bank is not holding the property for speculative reasons and that the value of the property is recorded in accordance with generally accepted accounting principles (GAAP).

Under 12 CFR 23.6, leases are subject to the lending limits prescribed by 12 U.S.C. 84, as implemented by 12 CFR part 32, or, if the lessee is an affiliate of the national bank, to the restrictions on transactions with affiliates prescribed by 12 U.S.C. 371c and 371c–1. Twelve U.S.C. 24 contains two separate provisions authorizing a national bank to acquire personal property for purposes of lease financing. Twelve U.S.C. 24(Seventh) authorizes leases of personal property (Section 24(Seventh) Leases) if the lease is a conforming lease as defined in 12 CFR 23.2(d)(2) and represents a noncancelable obligation of the lessee (*i.e.*, the lease serves as the functional equivalent of a loan). See 12 CFR 23.20. A national bank also may acquire personal property for purposes of lease financing under the authority of 12 U.S.C. 24(Tenth) (CEBA Leases). Section 23.5 requires that if a national bank enters into both types of leases, its records must distinguish between the two types of leases. This information is required to establish that the national bank is complying with the limitations and requirements applicable to the two types of leases.

National banks use the information to ensure their compliance with applicable Federal banking law and regulations and accounting principles. The OCC uses the information in conducting examinations and as an auditing tool to verify compliance with laws and regulations. In addition, the OCC uses national bank requests for permission to extend the holding period for off-lease property to ensure national bank compliance with relevant laws and regulations and to ensure bank safety and soundness.

Type of Review: Regular.

Affected Public: Individuals; Businesses or other for-profit.

Estimated Number of Respondents: 345.

Estimated Total Annual Responses: 345.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 678.

Comments submitted in response to this notice will be summarized and included in the submission to OMB. Comments are requested on:

(a) Whether the information collections are necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

(b) The accuracy of the OCC's estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 13, 2016.

Mary H. Gottlieb,

Regulatory Specialist, Legislative and Regulatory Activities Division.

[FR Doc. 2016–00884 Filed 1–19–16; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities; Information Collection Renewal; Comment Request; Securities Exchange Act Disclosure Rules and Securities of Federal Savings Associations

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and respondents are not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning the renewal of its information collection titled, ''Securities Exchange Act Disclosure Rules and Securities of Federal Savings Associations.''

DATES: Comments must be received by March 21, 2016.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0106, 400 7th Street SW., Suite 3E–218, mail stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov*. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the OMB for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the proposed

collection of information set forth in this document.

The OCC is proposing to extend OMB approval of the following information collection:

Title: Securities Exchange Act Disclosure Rules and Securities of Federal Savings Associations.

OMB Control No.: 1557–0106.

Description: This submission covers an existing regulation and involves no change to the regulation or to the information collection requirements. The OCC requests only that OMB approve its revised estimates.

The Securities and Exchange Commission (SEC) is required by statute to collect, in accordance with its regulations, certain information and documents from any firm that is required to register its stock with the SEC.[1] Federal law requires the OCC to apply similar regulations to any national bank or Federal savings association similarly required to be registered (those with a class of equity securities held by 2,000 or more shareholders).[2]

12 CFR part 11 ensures that a national bank or Federal savings association whose securities are subject to registration provides adequate information about its operations to current and potential shareholders, depositors, and the public. The OCC reviews the information to ensure that it complies with Federal law and makes public all information required to be filed under the rule. Investors, depositors, and the public use the information to make informed investment decisions.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals; Businesses or other for-profit.

Frequency of Response: On occasion.

Estimated Number of Respondents: 10.

Estimated Total Annual Burden: 116.

Comments submitted in response to this notice will be summarized and included in the submission to OMB. Comments are requested on:

(a) Whether the information collections are necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

(b) The accuracy of the OCC's estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 13, 2016.

Mary H. Gottlieb,

Regulatory Specialist, Office of the Comptroller of the Currency.

[FR Doc. 2016–00883 Filed 1–19–16; 8:45 am]

BILLING CODE 4810–33–P

[1] 15 U.S.C. 78m(a)(1).

[2] 15 U.S.C. 78l(i).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Credit for Indian Coal Production and Inflation Adjustment Factor for Calendar Year 2015

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Publication of inflation adjustment factor for Indian coal production for calendar year 2015 under section 45(e)(10)(B) (26 U.S.C. 45(e)(10)(B)) of the Internal Revenue Code.

SUMMARY: The 2015 inflation adjustment factor is used in determining the availability of the credit for Indian coal production under section 45. Section 186 of Division Q of the Consolidated Appropriations Act, 2016 (Pub. L. 114–113) extends the credit period for the Indian coal production credit from a 9-year period beginning on January 1, 2006, to an 11-year period beginning on January 1, 2006. This provision is effective for coal produced in the United States or a possession thereof after December 31, 2014.

DATES: The 2015 inflation adjustment factor applies to calendar year 2015 sales of Indian coal produced in the United States or a possession thereof.

Inflation Adjustment Factor: The inflation adjustment factor for calendar year 2015 for Indian coal is 1.1772.

Credit Amount for Indian Coal: As required by section 45(e)(10)(B)(ii), the $2.00 amount in section 45(e)(10)(B)(i) is adjusted by multiplying such amount by the inflation adjustment factor for the calendar year. Under the calculation required by section 45(e)(10)(B)(ii), the credit for Indian coal production for calendar year 2015 under section 45(e)(10)(B) is $2.354 per ton on the sale of Indian coal.

FOR FURTHER INFORMATION CONTACT: Jennifer A. Records, CC:PSI:6, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, (202) 317–6853 (not a toll-free number).

Christopher T. Kelley,

Special Counsel to the Associate Chief Counsel, (Passthroughs and Special Industries).

[FR Doc. 2016–00894 Filed 1–19–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2003–39

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2003–39, section 1031 LKE (Like-Kind Exchanges) Auto Leasing Programs.

DATES: Written comments should be received on or before March 21, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Michael A. Joplin, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Section 1031 LKE (Like-Kind Exchanges) Auto Leasing Programs.

OMB Number: 1545–1834.

Revenue Procedure Number: Revenue Procedure 2003–39.

Abstract: Revenue Procedure 2003–39 provides safe harbors for certain aspects of the qualification under § 1031 of certain exchanges of property pursuant to LKE Programs for federal income tax purposes.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 8,600.

Estimated Average Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 8,600.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 8, 2016.

Michael A. Joplin,

IRS Reports Clearance Officer.

[FR Doc. 2016–00892 Filed 1–19–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2006–31

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2006–31, Revocation of Election filed under I.R.C. 83(b).

DATES: Written comments should be received on or before March 21, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Michael A. Joplin, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Revocation of Election filed under I.R.C. 83(b).

OMB Number: 1545–2018.

Form Number: Rev. Proc. 2006–31.

Abstract: This revenue procedure sets forth the procedures to be followed by individuals who wish to request permission to revoke the election they made under section 83(b).

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and Households, Businesses and other for-profit organizations.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments Submitted In Response To This Notice Will Be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 8, 2016.

Michael A. Joplin,

IRS Reports Clearance Officer.

[FR Doc. 2016–00893 Filed 1–19–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6198

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 6198, At-Risk Limitations.

DATES: Written comments should be received on or before March 21, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Michael A. Joplin, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129,

1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: At-Risk Limitations.

OMB Number: 1545–0712.

Form Number: Form 6198.

Abstract: Internal Revenue Code section 465 requires taxpayers to limit their at-risk loss to the lesser of the loss or their amount at risk. Form 6198 is used by taxpayers to determine their deductible loss and by IRS to verify the amount deducted.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals, not-for-profit institutions, and farms.

Estimated Number of Respondents: 230,332.

Estimated Time Per Respondent: 3 hrs. 58 min.

Estimated Total Annual Burden Hours: 914,419.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 8, 2016.

Michael A. Joplin,

IRS Reports Clearance Officer.

[FR Doc. 2016–00891 Filed 1–19–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Pricing Changes for 2016 United States Mint Products

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing pricing changes for some 2016 products. Please see the table below.

Product	2016 Retail price
United States Mint Proof Set®	$31.95
United States Mint Silver Proof Set®	52.95
United States Mint Uncirculated Set®	26.95
United States Mint Presidential $1 Coin Proof Set™	17.95
Presidential $1 Coin Uncirculated Set™	14.95
Annual Uncirculated Dollar Coin Set	45.95
Presidential $1 Three-Coin Set—P	11.95
Presidential $1 Three-Coin Set—D	11.95

FOR FURTHER INFORMATION CONTACT: Ann Bailey, Products Manager, Numismatic and Bullion; United States Mint; 801 9th Street NW., Washington, DC 20220; or call 202–354–7500.

Authority: 31 U.S.C. 5111, 5112, 5132, & 9701.

Dated: January 13, 2016.

Richard A. Peterson,

Deputy Director for Manufacturing and Quality, United States Mint.

[FR Doc. 2016–00887 Filed 1–19–16; 8:45 am]

BILLING CODE 4810–37–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0377]

Agency Information Collection (Claim for Repurchase of Loan) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before February 19, 2016.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0377'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0377.''

SUPPLEMENTARY INFORMATION:

Title: Claim for Repurchase of Loan.

OMB Control Number: 2900–0377.

Type of Review: Revision of a currently approved collection.

Abstract: Under 38 CFR 36.4600(d), the holder of a delinquent vendee account is legally entitled to repurchase of the loan by VA when the loan has been continuously in default for 3 months and the amount of the delinquency equals or exceeds the sum of 2 monthly installments. When requesting the repurchase of a loan, the holder uses VA Form 26–8084.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 80 FR 26643 on October 21, 2015.

Affected Public: Individuals or Households.

Estimated Annual Burden: 5 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 10 respondents.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–00977 Filed 1–19–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0518]

Agency Information Collection (Income Verification) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before February 19, 2016.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0518'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0518'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Income Verification (VA Form 21–0161a).

OMB Control Number: 2900–0518.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 21–0161a is used to gather information to determine entitlement to income-dependent benefits. The VA compensation and pension programs require the accurate reporting of income by those who are in receipt of income-dependent benefits. This form solicits information from employers of beneficiaries who have been identified as having inaccurately reported their income to VA.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 80 FR 203 on October 21, 2015.

Affected Public: Individuals or Households.

Estimated Annual Burden: 15,000.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 30,000.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–00979 Filed 1–19–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0572]

Agency Information Collection (Application for Benefits for Certain Children With Disabilities Born of Vietnam and Certain Korea Service Veterans) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before February 19, 2016.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0572'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0572.''

SUPPLEMENTARY INFORMATION:

Title: Application for Benefits for Certain Children with Disabilities Born of Vietnam and Certain Korea Service Veterans.

OMB Control Number: 2900–0572.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 21–0304 is used to determine the monetary allowance for a child born with Spina Bifida or certain birth defects who is the natural child of a Vietnam veteran. Without this information, VA would be unable to effectively administer this law.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 80 FR 26647 on October 21, 2015.

Affected Public: Individuals or Households.

Estimated Annual Burden: 72 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 430 respondents.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–00980 Filed 1–19–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

MyVA Federal Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App.2., that the MyVA Advisory Committee (MVAC) will meet February 1–2, 2016, at the Department of Veterans Affairs, Board of Veterans Appeals' Conference Room, 425 I Street NW., 4th Floor, Room 4E.400, Washington, DC 20001.

The purpose of the Committee is to advise the Secretary, through the Executive Director, MyVA Task Force Office regarding the My VA initiative and VA's ability to rebuild trust with Veterans and other stakeholders, improve service delivery with a focus on Veteran outcomes, and set the course for longer-term excellence and reform of VA.

On February 1, from 9:00 a.m. to 5:45 p.m., the Committee will meet to discuss the progress on, and the integration of, the work in the five key MyVA work streams—Veteran Experience (explaining the efforts conducted to improve the Veteran's experience), Employees Experience, Support Services Excellence (such as information technology, human resources, and finance), Performance Improvement (projects undertaken to date and those upcoming), and VA Strategic Partnerships.

On February 2, from 8:00 a.m. to 3:30 p.m., the Committee will meet to discuss and recommend areas for improvement on VA's work to date, plans for the future, and integration of the MyVA efforts. This session is open to the public. No time will be allocated at this meeting for receiving oral presentations from the public. However, the public may submit written statements for the Committee's review to Debra Walker, Designated Federal Officer, MyVA Program Management Office, Department of Veterans Affairs, 1800 G Street NW., Room 880–40, Washington, DC 20420, or email at *Debra.Walker3@va.gov.* Any member of the public wishing to attend the meeting or seeking additional information should contact Ms. Walker.

Because the meeting will be held in a Government building, anyone attending must be prepared to show a valid photo government issued ID. Please allow a minimum of 15 minutes before the meeting begins for this process.

Dated: January 13, 2016.

Jelessa Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2016–00934 Filed 1–19–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection (Application for Adaptive Sports Grant, VA Form 10096) Activity Under OMB Review

AGENCY: National Veterans Sports Programs and Special Events, Office of Public and Intergovernmental Affairs, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the National Veterans Sports Programs and Special Events (NVSPSE), Office of Public and Intergovernmental Affairs (OPIA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before February 19, 2016.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–NEW (Application for Adaptive Sports Grant)'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–NEW (Application for Adaptive Sports Grant).

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Adaptive Sports Grant.

OMB Control Number: 2900–NEW.

Type of Review: New Collection.

Abstract: Legal authority for this data collection is found under 38 U.S.C. 521A that authorizes and mandates the collection of data during the grant application, implementation to include quarterly and annual reporting, and closeout phases of the adaptive sports grant. Mandated collection of data allows measurement and evaluation of the adaptive sports grant program, the goal of which is providing adaptive sport opportunities for disabled veterans and members of the Armed Forces.

The information will be used by VA to evaluate multiple criteria to confirm grantee eligibility, to score grantee proposals according to application criteria, and to ensure program efficacy and appropriate use of grant funds. The application information will indicate whether and to what extent a grant program is likely to be successful in meeting the program's intent for providing adaptive sports opportunities for disabled veterans and members of the Armed Forces.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 30, 2015 at 80FR 58814.

Affected Public: Private Sector.

Estimated Annual Burden: 2,133 burden hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: Quarterly.

Estimated Number of Respondents: 250.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–00983 Filed 1–19–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0406]

Agency Information Collection (Verification of VA Benefits) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before February 19, 2016.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0406'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0406.''

SUPPLEMENTARY INFORMATION:

Title: Verification of VA Benefits.

OMB Control Number: 2900–0406.

Type of Review: Revision of a currently approved collection.

Abstract: VA has instructed lenders that they may not close any proposed loan until they have evidence from VA that there is no debt, or if a debt exists, an acceptable repayment plan has been agreed to by the veteran, or payments under a plan already in effect are current. VA Form 26–8937 is designed to assist lenders and VA in the completion of debt checks in a uniform manner. The form restricts information requested to only that needed for the debt check and also eliminates unlimited versions of lender-designed forms.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 80 FR 26645 on October 21, 2015.

Affected Public: Individuals or Households.

Estimated Annual Burden: 10,000 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 120,000 respondents.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–00978 Filed 1–19–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0704]

Agency Information Collection (VA/DOD Joint Disability Evaluation Claim) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before February 19, 2016.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0704'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0704.''

SUPPLEMENTARY INFORMATION:

Title: VA/DOD Joint Disability Evaluation Claim.

OMB Control Number: 2900–0704.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 21–0819 is used to determine an injured or ill Global War on Terrorism (GWOT) service member's military readiness fitness for military retention, level of disability for retirement, and VA Disability Compensation.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 80 FR 26648 on October 21, 2015.

Affected Public: Individuals or Households.

Estimated Annual Burden: 7,000 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 14,000 respondents.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–00981 Filed 1–19–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0743]

Agency Information Collection (Pre-Discharge Compensation Claim) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before February 19, 2016.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov*. Please refer to ''OMB Control No. 2900–0743'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov*. Please refer to ''OMB Control No. 2900–0743'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Pre-Discharge Compensation Claim (VA Form 21–526c).

OMB Control Number: 2900–0743.

Type of Review: Revision of a currently approved collection.

Abstract: The Pre-Discharge Compensation Claim is used by service members to file claims under the Benefits Delivery at Discharge or Quick Start programs under Title 38 U.S.C. 5101(a). Without this information, VA would be unable to effectively administer this law.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 80 FR 203 on October 21, 2015.

Affected Public: Individuals or Households.

Estimated Annual Burden: 40,250 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 161,000.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–00982 Filed 1–19–16; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 81 Wednesday,
No. 12 January 20, 2016

Part II

Federal Housing Finance Agency

12 CFR Part 1263
Members of Federal Home Loan Banks; Final Rule

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1263

RIN 2590–AA39

Members of Federal Home Loan Banks

AGENCY: Federal Housing Finance Agency.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Agency (FHFA) has adopted a final rule revising its regulations governing Federal Home Loan Bank (Bank) membership. The final rule adopts several key revisions included in the Notice of Proposed Rulemaking. These revisions will prevent the circumvention of the statute's membership restrictions by ineligible entities using captive insurers as conduits for Bank membership by defining the term ''insurance company'' to exclude captive insurers, thereby making them ineligible for Bank membership; permit any Bank that has admitted captives to membership a transition period within which to wind down its affairs with those entities; require a Bank to obtain and review an insurance company's audited financial statements when considering its application for membership; clarify the standards by which a Bank is to determine the ''principal place of business'' for its members, including specific standards for insurance companies and community development financial institutions; and remove obsolete provisions and make numerous non-substantive textual revisions so as to provide greater clarity. The final rule does not implement the proposed rule's provisions with respect to continuing eligibility requirements, in order, as explained below, to avoid compliance burdens that may outweigh the benefits. The specific revisions made, and the rationale for making them, are set forth in the **SUPPLEMENTARY INFORMATION** below.

DATES: *Effective Date:* February 19, 2016.

FOR FURTHER INFORMATION CONTACT: Eric M. Raudenbush, Assistant General Counsel, Office of General Counsel, *Eric.Raudenbush@fhfa.gov,* (202) 649–3084; or Julie Paller, Senior Financial Analyst, Supervisory and Regulatory Policy, Division of Bank Regulation, *Julie.Paller@fhfa.gov,* (202) 649–3201 (not toll-free numbers), Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20219. The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. Overview of the Existing Bank Membership Requirements

1. Statutory Requirements

The Federal Home Loan Bank System (Bank System) consists of eleven district Banks and the Office of Finance. The Banks are wholesale financial institutions, organized under authority of the Federal Home Loan Bank Act (Bank Act) to serve the public interest by enhancing the availability of residential housing finance and community lending credit through their member institutions and, to a very limited extent, through certain eligible nonmembers.[1] Each Bank is structured as a regional cooperative in that it is owned and controlled by member institutions located within its district, which are its primary customers.[2]

The Banks carry out their public policy function primarily by providing low cost loans, known as advances, to their members. These must be fully secured by one or more specific types of collateral, including residential mortgage loans and residential mortgage-backed securities, but also government securities, cash, other real estate related collateral, and, in some cases, secured small business, agriculture, or community development loans, or securities backed by such loans.[3] In most cases, Bank members must use the proceeds of long-term advances (that is, advances with an original term to maturity of more than five years) to fund residential housing finance, although, since 1999, smaller bank and thrift members have also been permitted to obtain long-term advances to fund small business and community development activities.[4] Bank members may use the proceeds of shorter-term advances for any business purpose. The Banks also may provide members with a limited range of other products and services, such as they provide through the ''acquired member asset'' (AMA) programs, under which they may purchase qualifying residential mortgage loans from their members or facilitate the sale of such loans to third-party investors.[5]

The Banks fund their operations principally through the issuance of consolidated obligations (COs), which are debt instruments issued on their behalf by the Office of Finance (a joint office of the Banks) and on which all of the Banks are jointly and severally liable.[6] Congress has vested in the Banks market advantages designed to enable them to raise funds in the capital markets at interest rates only slightly higher than those on comparable Treasury instruments. These government-sponsored entities have various advantages, which include, among other things: The exemption of the Banks' corporate earnings and the earnings on their COs from state and federal income taxes;[7] the classification of the Banks' COs as ''exempted securities'' under the Securities Act of 1933 and as ''government securities'' under the Securities Exchange Act of 1934;[8] and the authority of the U.S. Department of the Treasury (Treasury Department) to purchase up to $4 billion in COs under certain circumstances and the fact that Congress has occasionally granted it authority to purchase higher amounts during periods of financial crisis.[9] These market advantages were designed to enable the Banks to provide low-cost wholesale funding to their member institutions so that, in turn, those members could provide long-term home mortgage loans to consumers at a reasonable cost. These advantages accrue not only to consumers, but also to the members themselves, which benefit from a lower cost of funds that makes those institutions more competitive in their markets as compared with non-members who do not have access to such low-cost wholesale funding.

In line with the public policy goals underlying the creation of the Banks

[1] *See* 12 U.S.C. 1423, 1431(e), 1432(a). *See also Fahey* v. *O'Melveny & Myers,* 200 F.2d 420, 446 (9th Cir. 1952) (stating that a Bank is ''a federal instrumentality organized to carry out public policy''); *ADAPSO* v. *FHLBB,* 568 F.2d 478, 480 (6th Cir. 1977) (stating that the Banks remain federal instrumentalities although their stock is now held entirely by private entities). In addition to advances to members, the Bank Act also authorizes the Banks to make advances to nonmember mortgagees, including state housing finance agencies, that have been approved under title II of the National Housing Act, 12 U.S.C. 1707, *et seq.,* and that meet certain additional requirements. *See* 12 U.S.C. 1430b. These entities are referred to as ''housing associates'' in FHFA's regulations. *See* 12 CFR 1201.1, 1264.1–.6, 1266.16–.17.

[2] Specifically, only members may own the capital stock of a Bank, 12 U.S.C. 1426(a)(4)(B), all members are required to maintain a minimum investment in Bank stock, 12 U.S.C. 1426(c)(1), each Bank is managed by a board of directors that is elected by its members, *see* 12 U.S.C. 1427(a), (b), (c), and (with limited exceptions noted in footnote 1 above) only members may obtain advances and access other products and services provided by a Bank, *see* 12 U.S.C. 1429, 1430(a)(1), 1430b.

[3] 12 U.S.C. 1430(a)(3).

[4] *See* 12 U.S.C. 1430(a)(2).

[5] *See* 12 CFR part 955.

[6] *See* 12 U.S.C. 1431; 12 CFR part 1270.

[7] *See* 12 U.S.C. 1433.

[8] *See* 12 U.S.C. 1426a(c)(2).

[9] *See* 12 U.S.C. 1431(i), (*l*).

and in conjunction with its decision to provide the Banks, and consequently their members, with the market advantages described above, Congress made a decision to limit eligibility for Bank membership to the types of financial institutions listed in section 4(a) of the Bank Act. When the statute was originally enacted in 1932, these included thrift institutions of various types that existed at the time (*i.e.,* building and loan associations, savings and loan associations, cooperative banks, homestead associations, and savings banks), as well as insurance companies. Since 1932, Congress has amended section 4(a) to expand the list of institutions that may be eligible for Bank membership only three times, adding federally insured depository institutions in 1989,[10] non-depository Community Development Financial Institutions (CDFIs) in 2008,[11] and non-federally insured credit unions in 2015.[12] Today, because most depository institutions (including the types of thrifts listed in section 4(a)) are now federally insured, essentially four types of institutions may be eligible for membership: (1) Federally insured depository institutions (including banks and thrifts whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC) and credit unions whose deposits are insured by the National Credit Union Administration (NCUA)); (2) insurance companies; (3) CDFIs that are certified by the Community Development Financial Institutions Fund of the Treasury Department; and (4) non-federally insured credit unions meeting certain statutory criteria. Entities that do not fall within one of those categories are ineligible for Bank membership.

While qualifying as one of those enumerated types of institutions is one prerequisite for membership eligibility, an institution must meet several other requirements set forth in section 4 of the Bank Act in order to obtain membership. Section 4(a)(1) of the Bank Act requires that an institution, regardless of type: (A) Be duly organized under the laws of any state or the United States; (B) be subject to inspection and regulation under banking, or similar, laws of a state or the United States; and (C) ''makes such home mortgage loans as, in the judgment of the Director [of FHFA], are long-term loans.'' [13] An institution that fails to satisfy any of those requirements is not eligible for Bank membership. (Hereinafter, those requirements are referred to as the ''duly organized,'' ''subject to inspection and regulation,'' and ''makes long-term home mortgage loans'' requirements, respectively).

Section 4(a)(2) of the Bank Act imposes additional eligibility requirements on insured depository institutions that were not members of a Bank as of January 1, 1989. These require that any such institution: (A) Have at least 10 percent of its total assets in ''residential mortgage loans''; (B) be in a financial condition such that advances may be safely made to it; and (C) show that the character of its management and its home-financing policy are consistent with sound and economical home financing.[14] (Hereinafter, those requirements are referred to as the ''10 percent,'' ''financial condition,'' ''character of management,'' and ''home financing policy'' requirements, respectively). However, section 4(a)(4) exempts from the ''10 percent'' requirement any ''community financial institution'' (CFI),[15] which the statute defines as an FDIC-insured depository institution with less than $1 billion in average total assets (adjusted annually for inflation) over the preceding three years.[16]

2. FHFA's Existing Bank Membership Regulation

FHFA's regulation on Bank membership, located at 12 CFR part 1263, specifies how and when an institution must demonstrate compliance with each of the statutory membership eligibility requirements and otherwise implements those requirements. The regulation also establishes requirements relating to the membership application process, determination of the appropriate Bank district for membership, members' purchase and redemption of Bank capital stock, and voluntary or involuntary termination and reacquisition of membership.

The regulation requires all insured depository institutions, insurance companies, and CDFIs to meet six requirements in order to be considered eligible for membership: The ''duly organized,'' ''subject to inspection and regulation,'' [17] and ''makes long-term home mortgage loans'' requirements, which by statute apply to all types of institutions; and the ''financial condition,'' ''character of management,'' and ''home financing policy'' requirements, which FHFA and its predecessor agency, the Federal Housing Finance Board (Finance Board), have applied by regulation to all institutions as a matter of safety and soundness.[18] Paralleling the statute, the membership regulation requires that non-CFI depository institutions also meet the ''10 percent'' requirement in order to be eligible for membership, but does not extend that requirement to CFIs, CDFIs or insurance companies.[19] However, the regulation does require institutions that are not insured depository institutions (*i.e.,* insurance companies and CDFIs) to have ''mortgage-related assets'' that ''reflect a commitment to housing finance'' in order to be considered eligible.[20]

For each of the six general eligibility requirements and for the ''10 percent'' requirement, part 1263 includes at least one separate section specifying in more detail how a Bank that is considering an institution's application for membership is to determine whether the applicant satisfies the requirement.[21] An applicant that meets the criteria of any of those more detailed provisions is deemed to be in compliance with the corresponding statutory eligibility requirement, although that presumption

[10] *See Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA),* Public Law 101–73, § 704, 103 Stat. 183, 415 (1989).

[11] *See Housing and Economic Recovery Act of 2008,* Public Law 110–289, § 1206, 122 Stat. 2654, 2787 (2008). CDFI credit unions were eligible for Bank membership prior to 2008 due to their status as insured depository institutions.

[12] On December 4, 2015, the President signed into law an amendment to section 4(a) of the Bank Act that allows any non-federally insured credit union meeting certain specified criteria to be treated as an ''insured depository institution'' for purposes of determining its eligibility for Bank membership. *See Fixing America's Surface Transportation Act,* Public Law 114–94, § 82001 (2015). This final rule does not implement or otherwise address that recent statutory amendment. To the extent that regulatory revisions are necessary or appropriate to implement the amendment, they must be the subject of a separate rulemaking.

[13] 12 U.S.C. 1424(a)(1). In lieu of being subject to inspection and regulation by a state or federal regulator, a CDFI applicant must be certified as a CDFI by the Treasury Department. *See* 12 U.S.C. 1424(a)(1)(B).

[14] 12 U.S.C. 1424(a)(2).

[15] 12 U.S.C. 1424(a)(4).

[16] 12 U.S.C. 1422(10)(A). By statute, FHFA must annually adjust the $1 billion CFI asset limit for inflation. 12 U.S.C. 1422(10)(B). The inflation-adjusted CFI limit for 2015 was $1.123 billion. *See* 80 FR 6712 (Feb. 6, 2015).

[17] As provided in the statute, an institution certified as a CDFI by the Treasury Department's CDFI Fund is deemed to have met the ''subject to inspection and regulation'' requirement by virtue of that certification. *See* 12 CFR 1263.6(a)(2), 1263.8.

[18] 12 CFR 1263.6(a).

[19] 12 CFR 1263.6(b).

[20] 12 CFR 1263.6(c). The regulation does not define the term ''mortgage-related assets.''

[21] *See* 12 CFR 1263.7–1263.18. In the case of the ''financial condition'' requirement, there are two such sections—one (§ 1263.11) setting forth the specific criteria for insured depository institutions and another (§ 1263.16) setting forth the specific criteria for insurance companies and CDFIs. There are also separate sections setting forth specific criteria for determining all of the eligibility requirements for recently chartered insured depository institutions (§ 1263.14) and for determining some of the eligibility requirements for recently consolidated institutions of any type (§ 1263.15).

may be rebutted if the Bank obtains substantial evidence to the contrary.[22] Conversely, an applicant that does not meet the criteria of the more detailed provisions is presumed to be out of compliance with the corresponding statutory eligibility requirements. With respect to several of the requirements, the presumption of non-compliance can be rebutted if certain additional criteria are met.[23] However, the presumption of non-compliance arising from failure to meet the criteria for the ''makes long-term home mortgage loans,'' and ''10 percent'' requirements (as well as the ''duly organized'' requirement) is conclusive and may not be rebutted.

In the case of the ''10 percent'' requirement, the regulation deems any insured depository institution to which that statutory requirement applies to have satisfied that requirement if, at the time of its application for Bank membership, its most recently filed regulatory financial report indicates that it has at least 10 percent of its total assets in ''residential mortgage loans.'' [24] In contrast to the ''10 percent'' requirement, neither the Bank Act nor the regulation establishes a quantitative standard for determining compliance with the ''makes long-term home mortgage loans'' requirement. The regulation deems an institution to have satisfied that statutory requirement if, at the time of its application for Bank membership, its most recently filed regulatory financial report demonstrates that it originates or purchases long-term home mortgage loans.[25] The regulation does not specify the level of activity that is needed to meet the requirement. The membership regulation does not require a Bank to determine an institution's compliance with either the ''10 percent'' or ''makes long-term home mortgage loans'' requirement once that institution has become a Bank member.

B. FHFA's Review of the Membership Regulation

This final rule is one of the results of a continuing review of FHFA's Bank membership regulation that the Agency began in 2010. Most of the fundamental aspects of the existing membership regulation were adopted as part of two rulemakings undertaken by the Finance Board in the mid-1990s.[26] Although the membership regulation was subsequently amended several times (in some cases to make important substantive changes [27]), until 2010 there had been no comprehensive review of the regulation as a whole since it was amended to grant the Banks the authority to approve or deny membership applications in 1996. FHFA's decision to undertake such a review was prompted in part by the evolution of the financial services industry in the intervening years, which had given rise to a number of issues that the existing regulation either did not address or addressed inadequately. The goal of this review, which is ongoing, has been to determine whether the existing regulatory provisions continue to effectively implement the requirements of the Bank Act and the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) and to fulfill the purposes underlying those requirements. FHFA has also sought to determine whether certain provisions that do not need substantive revision should nonetheless be revised to address questions that have arisen about their application, or simply to read more clearly or conform more closely to the style, structure and nomenclature FHFA now uses in its other regulations.

In December 2010, after FHFA had completed an initial review of the membership regulation, the Agency published an Advance Notice of Proposed Rulemaking (ANPR) in which it requested comments on a number of issues.[28] Primary among those issues was whether the existing regulation was effectively implementing the statutory ''10 percent,'' ''makes long-term home mortgage loans,'' and ''home financing policy'' eligibility requirements. The ANPR asked whether it would be appropriate to establish more objective and quantifiable standards for either of the latter two requirements and whether any or all of those requirements should be revised to explicitly apply on a continuing basis, rather than only at the time of admission to membership. The ANPR also requested comment on other issues, including whether, in light of FHFA's supervisory concerns about the acceptance of so-called ''captive'' insurers as members by several Banks, the Agency should amend the regulation to exclude such entities from Bank membership. FHFA received 137 comment letters in response to the ANPR, almost all of which opposed revising the membership regulation in any of the ways discussed in the notice. However, because very few of those letters provided detailed responses to the questions FHFA asked, the Agency continued to study the issues and ultimately decided to proceed with a Notice of Proposed Rulemaking (proposed rule).

C. The Proposed Rule

FHFA published a proposed rule in the **Federal Register** on September 12, 2014.[29] It proposed to make two fundamental changes to the Bank membership regulation, as well as several other substantive, but less fundamental, changes, and numerous non-substantive revisions to clarify various existing regulatory provisions.

First, the proposed rule would have revised the regulation to require that an institution hold at least one percent of its assets in home mortgage loans in order to be deemed to satisfy the statutory ''makes long-term home mortgage loans'' requirement and to require that each Bank member comply

[22] 12 CFR 1263.17(a).

[23] *See* 12 CFR 1263.17(b) through (f).

[24] The regulation defines the term ''residential mortgage loan,'' which the statute does not define, to include generally all assets that qualify as home mortgage loans (*see* definition in footnote 25 below), regardless of whether the underlying loans are ''long-term'' or not, plus loans secured by junior liens on one-to-four family property or multifamily property, loans secured by manufactured housing, funded residential construction loans, and mortgage pass-through securities representing an ownership interest in, or mortgage debt securities secured by, any of those types of assets. 12 CFR 1263.1.

[25] 12 CFR 1263.9. The Bank Act defines the term ''home mortgage loan'' to mean ''a loan made by a member upon the security of a home mortgage.'' 12 U.S.C. 1422(4). In turn, the statute defines the term ''home mortgage'' to mean a first mortgage, or its equivalent, upon real estate on which one or more homes or dwelling units are located. 12 U.S.C. 1422(5). The existing regulation supplements the statutory definition of ''home mortgage loan'' by defining the term generally to include any loan or interest in a loan that is secured by a first lien mortgage or any mortgage pass-through security that represents an undivided ownership interest in such loans or in another security that represents an undivided ownership interest in such loans. 12 CFR 1263.1. The regulation also defines the term ''long-term,'' which the statute does not define, to mean ''a term to maturity of five years or greater.'' *See id.*

[26] In 1993, the Finance Board adopted a new membership regulation in order to implement the revisions to the statutory membership requirements made by FIRREA in 1989. *See* 58 FR 43522 (Aug. 17, 1993). Most of the existing material addressing the general eligibility requirements (now located in § 1263.6), the stock requirements (§§ 1263.19–1263.23), and membership withdrawal, termination, and readmission requirements (§§ 1263.24–1263.30) was adopted at that time. A 1996 rulemaking made significant revisions and additions to the regulation in order to authorize the Banks to approve or deny all membership applications. *See* 61 FR 42531 (Aug. 16, 1996). Prior to that time, the Finance Board had the ultimate authority to approve or deny membership applications, although it had delegated some of that decision-making authority to the Banks in the case of institutions meeting certain ''safe harbor'' criteria. Most of the existing material regarding the application process (§§ 1263.2–1263.5) and the rebuttable presumptions that apply to the various eligibility requirements (§§ 1263.7–1263.18) were adopted as part of the 1996 rulemaking.

[27] For example, the regulation was amended in 2000 to implement the new statutory exemption of CFIs from the ''10 percent'' requirement, *see* 65 FR 13866 (Mar. 15, 2000), and in 2010 to implement the statutory amendments making non-depository CDFIs eligible for membership, *see* 75 FR 678 (Jan. 5, 2010).

[28] *See* 75 FR 81145 (Dec. 27, 2010).

[29] *See* 79 FR 54848 (Sept. 12, 2014).

with that ''one percent'' requirement and, where applicable, with the ''10 percent'' requirement on an ongoing basis as a condition of remaining a member. The proposed rule would have required each Bank to determine member compliance with those ongoing requirements annually, using data from members' regulatory financial reports where possible, to calculate the relevant ratios based on a three-year rolling average. Members found to be out of compliance with either requirement would have been given one year to return to compliance. As proposed, the rule would have required a Bank to terminate the membership of any institution that remained out of compliance for two consecutive years.

Second, the proposed rule sought to address the growing use of captive insurers as vehicles through which parent companies not meeting the membership eligibility requirements of the Bank Act could circumvent those requirements and gain access to low-cost Bank advances to fund their own operations and investments.[30] Several real estate investment trusts (REITs), which are not eligible for Bank membership, had established captive subsidiaries that became Bank members and then obtained advances that were disproportionately large in comparison with the investments and operations of the captives themselves, and additional REITs and other ineligible entities were seeking to do the same. This, combined with the facts that many of the parents were guaranteeing repayment of the advances made to their captive subsidiaries and providing the collateral for those advances, led FHFA to the conclusion that the real purpose of those arrangements was to provide the non-member REITs with access to Bank funding to which they were not legally entitled.

The proposed rule would have addressed this supervisory concern by defining the term ''insurance company''—which is not defined in either the Bank Act or the existing regulation—to exclude captives, thereby rendering those types of entities ineligible for Bank membership. Specifically, the proposed rule would have defined ''insurance company'' to mean ''a company whose primary business is the underwriting of insurance for nonaffiliated persons or entities.'' A typical captive, whose primary business is the underwriting of insurance for its parent company or for other affiliates, would not be included within the scope of the proposed definition of ''insurance company.'' Because, as discussed above, the Bank Act and the membership regulation limit eligibility for Bank membership to institutions that qualify as an insured depository institution, a CDFI, or an insurance company, defining ''insurance company'' to exclude captives effectively removes such entities from among the types of institutions that may be eligible for membership.

Although the proposed rule would have made all captives ineligible for membership, it would have permitted any captive that had been admitted to membership prior to the publication date of the proposed rule to remain a member of its current Bank for five years following the effective date of the final rule. However, the rule would have capped the amount of advances that a Bank could have outstanding to such a member at 40 percent of the member's total assets and prohibited a Bank from making a new advance, or renewing an existing advance, with a maturity date beyond the five-year grace period. As proposed, the regulatory text would not have explicitly addressed the treatment of any captives that a Bank may have admitted to membership on or after the date on which the proposed rule was published. FHFA stated in the **SUPPLEMENTARY INFORMATION** to the proposed rule, however, that it would interpret the regulation to require the immediate termination of such captives' membership and the prompt liquidation of any outstanding advances.

The proposed rule also would have made several other substantive, but less fundamental, changes: (1) To expand the list of assets that qualify as ''home mortgage loans'' to include all types of mortgage-backed securities (MBS) (as opposed to only mortgage pass-through securities) that are fully backed by qualifying whole loans; (2) to require that a Bank examine an insurance company applicant's most recent audited financial statements in determining whether it meets the ''financial condition'' eligibility requirement; and (3) to revise the existing regulation and add a new provision addressing how a Bank should determine the ''principal place of business'' (and, therefore, the appropriate Bank district for membership) for insurance companies or CDFIs. In addition to those primary revisions, FHFA also proposed to make a number of conforming changes necessary to integrate the new requirements into the regulation and to make numerous non-substantive revisions to clarify various regulatory provisions.

D. Overview of Comments on the Proposed Rule

The proposed rule initially provided for a comment period of 60 days, but, in response to numerous requests, FHFA extended the comment period to 120 days.[31] The extended comment period closed on January 12, 2015, and FHFA received over 1,300 comment letters in response to the proposed rule. Nearly 60 percent of the comment letters came from bank and thrift institutions and related trade associations; about 12 percent came from credit unions and related trade associations. The remainder of the letters were from the Banks (all of which sent more than one letter), insurance companies, CDFIs, affordable housing agencies and organizations, various types of community support organizations, home builders, REITs, public officials, and others. About two-thirds of all letters were versions of one form letter template or another.

Few of the comment letters expressed support for any aspect of the proposed rule, and the vast majority expressed opposition to, or requested that FHFA withdraw, the entire rule. The most commonly expressed concerns arose from a belief that the rule, if implemented, would result in the Banks having fewer members on average and that this, in turn, would result in a reduction in their income. This, commenters contended, would compromise the Banks' ability to act as reliable sources of liquidity, inhibit their ability to carry out their housing

[30] A captive is a special-purpose insurer formed primarily to underwrite the risks of its parent company or affiliated companies. A typical captive resembles a traditional commercial insurance company in that it is licensed under state law, sets premiums and writes policies for the risks it underwrites, collects premiums, and pays out claims. The biggest difference between a captive insurer and a commercial insurance company is that a captive does not sell insurance to the general public. In 1972, Colorado became the first state in the U.S. to enact legislation recognizing and governing captives as a class of entity distinct from commercial insurance companies. To date, over 30 states and the District of Columbia have enacted such captives-specific statutes. Primarily because captives do not sell insurance to the general public, these state statutes establish standards for the formation, licensing, operation, and supervision of captives that are generally less onerous than either the state statutory regimes that apply to commercial insurance companies or the state and federal laws under which depository institutions are chartered, operated, and supervised. *See* Frank Seneco, Wesley Sierk & Evan Jehle, *Do-It-Yourself Insurance,* Private Wealth Magazine, July/Aug. 2014, at 21–22, *http://www.fa-mag.com/news/do-it-yourself-insurance-18548.html?issue=230* (last visited Dec. 8, 2015); *see also* National Association of Insurance Commissioners, Captive and Special Purpose Vehicle Use Subgroup of the Financial Condition Committee, *Captives and Special Purpose Vehicles—An NAIC White Paper* (June 6, 2013), *http://www.naic.org/store/free/SPV-OP-13-ELS.pdf* (last visited Dec. 8, 2015).

[31] *See* 79 FR 60384 (Oct. 7, 2014).

finance and community development mission, and reduce the amount of funds available for their Affordable Housing Programs and Community Investment Cash Advance programs. However, few of the commenters expressing these views provided factual support for their opinions or attempted to quantify the effects they believed the rule would have on the Banks' operations.

FHFA reviewed every comment letter and considered all of the comments in developing the final rule. The primary comments regarding each of the substantive aspects of the proposed rule, as well as FHFA's responses to some of those comments, are discussed immediately below. Comments addressing specific rule provisions are discussed in part III of this **SUPPLEMENTARY INFORMATION**, which describes the final rule in detail and the ways in which it differs from the proposed rule.

1. Comments on the Proposed Ongoing Asset Ratio Requirements

Over 800 of the comment letters addressed FHFA's proposal to measure compliance with the ''makes long-term home mortgage loans'' requirement based on a quantitative standard and to apply that quantitative requirement to members on an ongoing basis. Over 600 of the letters addressed the proposal to apply the ''10 percent'' requirement to members on an ongoing basis. Almost all of the commenters addressing those proposals were opposed to the proposed revisions. Approximately 66 percent of those opposed to the ongoing quantitative ''makes long-term home mortgage loans'' requirement and approximately 51 percent of those opposed to the ongoing ''10 percent'' requirement stated that managing their balance sheets for compliance would hinder members' business by putting them in the position of choosing between optimal balance sheet management and continued access to their Banks as a source of liquidity. About half of the commenters opposed to the proposed revisions stated that members would be harmed by losing membership in the Bank System and about half also cited concerns regarding the additional regulatory burden on members.

As further objections to the proposal, commenters also stated, among other things, that the proposal would create a significant operational burden on the Banks because the member financial information required to determine compliance with the ongoing requirements is not perfectly aligned with specific call report line items; the proposal would provide little or no benefit to the Bank System; members could never be certain that FHFA would not increase the quantitative requirements in the future; the proposed ongoing requirements would reduce membership levels at the Banks; the current regulations and collateral requirements already ensure that members maintain a nexus to the Banks' housing finance mission; the proposed ongoing requirements have no foundation in the Bank Act or its legislative history; and the requirements do not take into account that financial services organizations are often structured such that they hold mortgages and mortgage securities in various entities within their corporate organization for a range of business reasons.

Commenters also expressed concerns specific to the proposal to make the ''10 percent'' requirement ongoing, including that CFIs with total assets approaching the CFI threshold amount might forego acquiring another institution or reduce other activities that could grow their business solely because doing so would push their asset size above the CFI threshold and thus make them immediately subject to the ''10 percent'' requirement. In addition, some commenters expressed concern that, because the Bank Act does not exempt smaller credit unions from the ''10 percent'' requirement as it does for small banks and thrifts, the proposed changes would impose a disproportionately greater compliance burden on small credit unions than they would on small banks and thrifts.

Having reviewed all of the comment letters addressing the proposed ongoing asset ratio requirements, FHFA has decided not to include those revised requirements in the final rule. The Agency's research indicates that over 98 percent of current members likely would be in compliance with both proposed requirements (as applicable). This suggests that, for the time being, FHFA can address its supervisory concerns about members abandoning their commitment to housing finance by continuing to monitor the levels of residential mortgage assets held by members.

FHFA also recognizes that establishing a system to monitor members' compliance with the proposed ongoing asset ratio requirements could pose an additional incremental burden on the Banks and their members, particularly on members whose asset ratios are close to the required minimums. FHFA also carefully considered the comments received from the credit union industry, which contended that the proposed ongoing ''10 percent'' requirement would impose a disproportionate burden on small credit unions because they cannot qualify as CFIs. That view is consistent with the Agency's recent research, which indicates that, of the current members that would not meet an ongoing ''10 percent'' requirement, about 68 percent of them would be small credit unions.

Although FHFA has determined not to adopt the ongoing asset ratio requirements as part of the final rule, the Agency believes that members' ongoing commitment to housing finance is important to ensuring fidelity to the Bank Act and the purposes for which the Bank System was established and that the issue warrants continued monitoring going forward. FHFA therefore will continue to monitor this issue carefully and may revisit the issue in the future should its monitoring reveal a need for further action. Any such action would be undertaken through a separate rulemaking, with prior notice to, and an opportunity for comments from, all interested parties.

2. Comments on the Proposed Exclusion of Captives From Membership

About 400 of the comment letters addressed FHFA's proposal to exclude captives from Bank membership to some degree, with about 60 of those letters treating the issue in some depth. Almost all of the letters expressed opposition to all aspects of the captives proposal and none expressed support for the overall proposal. Almost all of the commenters' specific arguments in opposition to the captives proposal fell into two general categories: (1) That FHFA does not have the legal authority to implement the proposal; and (2) that the proposal is flawed from a policy perspective. Many commenters included arguments falling into both categories in their letters.

A few of the comment letters expressed no opposition to the proposal, but suggested some clarifying textual revisions. One commenter explicitly supported the idea of excluding REIT-controlled captives from membership, stating that, because REITs are uninsured, they pose ''unnecessary risks'' to the Bank system and, because REITs already benefit from tax preferences, it is questionable public policy to allow them access to the lower cost funding the Banks provide. However, that commenter was opposed to the exclusion of captives controlled by other types of entities.

a. Comments on FHFA's Legal Authority To Implement the Captives Proposal

Commenters who expressed legally based objections to the captives proposal made three types of arguments in support of those objections: (1) FHFA lacks the legal authority to define the term ''insurance company'' to exclude captives; (2) irrespective of its general authority, FHFA cannot legally exclude all captives from membership as proposed because the proposal lacks a factual basis, arbitrarily singles out captives, or is overly broad; and (3) in any event, FHFA lacks the legal authority to terminate or require termination of a captive member. These three general categories, including most of the specific legal arguments offered within those categories, are addressed in turn below.

The general legal argument expressed most frequently in the comment letters was that FHFA lacks the legal authority to define the term ''insurance company'' to exclude captives. Many commenters stated that, because ''insurance company'' is not defined in the statute, the term must be given what they believe to be its plain meaning—*i.e.,* that a captive must be considered to be an ''insurance company'' under the Bank Act, apparently because it is chartered or licensed under state insurance laws. Because a captive is considered to be an ''insurance company'' under the laws of the states that have captive insurance statutes, these commenters argued, FHFA has no authority to interpret the term any differently for purposes of the Bank Act, and thus cannot exclude captives from the category of ''insurance company'' as used in the Bank Act. In support of this argument, several commenters specifically cited the federal McCarran-Ferguson Act,[32] which reserves to the states the authority to regulate and tax the business of insurance, except in cases where Congress has adopted a statutory provision that explicitly provides otherwise.

Numerous commenters argued that FHFA's proposal to define ''insurance company'' to exclude captives from membership is outside the Agency's authority because it runs contrary to Congress's clear intent regarding the meaning of the term and the scope of Bank membership. In this vein, many cited the fact that the Bank Act provides that ''any'' insurance company may be eligible for membership as evidence of Congress's unambiguous intent to prohibit the Bank System regulator from narrowing the scope of the term to exclude any entity chartered as any type of insurance company. Others disputed FHFA's assertion in the proposed rule that in 1932 Congress could not have contemplated that the term ''insurance company'' would include captives because they did not exist at that time. These commenters contended that the concept of ''self-insurance'' has existed for hundreds of years and that other types of self-insurance vehicles did exist in 1932, although they were not at that time referred to as ''captives.'' Several commenters also noted that Congress has never acted to exclude captives from membership, despite the fact that an increasing number of states have adopted captive insurance statutes since the first such statutes were enacted domestically in the 1970s. Finally, many commenters cited Congress's decision to extend eligibility for Bank membership to commercial banks and credit unions in 1989 and to CDFIs in 2008 as evidence of its intent to effect ''an inclusive and expansive approach'' to membership and characterized FHFA's attempt to exclude captives from membership as running counter to that intent.

In addition to the broader assertions that FHFA lacks any authority to interpret the scope of the term ''insurance company'' as not including captives, numerous commenters argued, more narrowly, that the Agency cannot legally implement the specific approach set forth in the proposed rule because it lacks any factual basis to justify that approach. Many of the commenters advancing such arguments mischaracterized the Agency's proposal to exclude captives as being based primarily on either safety and soundness concerns or a view that captives (or their parents) do not support housing finance. Those making such mischaracterizations asserted, and in some cases cited specific evidence, that the assumptions underlying those purported bases are erroneous. Others, who correctly characterized FHFA's primary goal as being to prevent the circumvention of the statute by ineligible entities, such as REITs, that have formed captives for the express purpose of gaining access to Bank funding to which they are not legally entitled, argued that the proposed rule provided no evidence to show a factual basis for those concerns.

Some commenters argued that, even if FHFA has a legitimate factual basis for its concerns regarding the ability of ineligible entities to obtain indirect access to Bank funding through eligible subsidiaries, the Agency's decision to focus only on the exclusion of captives in the proposed rule is arbitrary because it disregards the possibility that other types of members could be utilized for a similar purpose.

While commenters advancing the foregoing argument asserted that the proposed prohibition would be too narrow, others asserted that it would be overly broad. Commenters taking the latter view contended that, if FHFA wishes to prevent entities that are not eligible for Bank membership from using captives to access Bank funding, then it should exclude from membership only captives that are owned by ineligible entities or, even more narrowly, only captives that FHFA has determined are actually being used as a funding conduit for an ineligible parent.

Finally, a number of commenters, while not conceding that FHFA has the authority to prevent the Banks from accepting captives as new members going forward, argued specifically that the Agency may not terminate, or require the Banks to terminate, captives that have already been approved for membership under the existing regulations. In support of this contention, several commenters noted that, while the Bank Act at one time explicitly authorized the Bank System regulator to require a Bank to terminate a member in certain circumstances, Congress removed this explicit authorization in 1999.

Another commenter who focused on FHFA's comments in the proposed rule **SUPPLEMENTARY INFORMATION** regarding the possibility that captive membership may pose unique safety and soundness issues asserted that those concerns could not serve as a basis for requiring the termination of captive members until the Agency had taken the steps required by section 8 of the Bank Act.[33] Specifically, the commenter asserted that section 8 of the Bank Act requires FHFA, if it believes that any of the state laws under which captives are regulated give rise to safety and soundness concerns, to undertake a study of those laws and that only after concluding that a state's laws fail to provide adequate protection to the Banks may FHFA restrict the membership of otherwise eligible members in that state.

One commenter asserted that termination of existing captive members would give rise to a ''takings'' claim against the United States in that it would deprive former captive members of their right to a pro rata share of the retained earnings of their former Banks and of access to Bank advances and other products and services without adequate compensation. The commenter

[32] 15 U.S.C. 1011–1015.

[33] 12 U.S.C. 1428.

argued that, therefore, such termination is prohibited under a ruling by the U.S. Court of Appeals for the D.C. Circuit that no federal agency may adopt a rule that would give rise to a ''takings'' claim against the United States unless it is expressly authorized it to do so by statute.[34]

b. Comments Asserting That the Proposal Is Flawed From a Policy Perspective

While many of the commenters did not address FHFA's legal authority to implement the proposed exclusion of captives from membership, almost all of the commenters asserted that doing so would represent a poor policy choice. The arguments made in support of commenters' policy-based objections focused primarily on issues of (1) safety and soundness, (2) mission achievement, and (3) the financial health of the Banks, their members, and the overall residential mortgage market.

Again focusing on FHFA's comments regarding the possibility that captive membership may pose unique safety and soundness issues, numerous commenters argued that captives do not pose safety and soundness risks that are materially greater than or different from those posed by other types of members. These commenters offered a number of contentions in support of this argument, including that captives are subject to regulatory regimes that are generally the same as those that apply to traditional insurers and are supervised in a similar fashion; captives have a lower rate of insolvency and default than traditional insurers because they tend to be over-capitalized and operated conservatively so as to ensure that they will be able to pay the claims of their owners; and Banks have been admitting captives as members for over 20 years and have experienced no losses on advances to captive members. Other commenters asserted that to the extent that captives may present unique safety and soundness concerns, those concerns can be addressed with more targeted requirements, such as requiring captive members to meet special seasoning requirements, minimum capital levels, or maximum leverage ratios. Still others contended that the Banks already have sufficient processes and procedures to manage any additional risk that captives may pose.

Many commenters urged FHFA to continue to allow captives—particularly those controlled by REIT parents—to be admitted to Bank membership, stressing that mortgage REITs' substantial commitment to the residential mortgage market in the U.S. is consistent with the mission of the Banks. Going further, many argued that, contrary to the approach taken in the proposed rule, FHFA should actually encourage membership approval for REIT-controlled captives as a means of increasing the level of private capital in the residential mortgage market. Several of these commenters asserted that the collateral requirements applying to Bank advances would tend to dissuade entities whose business practices are not consistent with the housing finance mission of the Banks from forming captives in order to gain access to Bank advances.

A number of commenters argued that FHFA offered no analysis of the financial impact the proposed exclusion of captives would have on the Banks and their members. Many commenters noted that the Bank System benefits from a diverse and robust membership and asserted that eliminating one class of existing and potential members would result in lost income for the Banks now and in the future. At least one commenter asserted that, for certain Banks, the financial impact of the proposal could be so significant as to jeopardize their independent status, thereby forcing them to consolidate with other Banks. Many commenters pointed out that any action that might reduce the income of any Bank to any extent would necessarily reduce the amount of funds available for those Banks' Affordable Housing Programs (AHP) because the statute requires 10 percent of a Bank's earnings to be dedicated to its AHP.

In addition to the predictions of negative consequences for the Banks and their members, a number of commenters asserted that preventing mortgage REITs and similar companies from accessing Bank funding through captive subsidiaries would have negative consequences for the overall residential mortgage market. Noting that the long-term and reliable nature of Bank funding assists in reducing the likelihood that mortgage market crises will occur and in mitigating such crises when they do occur, several of these commenters argued that preventing captive parents from accessing that funding could increase instability in the residential mortgage market by reducing liquidity and curtailing the availability of long-term funding.

c. Comment Letters Suggesting Alternative Approaches

A number of commenters suggested alternative approaches to address what they perceived to be FHFA's concerns regarding captives that would be less severe than the outright exclusion of all captives from Bank membership.

Several commenters that believed FHFA's concerns to be primarily related to safety-and-soundness or mission achievement issues suggested that the Agency could address these concerns by adopting borrowing, financial condition, or mission standards to apply specifically to captives (or, in some cases, to insurance companies generally). For example, one commenter suggested that FHFA could require ongoing periodic reporting to the Bank of information that would allow it to adequately assess the financial health and investment strategies of, and other risk metrics pertaining to, both the captive and its parent; apply a more stringent mission test to potential captive members and their parents using asset or income tests; or require that all collateral pledged by captives or their parents to secure advances be real estate related.

Commenters that more appropriately focused on FHFA's primary concern—the misuse of the captive vehicle by non-eligible entities—stated that FHFA should prevent those practices specifically, without excluding all captives from membership. For example, some suggested that the final rule allow captives with a parent or affiliate that is itself eligible for Bank membership to remain eligible. One such commenter favored the use of captives to allow parent companies that are themselves eligible for membership (''particularly . . . institutions that now have substantially higher liquidity requirements than in the past'') essentially to become members of more than one Bank, which the commenter asserted ''would not only help to serve the industry's liquidity needs, but would reduce the concentration risk posed by large institutions belonging to only one or two [Banks].''

Other commenters suggested that the final rule exclude from membership only captives that FHFA or the Banks have determined are owned by non-eligible entities that are using or have used those captives as conduits to receive Bank funding for their own use. Those commenters did not provide much detail as to how that would be accomplished, although one suggested that FHFA itself should review captives' applications for Bank membership in order to determine the purpose behind each application. Finally, one commenter, who asserted that FHFA ''is not well informed about captives,'' suggested that the Agency should ''increase its knowledge in this area and find ways to address issues raised in the

[34] *See Bell Atlantic Tel. Cos.* v. *FCC,* 24 F.3d 1441, 1445–46 (D.C. Cir. 1994).

[proposed rule] by participating in a task force with insurance regulators and others in the captive insurance industry.''

d. Results of FHFA's Review of Comments on the Captives Proposal

FHFA has reviewed all of the comments regarding its proposal to exclude captives from Bank membership and has studied especially closely the considered opinions of those commenters that addressed the issue in depth. After giving careful consideration to all of the viewpoints expressed, the Agency has decided to finalize the captives provisions essentially as proposed, albeit with some minor modifications to the transition provisions. The final provisions, the reasons FHFA has decided to adopt them, the bases for FHFA's conclusion that it possesses the authority to adopt those provisions, and the Agency's responses to the points raised in the comment letters are all discussed in detail in parts II and III of this **SUPPLEMENTARY INFORMATION.**

3. Comments on the Other Substantive Proposed Revisions

About 80 commenters addressed the proposal to require a Bank to obtain and review an insurance company applicant's most recent audited financial statements in determining whether it meets the ''financial condition'' eligibility requirement. Nearly all of the commenters opposed the inclusion of that requirement in the final rule. Most of those commenters based their objections on the assertion that the requirement would be burdensome for insurance companies—especially those that are not required by law to have their financial statements reviewed by an outside auditor. FHFA has considered these concerns, but has decided to include the requirement, as proposed, in the final rule.

The Agency recognizes that there are costs associated with obtaining audited financial statements. It also believes, however, that there are significant benefits to the Banks from being able to rely on financial statements that have been audited by a third party, particularly when assessing an insurance company's financial condition prior to admitting it to membership, which is the only time at which this requirement will apply. Even with this additional requirement, the financial information that insurance company applicants will be required to provide to the Banks will be far less than the financial information that insured depository institution applicants must provide.

About 80 of the comment letters addressed the parts of the proposed rule that would have amended the regulations governing how an institution's principal place of business is to be determined which, in turn, dictates the Bank it may join. The proposal included one provision specific to insurance companies and CDFIs, which would have required a Bank to use objective factors to identify the geographic location from which an insurance company or CDFI conducts the predominant portion of its business operations. The proposal also would have revised the general provision, which presumes the location of an institution's ''home office'' to be its principal place of business, by adding a requirement that the institution actually conduct business from its home office in order to benefit from that presumption. The effect of that revision would have been to prevent a Bank from relying solely on an institution's state of domicile or incorporation as the principal place of business for Bank membership purposes.

Most of the comments focused specifically on the effect the proposed revisions would have on insurance companies.[35] Almost all of those commenters (with the exception of a few of the Banks, as discussed below) opposed the proposed revisions and stated their preference that the final rule should instead provide that an insurance company's principal place of business shall in all cases be its state of domicile (*i.e.,* the state in which it is chartered). The commenters preferred the latter approach to the standard set forth in the proposed rule because they believed that it would be simpler to apply and would ultimately impose less burden on both the Banks and state insurance regulators. In other words, under a state of domicile standard each Bank would then need to deal only with the insurance regulators and insurance laws of the states within its district, and each insurance regulator would then need to establish a working relationship only with its local Bank.[36]

[35] One comment letter addressed the issue specifically as it relates to CDFIs and expressed support for the approach taken in the proposed rule.

[36] FHFA expects each Bank to communicate regularly with the regulator for each of its insurance company members and to be thoroughly familiar with the state insurance laws that apply to each of those members. *See* FHFA Advisory Bulletin AB 2013–09, *Collateralization of Advances and Other Credit Products to Insurance Company Members* (Dec. 23, 2013). Regardless of where an insurance company may be licensed to do business or where it carries out its back office operations, it is regulated and supervised by the insurance regulator of its state of domicile under the laws of that state.

Although there may be some practical benefits to using the state of domicile as a proxy for an institution's principal place of business, the core question is whether such an approach would be consistent with the requirements of the Bank Act. FHFA has previously determined that the term ''principal place of business'' contemplates a physical location at which a company conducts the predominant portion of its business activities, and that a ''presence'' that is legal only, without any actual business activity, falls short of what the Bank Act requires. While the state laws under which insurance companies and CDFIs are chartered typically require companies to provide an in-state address for service of legal notices or for other purposes, those laws do not necessarily require a company to maintain any kind of business presence in the state. It is possible, then, that an insurance company or a CDFI may not conduct *any* of its business in its state of domicile. To amend the regulation, as the commenters suggest, to provide that the principal place of business of an insurance company or CDFI is in all cases to be its state of domicile would allow for the possibility that a Bank member's principal place of business could be a location at which it actually has *no* place of business. Such a result would not comport with FHFA's view of the term ''principal place of business'' and thus would not be consistent with the requirements of the Bank Act.

II. Treatment of Captive Insurers Under the Final Rule

FHFA has carefully considered the thoughts and opinions expressed in the comment letters and thoroughly analyzed possible alternative means of addressing its concerns about the use of captive insurers by entities not eligible for Bank membership to gain access to Bank advances. Having done so, the Agency has decided to include in the final rule, with some modifications, the provisions excluding captives from Bank membership and requiring the Banks, after a transition period, to terminate the membership of all captives that were admitted under the existing regulations. As proposed, the final rule defines ''insurance company'' to exclude captives, thereby making them ineligible for Bank membership.

These provisions of the final rule address FHFA's supervisory concerns about the ability of entities ineligible for Bank membership (including mortgage REITs and other entities) to circumvent the Bank Act and obtain *de facto* Bank membership through captive subsidiaries that become members and then act as conduits to low-cost Bank

funding for the ineligible entity. The use of captives for this purpose under the existing regulation has grown dramatically in recent years, and has continued since the publication of the proposed rule. FHFA has well-founded concerns that this use of captive subsidiaries is open to multiple types of ineligible entities such as equity REITs, hedge funds, investment banks, and finance companies and that the practice may spread to those and other types of ineligible entities once they become aware of the advantages of gaining *de facto* Bank membership through such arrangements. As regulator of the Bank System, FHFA is responsible for ensuring the effective implementation of the provisions and purposes of the Bank Act. That responsibility includes ensuring that only entities eligible for Bank membership obtain the benefits of membership. FHFA is fulfilling that responsibility by including in this final rule provisions intended to prevent further use of captives to circumvent the membership eligibility requirements of the Bank Act.

Like the proposed rule, the final rule also sets forth a transition provision permitting captives that became members prior to the publication date of the proposed rule to remain members for five years after the effective date of the final rule, but limiting their outstanding advances to 40 percent of their assets and, while permitting new advances below the 40 percent threshold, prohibiting new advances or renewals that mature beyond the five-year transition period. The final rule also contains an additional transition provision, not included in the proposed rule, to address the treatment of captives admitted to membership on or after the date of publication of the proposed rule. This provision permits any Bank that has admitted such captives one year following the effective date of the final rule within which to terminate the membership of those captives. The rule allows such captives until the end of that one-year period (or until the date of termination, if earlier) to repay their existing advances, but prohibits them from taking new advances or renewing existing advances that expire during that grace period.

In reaching its decision to include these provisions in the final rule, FHFA gave due consideration to the fact that the vast majority of commenters addressing the proposed exclusion of captives from membership objected to that aspect of the proposed rule. Ultimately, however, the volume of adverse comments does not drive FHFA's policy determinations, particularly in this case, where FHFA has found significant evidence that REITs and other entities have been forming captives solely for the purpose of providing ineligible institutions access to Bank advances.

FHFA carefully considered the merits of the opinions expressed and assertions made by commenters, including from those commenters that provided verifiable information that the Agency could assess as part of the rulemaking process. The arguments taken as a whole did not persuade the Agency that the existing statute should be applied to allow admission of captives to membership. The policy reasons behind FHFA's decision to include the captives provisions in the final rule, the legal bases for including those provisions, and the Agency's responses to a number of specific comments are set forth in detail below.

A. Policy Reasons for Excluding Captives From Bank Membership

1. Until Recently, Only a Few Captives Had Become Bank Members, and Most of Those Had Parents or Other Affiliated Entities That Were Eligible To Be Bank Members Themselves

As mentioned above, the Bank Act provides that, in addition to insured depository institutions and CDFIs, ''any . . . insurance company'' shall be eligible to become a member of a Bank if it meets the applicable requirements. The Bank Act does not define ''insurance company,'' and neither FHFA nor its predecessor agencies had previously adopted a regulatory definition of that term. Consequently, as a practical matter, any entity chartered or licensed as an ''insurance company'' under state law and that has met the other applicable requirements historically has been permitted to become a Bank member. Because captive insurers are chartered or licensed as insurance companies under the laws of states that have enacted captive insurance statutes, a number of those types of entities have been permitted to become Bank members under the existing membership regulation.

Although a Bank first admitted a captive to membership over twenty years ago, until recently Banks had accepted very few captives. The first captive to be admitted became a member in 1994. In the ensuing years, up until mid-2012, no more than eleven additional captives joined the Bank System. Most of the captive members that were admitted during that time period have parent companies that either are themselves eligible to be Bank members or are holding companies that own another eligible entity.

2. Recently, There Has Been a Dramatic Increase in Captive Members and Applicants, Almost All of Which Are Controlled by Ineligible Entities Seeking Access to Bank Funding

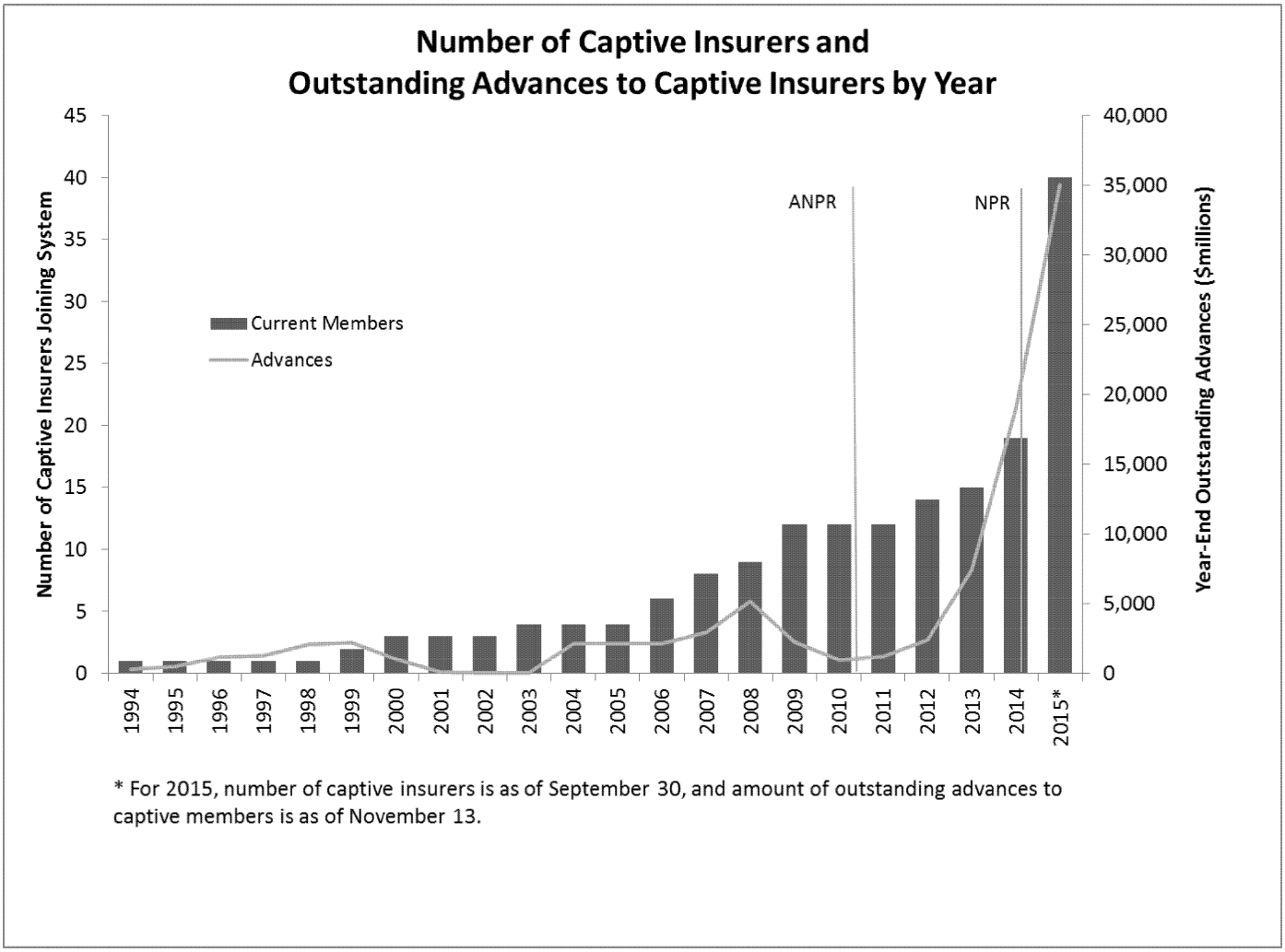
Over the last several years, however, new captive members and membership applications by captives have shown a significant and accelerating increase. Since mid-2012, the Banks have admitted 27 new captive members, 25 of which are owned by mortgage REITs, finance companies, and other types of entities that are not themselves eligible for membership. Twenty of those 25 have become members since the publication of the proposed rule in September of 2014. This trend has become a matter of growing concern to FHFA, as it has become increasingly clear that captives are being promoted and used as vehicles to provide access to Bank funding and to other benefits of membership for institutions that are legally ineligible for membership. The Banks that have accepted these captive members have based their approvals on the financial strength of the parent and not the captive itself and have projected a level of advances activity that is disproportionately large in relation to the captives own business operations and related investment needs. In many cases (although, to date, not all), captive members have fulfilled the projections reflected in the membership digests by maintaining disproportionately large levels of outstanding advances, almost all of which have been secured by collateral provided by the parent. As a result of these developments, FHFA sees a current need to define ''insurance company'' in a manner that will prevent the creation of such *de facto* membership arrangements.

The information contained in the membership application digests prepared by the Banks in connection with the admission of most of those captive subsidiaries supports a conclusion that they applied for membership—and, in fact, were established—for the primary purpose of accessing Bank funding for their parents' business needs; they did not seek membership to obtain support for their own operations or investments.[37]

[37] The regulations require that a Bank ''prepare a written digest for each applicant stating whether or not the applicant meets each of the [applicable membership eligibility requirements], the Bank's findings, and the reasons therefor.'' *See* 12 CFR 1263.2(b). Since September 2012, FHFA has had a special data request in place pursuant to which it has received from the Banks the membership digests for each new insurance company and CDFI

As an initial matter, those digests indicate that all but one of the 25 captive members owned by a REIT or similar ineligible entity were *de novo* entities at the time they applied for membership; at least 20 of the 25 had been chartered within the preceding six months and all but one of the remaining five had been chartered within the preceding 12 months. The digests also show that the dollar amounts of anticipated advances to be made to most of those captives are grossly disproportionate to the amount of insurance business underwritten by the captive, contemplate that the parents will provide both the collateral and a guaranty for the captives' debt, and, in some cases, acknowledge that the captives will use the advance proceeds to make loans to their parents. The Banks themselves recognized the conduit nature of these captives by basing their assessment of the financial condition of their new captive members, and the amount of advances they may obtain, on the financial resources of their parents, rather than on the captives themselves.

The chart below illustrates the recent dramatic increases in the number of captive members and in the amount of advances outstanding to captive members.



member approved during that time period. *See* FHFA Special Data Request SDR 2012–02, ''Membership Decision Documentation for New Insurance Company and CDFI Members'' (Sept. 17, 2012).

3. There Are Currently Ongoing Efforts To Encourage Ineligible Entities To Use Captive Subsidiaries as a Means of Accessing Low-Cost Bank Funding

Numerous public statements made by captive management companies and consultants, insurance regulators, and the parent companies themselves tend to confirm that almost all of the captives in the recent wave of new members and applicants were established and applied for membership for the purpose of providing their ineligible parents with access to Bank funding and other benefits of membership. For example, Marsh & McLennan (Marsh), a firm that characterizes itself as ''the world's leading captive manager,'' published an article in its quarterly newsletter in early 2014 stating that it had been working with REIT clients since the summer of 2013 ''to create captives for the purpose of accessing funding with the Federal Home Loan Bank system'' and advertising that ''low-cost funding'' obtained from a Bank through a captive subsidiary can allow a REIT parent to ''increase leverage and improve liquidity at attractive rates.'' [38] After noting that captives were being formed in two particular states to permit access to the two Banks in whose respective districts those states lie, Marsh concluded by stating that its captive advisory team ''is likely to begin forming captives in other domiciles to access additional branches of the [Bank System].'' It is clear from that article, as well as from a contemporaneous Marsh report containing similar statements,[39] that the firm is not encouraging existing captives to become Bank members to obtain funding for their own investments and operations, but is instead encouraging REITs and possibly other ineligible entities to create new captives to use as conduits to low-cost Bank funding for their own operations.

At around the same time that Marsh published those materials, another firm, Willis Group Holdings PLC (which describes itself as ''a leading global risk advisor, insurance and reinsurance broker'') published a brochure on its Web site entitled ''Joining the Federal Home Loan Bank Offers Significant Advantages for Captive Owners, Including Low Interest Loans and Letters of Credits [sic].'' [40] After describing how the firm had ''experienced a significant increase in existing and prospective captive owners looking to join [a Bank] via a captive subsidiary'' and summarizing the benefits of Bank membership, the brochure concludes by encouraging ''[p]rospective members [to] contact Willis or the regional [Bank] to discuss the prospect of their captive joining the [Bank].''

Even state insurance regulators have been publicly extolling the advantages a company can enjoy by having a captive subsidiary become a Bank member. For example, a recent article that focused on the formation of so-called ''831(b) captives'' quoted one state's regulator as remarking that such captive entities can be ''a portal for membership'' in the Bank System.[41] In the same vein, several of the mortgage REITs that commented on the proposed rule revealed their intentions regarding their captive subsidiaries by advocating ''access by mortgage REITs'' to the Bank System, describing the proposed rule as ''[d]enying access to [Bank] funding for a mortgage REIT,'' or making similar statements.

4. Captives Are Uniquely Suited To Act as Conduits for Accessing the Bank System

Among the types of institutions that, to date, have been considered eligible for Bank membership, captive insurers are uniquely suited to act as conduit vehicles for business entities that wish to gain access to the Bank System, but that are ineligible to become members in their own right. Because captives are self-insurance mechanisms and typically do not sell insurance policies to the public at large, it is generally far easier and less expensive to charter, capitalize, and operate a captive than to establish and operate a traditional life or casualty company that sells policies to the public.[42] This was cogently explained by the captive regulator of one of the leading domestic captive domiciles in a response to a ''Frequently Asked Question'' (FAQ) appearing on its official Web site. There, the regulator noted that, while ''[c]ommercial insurance companies sell insurance to the general public and are licensed in all states in which they do business,'' captives by contrast ''directly insure only their owners,'' are ''licensed in only one state, and operate[] under the captive insurance law of that domicile.'' Because of those differences, the regulator explained, ''the degree of regulatory oversight required for captives is less than that which is required for commercial insurers.''

Despite the fact that captives are already easier to establish and more lightly regulated than commercial insurance companies, the competition among states to attract businesses to organize captive subsidiaries in their respective borders is leading some states to amend, or modify the manner in which they apply, their captive laws to further reduce the regulatory burdens in relation to those imposed by other states. In a recent report prepared by a state insurance regulator that was required by statute to study the advisability of establishing a captive insurer industry in that state, that regulator recommended that the state's legislature ''forgo captive legislation at this time'' in part because ''the industry has developed in ways that have caused considerable regulatory concern at the federal and state levels.'' The report explained, ''To become a thriving captive domicile today, a state must be willing to relax important regulatory

[38] *See* Marsh & McLennan Companies, *Using Captives to Access Federal Home Loan Banking System Funding,* Marsh Insights: Captives (Mar. 2014) at 5, *http://usa.marsh.com/Portals/9/Documents/6454MA14-12785CAPNewsletter03-2014.pdf* (last visited Dec. 8, 2015).

[39] *See* Marsh & McLennan Companies, *The Evolution of Captives: 50 Years Later (Annual Captive Benchmarking Report)* (May 2014) at 2, 5.

[40] Willis Group Holdings, *Joining the Federal Home Loan Bank Offers Significant Advantages for Captive Owners, Including Low Interest Loans and Letters of Credits,* Willis Global Captive Management Alert (Apr. 2014), *http://www.willis.com/documents/publications/services/captives/20140426_50294_PUBLICATION_Global_Captive_Management_Alert_FINAL.pdf* (last visited Dec. 8, 2015).

[41] *See* Caroline McDonald, *Steady As She Goes: 2014 Domicile Captive Review,* Risk Management (Aug. 1, 2014), *http://www.rmmagazine.com/2014/08/01/steady-as-she-goes-2014-captive-domicile-review/* (last visited Dec. 8, 2015). An ''831(b) captive,'' sometimes referred to as a ''microcaptive,'' is a captive that does not underwrite life insurance and that generates annual premiums of $1.2 million or less. Under section 831(b) of the Internal Revenue Code, such an entity can elect to pay federal income tax based only on its investment income instead of on its taxable income as a corporation. 26 U.S.C. 831(b). The use of 831(b) captives by individuals and businesses has drawn close scrutiny from the Internal Revenue Service in recent years.

[42] *See* Daniel Schwarcz, *A Critical Take on Group Regulation of Insurers in the United States,* 5 U.C. Irvine L. Rev. 537, 555 (Aug. 2015) (stating that captives have typically been viewed ''as presenting limited regulatory concerns'' due to their status as self-insurance mechanisms and that ''[a]s a result, captives are subject to very limited regulatory restrictions: Their financial statements are not publicly available, they do not have to comply with statutory accounting rules and the associated reserve requirements, and they generally are not subject to standard risk-based capital requirements''). One state insurance regulator, in reporting to the state legislature on the desirability of enacting insurance legislation specific to captives, stated that a captive ''is not regulated like an admitted insurance carrier, but operates under relaxed rules governing the captive's formation, capitalization, and solvency.'' In noting in this Supplementary Information the differences between the regulation of captives and the other types of institutions that have, to date, been considered eligible for Bank membership, FHFA is not expressing any judgment as to the adequacy of captive regulation generally or in any particular state with a captive statute, for purposes of the limited businesses for which captives are organized.

safeguards. Attractive new domiciles are those that have a high risk appetite, demand few hurdles to formation, have low premium taxes and fees, have minimal solvency and capital requirements, and require little in the way of reporting.'' [43]

The competition between states is further evidenced by a proliferation of press releases from state insurance regulators touting their selection as, or nomination for, a ''U.S. captive domicile of the year'' award that is bestowed annually by a major captive industry magazine. For example, one state regulator noted in a press release regarding its selection as a finalist for the 2015 award that, after having twice amended its captive laws in recent years, the state had ''positioned itself to become a preferred domicile to companies seeking a sophisticated regulatory infrastructure.'' An article in the sponsoring magazine announcing the winner of the 2015 award (which, ultimately, was not the state regulator that issued the above-quoted press release) stated that its judges selected the announced winner in part because, ''despite being an established jurisdiction, [the victorious domicile] continues to review its statute on an annual basis to ensure it continues delivering efficiency and value.'' [44]

The same characteristics that make captives far more viable than traditional insurance companies to use as vehicles for achieving *de facto* Bank membership also set them apart from insured depository institutions in that respect. Given the many obstacles to obtaining a commercial bank, savings and loan, or credit union charter,[45] as well as the comprehensive systems of prudential regulation and supervision to which those types of institutions are subject, FHFA must regard as highly improbable the prospect of an ineligible entity chartering a depository institution for the primary purpose of providing itself with *de facto* Bank membership. FHFA is unaware of a single instance of such an occurrence in the history of the Bank System. The additional layer of supervision and examination to which a company would become subject under either the Bank Holding Company Act [46] or the Savings and Loan Holding Company Act [47] if it were to acquire control of a commercial bank or savings and loan association makes those types of institutions even more unlikely to be used as mere conduits to Bank funding. In contrast, the lack of any such requirements applying to the parent of a captive makes captives an especially attractive membership channel for REITs and other ineligible entities that are not subject to the type of inspection and regulation that applies to institutions that are eligible for Bank membership. The requirements for certification of CDFIs similarly make them unsuitable vehicles to serve as conduits for Bank funding to ineligible parents.[48]

5. FHFA Has a Well-Founded Concern That the Use of Captives as Conduits to Bank Funding Will Grow Beyond Mortgage REITs To Include Additional Entities That Have Little or No Connection to Housing Finance

As is evidenced by the recent surge in captive applications and membership approvals, an increasing number of mortgage REITs and similar ineligible entities have decided that the amount of effort and expense associated with forming and operating a captive is low enough to make it feasible to use this method to gain access to the Bank System. In light of the example set by those that appear to have successfully circumvented the statutory membership requirements through the use of captive subsidiaries, as well as the previously described efforts by some in the captives industry to promote this practice, FHFA expects that the prevalence of this practice will continue to grow unabated if the Agency does not take action now to end it. Having seen increasing numbers of mortgage REITs use the captive vehicle to gain access to the Bank System, the Agency is concerned that other types of entities, which may have no connection to housing finance, will begin to form captives for the same purpose.

Indeed, some connected with the insurance industry have advocated the use of captives to provide access to the Bank System regardless of whether the parent company has any connection with residential mortgage lending. For example, an article re-published on the Web site of one state's department of insurance in 2011 reported that a ''budding concept is for captive owners, nonbank companies included, to use their captive insurers as portals to cheap bank credit under a federal banking law [*i.e.,* the Bank Act] enacted decades before the first captive appeared.'' The article revealed that the concept is one that the state's captive regulator wants ''companies like manufacturers that have nothing to do with home financing'' to consider and that he is ''promoting the concept with captive managers,'' in part as ''an engine of captive growth'' in his state. The same article also quoted a number of risk management consultants as stating that the use of captives as conduits to access Bank funding ''could grow'' and ''sounds like a wonderful arbitrage opportunity,'' that ''[r]esidential builders could benefit, as well as healthcare institutions'' from the strategy, and that it would be a ''prudent thing'' for a captive owner to take advantage of the opportunity to access such low-cost capital even if the owner

[43] In addition, a 2011 New York Times article entitled ''Seeking Business, States Loosen Insurance Rules,'' came to conclusions that were similar to those reached by the state insurance regulator quoted above. The article, which appeared on the newspaper's front page, cited numerous examples of states competing among themselves to relax their regulatory requirements in order to attract captives to their respective domiciles. It reported that one state, after observing the success of another in attracting captives, responded by amending its laws governing the tax rates captives must pay on premium revenues to make its rates lower than those of the other state; this prompted the other state to reconsider its own rates. The article also noted that the number of captives domiciled in a particular state had doubled in the preceding calendar year, after its insurance commissioner was given the power to exempt captives from various provisions of the state's captive insurer laws. The bulk of the article was devoted to investigating the growing trend of commercial insurance companies forming captives to reinsure blocks of outstanding policies in order to take advantage of the lower reserve requirements that apply to captives under the laws of some states. *See* Mary Williams Walsh and Louise Story, *Seeking Business, States Loosen Insurance Rules,* New York Times (New York ed.) (May 8, 2011) at A1, *http://www.nytimes.com/2011/05/09/business/economy/09insure.html?pagewanted=all&_r=0* (last visited on Dec. 8, 2015).

[44] *See* Richard Cutcher, *2015 US Captive Services Awards: Winners Announced,* Captive Review (Aug. 11, 2015), *http://captivereview.com/news/2015-us-captive-services-awards-winners-announced/* (last visited on Dec. 8, 2015).

[45] *See, e.g.,* Patricia A. McCoy, *Banking Law Manual: Federal Regulation of Financial Holding Companies, Banks and Thrifts* § 3.02[2] (Matthew Bender, 2nd ed. 2015) (explaining that, because depository institution charters ''can be (and often are) denied for a variety of reasons, including unacceptable management, poor prospects for financial success, no perceived need for the institution's services or a competitive threat to existing institutions in the same market,'' they serve as ''powerful if erratic controls on entry into commercial banking and the thrift industry'').

[46] *See* 12 U.S.C. 1844; *see also* 12 CFR part 225 (implementing regulations).

[47] *See* 12 U.S.C. 1467a; *see also* 12 CFR parts 238, 239 (implementing regulations).

[48] To be eligible for CDFI certification, an organization must have a primary mission of promoting community development; provide both financial and educational services; serve and maintain accountability to one or more defined target markets; maintain accountability to a defined market; and be a legal, non-governmental entity at the time of application (with the exception of Tribal governmental entities). 12 CFR 1805.201. An entity must meet quantitative mission requirements in order to obtain and maintain certification as a CDFI.

is ''building cars or running hotels.'' [49] As noted above, Bank advances need not be collateralized with residential mortgage assets and need not be used for residential housing finance if they are of less than five years maturity.

The Agency's concerns about the prospect of wider use of the captive vehicle also arise from a number of other factors. Recently, for example, the first captive member owned by an equity REIT (as opposed to a mortgage REIT) joined the Bank System and, for the first time, a captive owned by an investment bank (in this case through a number of intermediating subsidiaries) was approved for Bank membership. In addition, at least one mortgage bank recently inquired about the possibility of a Bank admitting to membership a captive subsidiary that it proposed to establish for that purpose. While the use of captive subsidiaries to access the Bank System by entities that are not involved with housing finance is nascent, recent history with traditional insurance companies and, more recently, with REITs has shown that once one portion of an industry realizes the benefits of obtaining access to Bank advances, others in that industry will follow.[50]

6. The Bank Act Specifies the Types of Institutions That May Be Eligible To Be Bank Members, and FHFA Must Act To Prevent the Continued Circumvention of Those Eligibility Requirements by Entities That Are Not Eligible

Abundant evidence exists of a prevalent and growing practice by entities that are themselves ineligible for Bank membership using captive subsidiaries to achieve a *de facto* membership status that effectively provides them with the same access to advances that is available to the types of institutions that are eligible to become members under the Bank Act. In light of the evidence, FHFA has concluded that it must take action to prohibit that practice in order to ensure the fulfillment of one of the key elements of the statutory scheme established by Congress—limiting Bank membership to the types of institutions specified in the Bank Act.

As discussed above, section 4(a) of the Bank Act specifically enumerates the types of institutions that may be eligible for membership. By necessary implication, the statute must be read as a clear statement by Congress that entities of a type not included on that list of eligible institutions are not authorized to become members or otherwise to obtain the benefits of Bank membership, regardless of the extent to which those entities may be engaged in some part of the residential mortgage market. FHFA believes that in order to give effect to this congressional intent it must look to the substance of these transactions, and cannot ignore that the economic reality behind the growing trend of captive memberships is that the captives are being used to create a *de facto* membership for entities that are not among the types of entities that may become Bank members directly.

Many commenters asserted that Congress's failure thus far to exclude captives from membership despite their increasing prevalence in the U.S. since the 1970s must necessarily lead to the conclusion that it has no concerns about the manner in which they are currently being used. Therefore, those commenters argue, FHFA must continue to consider captives to be a type of insurance company that is eligible for Bank membership. Congress's intent concerning the meaning of the term ''insurance company,'' as used in the Bank Act, as well as FHFA's authority to interpret that term in the current context, are discussed in detail below. However, on the specific point raised by commenters, the phenomenon of ineligible companies using captives as a conduit to obtain access the Bank System is a very recent development. FHFA does not regard the lack of congressional action on the issue of Bank membership for captive insurers to be indicative of any particular congressional intent. FHFA will not attempt to interpret the views of a current Congress that has not acted to amend a statute enacted by a prior Congress decades earlier.

Other commenters cited Congress's decision to extend eligibility for Bank membership to commercial banks and credit unions in 1989 and to CDFIs in 2008 as evidence of its intent to effect ''an inclusive and expansive approach'' to membership and characterized FHFA's attempt to exclude captives from membership as running counter to that intent. To the contrary, FHFA views those actions as an indication that when Congress determines that it is appropriate to permit a particular type of institution to have access to the Bank System, it will amend the Bank Act to expressly authorize that access. For example, at the time Congress enacted the Bank Act in 1932, the primary institutional holders of non-farm residential mortgage debt were savings and loan associations,[51] which held 21.4 percent, followed by savings banks at 17.1 percent, life insurance companies at 11.1 percent, and commercial banks at 10.4 percent.[52] Despite the fact that commercial banks were significant participants in originating and investing in residential mortgage loans at that time, Congress declined to include them in the list of entities eligible for Bank membership. That remained the case until 1989, when Congress made federally insured commercial banks and credit unions eligible for membership. Moreover, although representatives of the mortgage banking industry have lobbied Congress to amend the Bank Act to allow mortgage bankers to become Bank members based on their active role in supporting residential housing finance, Congress has not done so.[53]

[49] *See* Dave Lenckus, *Cashing In On Captives,* Risk & Insurance Newsletter (Mar. 1, 2011).

[50] Although insurance companies have been eligible for membership since 1932, until recently only a very few insurance companies actually have become members. While only 31 insurance companies and captives were Bank members in 1996, 304 were members at the end of 2014.

[51] These were then also referred to by various other names, such as those used in section 4(a) of the Bank Act—building and loan associations, cooperative banks, and homestead associations. *See* Leo Grebler, David M. Blank & Louis Winnick, *Capital Formation in Residential Real Estate: Trends and Prospects* 203, n.14 (1956).

[52] *See* Grebler, *supra* at 473. The percentages shown are as of December 31, 1931. In 1932, as well as for decades before and up through the early 1970s, many life insurance companies were heavily involved in the origination of home mortgage loans through extensive mortgage lending networks. *See* Kenneth A. Snowden, *The Anatomy of a Residential Mortgage Crisis: A Look Back to the 1930s* 5–8 (Nat'l Bureau of Econ. Research, Working Paper No. 16244, 2010). At some points during those years, life insurance companies held more than 20 percent of all domestic non-farm residential mortgage debt. *See* Grebler, *supra* at 472–74; Snowden, *supra* at 5. *See also* Raymond J. Saulnier, *Urban Mortgage Lending by Life Insurance Companies* 1–9 (1950).

[53] For example, at a November 2013 hearing of the Senate Committee on Banking, Housing, and Urban Affairs on a bill to reform the secondary mortgage markets, the Chairman-elect of the Mortgage Bankers Association testified that ''Congress should give serious consideration to expanding Federal Home Loan Bank membership eligibility to include access for non-depository mortgage lenders'' and to ''community lenders of a variety of business models, including independent mortgage bankers.'' *Housing Finance Reform: Protecting Small Lender Access to the Secondary Mortgage Market: Hearing on S. 1217 Before the S. Comm. on Banking, Housing, and Urban Affairs,* 113th Cong. 65–66 (Nov. 5, 2013) (statement of Bill Cosgrove, Chief Executive Officer, Union Home Mortgage Corp., and Chairman-Elect, Mortgage Bankers Association). Earlier, the Housing and Community Development Act of 1992 required that the Finance Board and the Department of Housing and Urban Development, among other agencies, each study a multitude of issues related to the Bank System, including possible measures to increase membership in the System, and report to Congress on their recommendations with respect to those issues. *See* Public Law 102–550, § 1393, 106 Stat. 3672, 4009–11 (1992). For reasons relating to mission, safety and soundness, and competitive balance, the reports produced by both agencies recommended against expanding the list of institutions that may be eligible for Bank membership to include mortgage banks. *See* Federal Housing Finance Board, *Report on the Structure and Role of the Federal Home Loan Bank System* 119 (Apr. 1993);

Similarly, Congress has not authorized REITs to become members. If Congress believed that REITs' involvement in the residential mortgage markets warranted them having access to Bank advances, it could have authorized them to become members, just as it did for certain CDFIs in 2008 [54] and for certain non-federally insured credit unions in 2015,[55] when it amended the Bank Act to make those types of entities eligible for membership. The fact that it has not done so for REITs, or for other types of entities that are not enumerated in section 4(a) of the Bank Act, leads FHFA to conclude that Congress has not intended to permit those entities access to Bank funding.

Whether entities that are currently ineligible for membership should be permitted to have access to Bank advances is the type of public policy issue that is for Congress to address. By precluding ineligible institutions from gaining *de facto* membership through captive insurers, the final rule has the effect of preserving the decision of whether to allow REITs access to the Bank System for Congress to address, should it choose to do so. The transition periods, both the five-year transition for pre-NPR captives and the one-year transition for the post-NPR captives, will provide Congress sufficient time to consider whether Bank membership should be extended to additional categories of members before the Banks are required to begin terminating the membership of existing captive members. If Congress determines that permitting REITs, or any other entities that are not currently eligible, to have such access is the appropriate policy, then it will amend the Bank Act to make them explicitly eligible for membership as it has done in the past for commercial banks, credit unions, and CDFIs. If it decides to do so, it may also wish to consider whether special statutory provisions should be enacted with respect to REITs or other entities not subject to inspection and regulation to address their unregulated status, which would set them apart from other types of entities that are currently eligible, and whether and how to except them from the current statutory requirement that members be ''subject to inspection and regulation.'' [56]

B. Legal Authority of FHFA To Exclude Captives From Membership and To Require the Banks To Terminate the Membership of Captives Previously Admitted

FHFA possesses ample legal authority to adopt a regulation defining the term ''insurance company'' to exclude captives, thereby rendering them ineligible for membership, and to require the Banks to terminate the membership of all captives that they had admitted to membership before FHFA adopted this final rule making captives ineligible.

1. Congress Granted FHFA Broad Regulatory Authority To Ensure That the Purposes of the Bank Act Are Carried Out

Congress has given FHFA, through its Director, broad authority to administer the Bank Act. Specifically, Congress granted the Director of FHFA general regulatory authority over the Banks and specified that he is to exercise that authority to ensure that the purposes of the Bank Act and the Safety and Soundness Act (under which the Agency is established) are carried out.[57] Congress also enumerated a number of principal duties for the Director of FHFA, which include the duty to ensure that each Bank complies with the regulations issued under the Bank Act and Safety and Soundness Act, and granted the Director the authority to exercise such incidental powers as he deems necessary to fulfill his duties and responsibilities in the supervision and regulation of the Banks.[58] Congress also provided the Director of FHFA with specific authority to issue any regulations and take other regulatory actions that he deems necessary not only to implement and enforce the specific requirements of the Bank Act, but also to ensure that the Banks operate in a safe and sound manner and that the purposes of the statutes are accomplished.[59] Thus, FHFA has the authority to adopt regulations that the Director deems necessary to implement the specific membership provisions of the Bank Act, as well as those that the Director deems necessary to ensure that the purposes behind the statutory membership provisions are accomplished. By necessary implication, the grant of authority to ensure that the provisions and purposes of the Bank Act are carried out includes with it the authority to adopt regulations necessary to ensure that neither the Banks, their members, nor any other parties take any actions to circumvent, frustrate, or subvert the provisions or purposes of the Bank Act.

2. Congress Clearly Delineated the Types of Institutions That May Be Eligible for Bank Membership

It is clear from the language of section 4(a)(1) of the Bank Act that Congress intended to permit only the types of institutions listed in that section to become Bank members and that it did not intend to permit any institutions not listed therein to become members. It also is reasonable to infer from the statutory language that Congress intended that entities not explicitly deemed eligible for membership should not be able to obtain indirectly any of the principal benefits of Bank membership—including the access to low-cost advances that the Banks are able to provide because of their statutory market advantages—that they are not permitted to obtain directly.[60] Although Congress did include insurance companies among the types of institutions that may be eligible to become members, it manifestly did not include REITs, hedge funds, investment banks, finance companies, or other types of general business entities.[61]

3. Captives are Being Used To Circumvent the Membership Eligibility Provisions of the Bank Act and Are Uniquely Suited To Be Used for That Purpose

As described in detail above, FHFA has determined that ineligible entities have been circumventing the statutory provisions limiting the types of entities that may become Bank members by

U.S. Department of Housing and Urban Development, Office of Policy Development and Research, *Report to Congress on the Federal Home Loan Bank System, Vol. II* 6–12 (Apr. 1994). In addition, at a 1994 hearing, Under Secretary of the Treasury for Domestic Finance Frank N. Newman testified that, as recommended in the reports, the Treasury Department did not believe that membership eligibility should be expanded beyond then-currently eligible group of depository institutions and insurance companies. *See The Future of the Federal Home Loan Bank System: Hearing Before the S. Comm. on Banking, Housing, and Urban Affairs on the Need for a Comprehensive Legislative Package to Update and to Strengthen the Federal Home Loan Bank System's Mission, Structure, Capital Requirements, and Regulatory Oversight,* 103rd Cong., 4, 25 (June 15, 1994).

[54] *See Housing and Economic Recovery Act of 2008,* Public Law 110–289, § 1206, 122 Stat. 2654, 2787 (2008).

[55] *See Fixing America's Surface Transportation Act,* Public Law 114–94, § 82001 (2015).

[56] For example, when Congress added CDFIs to the list of eligible member types, Congress exempted them from the requirement that they be subject to inspection and regulation (because they are not) and instead provided that they must be certified as CDFIs by the Treasury Department. *See* 12 U.S.C. 1424(a)(1)(B).

[57] 12 U.S.C. 4511.

[58] 12 U.S.C. 4513(a)(1), (2).

[59] 12 U.S.C. 4526(a).

[60] To enable the Banks to better fulfill their public policy mission, Congress vested in them market advantages that some might view as depriving government treasuries of revenue and exposing taxpayers to risk. This supports the conclusion that Congress intended to strictly limit access to the Bank System.

[61] *See* 12 U.S.C. 1424(a)(1).

using captive subsidiaries as vehicles to access the benefits of membership to which they are not legally entitled. As also detailed above, captives as a class are uniquely suited to being used for that purpose due to the limited scope of their business activities, which makes them easier and less expensive to establish and operate, and because they are more lightly regulated than commercial insurance companies or insured depository institutions. There is also a relative absence of restrictions on the activities and investments of a captive's parent, as compared to those that apply to an entity that establishes a federally insured bank or savings association subsidiary. These unique characteristics, as among the types of institutions that are permitted to become Bank members under the existing membership regulation, have led captive promoters, insurance regulators, and others with vested interests in expanding the ubiquity of captives to promote them as vehicles through which REITs and other ineligible entities—including those having no connection to housing finance—may obtain access to low-cost Bank advances. This, along with the examples set by those whose attempts to use captives to obtain access to the Bank System have so far met with apparent success, makes it likely that the practice of using of captives for that purpose will continue to grow in the absence of any action by FHFA to halt the practice.

4. FHFA Has the Authority To Take Action To Prevent the Circumvention of the Provisions and Purposes of the Bank Act

The authorities conferred upon FHFA by the Bank Act and the Safety and Soundness Act, described above, empower the Agency to adopt a regulation to prevent this circumvention of the provisions and purposes of the Bank Act. Given that the vast majority of captive members are being used by ineligible entities to circumvent the statutory membership eligibility requirements and, aside from this illegitimate use, have little or no reason to be Bank members, FHFA is not required to treat those types of captives as ''insurance companies'' for membership purposes simply because they are chartered or licensed under state insurance statutes. The Agency has sufficient legal authority, through its mandate to ensure that the purposes of the statute are carried out, to consider the economic realities of these arrangements—*i.e.,* that the parent companies are the true parties in interest, while the captives act merely as conduits—and to take appropriate regulatory action.

FHFA has determined that the most effective and appropriate way to prevent the use of captives as vehicles to provide *de facto* membership for ineligible entities is to adopt a regulation defining the heretofore undefined term ''insurance company'' to exclude from membership all captives that may feasibly be used for that purpose. As discussed in part III of this **SUPPLEMENTARY INFORMATION**, FHFA has taken special care to define ''insurance company'' so that captives having the characteristics that give rise to the Agency's concerns will be excluded, while those institutions that do not engender such concerns and that would be regarded as carrying out the business of insurance as traditionally understood (even if they are denominated as ''captives'' under their states' insurance laws) will continue to be considered as insurance companies for purposes of determining eligibility for Bank membership.

5. Viewed in the Context of Today's Marketplace, in Contrast to That of 1932, the Meaning of ''Insurance Company'' Is Ambiguous and, Therefore, FHFA May Adopt a Reasonable Interpretation of That Term To Effect the Purposes of the Bank Act

An administrative agency has authority to interpret and define the terms of the statutes that it administers, especially terms that are undefined.[62] Among the specific types of entities that are eligible for Bank membership, Congress has defined only ''insured depository institution.''[63] Congress did not define the term ''insurance company'' or provide any other guidance about its meaning. This leaves the term open to FHFA to define, provided that the definition is reasonable given the provisions and purposes of the Bank Act.

Many commenters expressed the opinion that defining ''insurance company'' to exclude captives would be in contradiction to the unambiguously expressed intent of Congress as embodied in the plain language of the Bank Act, which provides that ''any . . . insurance company'' may be eligible for membership. By basing their assertions as to the plain meaning of section 4(a)(1) on the fact that the term ''insurance company'' is preceded by the word ''any'' in that paragraph (as are all the other terms used to describe the types of institutions that may be eligible for membership), many commenters begged the essential question of what constitutes an ''insurance company'' for purposes of the Bank Act in the first place. A few commenters asserted or implied that the statutory membership provisions must be read as including captives because captives are ''organized, licensed and regulated'' under state insurance statutes or ''meet[] the definition of an insurance company under state law.''[64] FHFA does not believe that such a reading is required, particularly where, as here, it would result in an interpretation that allows circumvention of specific provisions of the Bank Act and subverts the scheme of the statute as a whole. In other contexts, the Supreme Court has held that a federal regulator may reasonably define an activity or a transaction as not insurance under federal law even if state law would treat it as such.[65]

Sometimes a statutory term that appears on its face to have a commonly understood meaning may be shown to

[62] *See Astrue* v. *Capato,* 132 S.Ct. 2021, 2026 (2012); *Chevron U.S.A., Inc.* v. *Natural Resources Defense Council,* 467 U.S. 837, 843–44 (1984); *Securities Industry Association* v. *Clarke,* 885 F.2d 1034 (2d Cir. 1989), *cert. denied,* 493 U.S. 1070 (1990).

[63] *See* 12 U.S.C. 1422(9) (defining ''insured depository institution'' to include banks and savings associations the deposits of which are insured by the FDIC and credit unions the share accounts of which are insured by the NCUA). In addition, although Congress did not define the term ''community development financial institution,'' it did provide that only those CDFIs that have been certified by the Treasury Department are eligible for membership. *See* 12 U.S.C. 1424(a)(1)(B).

[64] In support of this argument, several commenters specifically cited the federal McCarran-Ferguson Act, which provides, in pertinent part, that ''[n]o Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, or which imposes a fee or tax upon such business, unless such Act specifically relates to the business of insurance.'' *See* 15 U.S.C. 1012(b). However, nothing in this final rule relates in any way to the regulation of the business of insurance or to the taxation or imposition of fees on any captive or commercial insurance company.

[65] In *Nationsbank* v. *Variable Annuity Life Ins. Co.,* 513 U.S. 251 (1995) (''VALIC''), the U.S. Supreme Court declined to apply a state law-based definition of ''insurance'' to a federal banking statute. There, the Court upheld the Comptroller of the Currency's classification of annuities as investments, rather than as insurance, under the National Bank Act (NBA), despite respondent's assertions that Congress intended to define ''insurance'' under the NBA by reference to state law, under which annuities are typically regulated as insurance. In upholding the Comptroller's classification, the Court stated, among other things, ''the federal banking law does not plainly require automatic reference to state law here. The Comptroller has concluded that the federal regime is best served by classifying annuities according to their functional characteristics. Congress has not ruled out that course . . .; courts, therefore, have no cause to dictate to the Comptroller the state-law constraint VALIC espouses.'' 513 U.S. at 261–262. *See also Helvering* v. *LeGierse,* 312 U.S. 531 (1941) (holding that a transaction was not an insurance transaction for federal tax purposes despite its comprising a set of insurance policies under state law).

be ambiguous when it is considered in light of the statute's overall structure, purpose, and history.[66] Construing the term ''insurance company'' to include any type of entity organized under a state's insurance statutes would allow companies that are not eligible for Bank membership to continue to use captives—or any entities having similar characteristics that might be developed under a different moniker—as a means of providing them with *de facto* membership. In this case, an ambiguity arises because an unconstrained reading of ''insurance company'' would result in a situation that is contrary to Congress's clear intent to limit the benefits of Bank membership to the several types of institutions listed in section 4(a)(1) of the Bank Act. In contrast, a reading of the term that encompasses insurance companies as they were understood when the Bank Act was enacted, not including captives, would be fully consistent with that provision and with the statutory scheme as a whole.

The ambiguity also arises because it is highly unlikely that Congress considered in 1932 whether captives, which did not then exist, or any class of entity having similar characteristics that would allow the entities to be readily used to circumvent the statutory requirements, should be deemed to be included within the term ''insurance company.'' It is most likely that the term ''insurance company'' would have been understood by Congress and others in 1932 to refer to a company that was in the business of insurance as it was then understood—that is, the shifting of risk by the insured to a larger class of policyholders through the intermediation of the insurance company—and not to a mechanism for the administration of self-insurance.[67] The current phenomenon of captives as a legal vehicle for managing the parent company's self-insurance did not exist in 1932 and cannot have been within the contemplation of Congress. Captives in the modern sense began to appear only in the late 1950s and early 1960s. Even for many years after U.S. companies first began to form captive subsidiaries, those captives had to be domiciled off-shore, because the state insurance laws that existed at the time made it prohibitively expensive to form and operate a captive in the United States.[68] Colorado became the first U.S. jurisdiction to adopt legislation authorizing the chartering and licensing of captives in 1972,[69] and the captive trend did not begin to gain any real momentum until the mid-1980s.

Although some commenters asserted that early forms of captives existed in 1932 and that Congress must therefore have intended to include them as eligible for membership, those commenters did not identify any example of a captive as it is defined in FHFA's final regulation,[70] nor did they cite anything in the legislative history of the Bank Act that addresses self-insurance by any name. There is scant mention of insurance companies in the legislative history of the Bank Act, although it is logical to infer that Congress specifically included insurance companies among the types of institutions eligible for membership because life insurance companies were actively involved in originating and investing in residential mortgage loans at that time. Life insurance companies, among other classes of insurance companies, would have fit within the traditional view of an insurance company as being an institution that underwrites insurance for entities that are not its affiliates.

Because the types of captives that are now, and recently have been, seeking Bank membership did not come into existence until well after Congress enacted the Bank Act, FHFA does not believe that it is possible to conclude, as some commenters have asserted, that Congress would have intended to include such entities among those eligible for Bank membership. Reasonably assuming that Congress viewed the term ''insurance company'' in its traditional sense, it would not have had any reason to consider the possibility that another type of business entity could have organized an insurance company and then used it as a vehicle for obtaining advances from a Bank to fund its own investments or business operations.

Thus, changing factual circumstances have generated an ambiguity in the term ''insurance company.'' The definition of that term contained in the final rule is consistent with its historical use in the statute and with the purposes of the statute, but necessarily results in a definition that would exclude some modern entities licensed or chartered under a state's insurance statutes. Because Congress has not defined the term and because it is ambiguous for the reasons discussed, FHFA has the legal authority to define ''insurance company'' in a manner that is reasonable in light of the provisions and purposes of the Bank Act.

6. It Is Reasonable To Define ''Insurance Company'' To Exclude Captives

Defining ''insurance company'' to exclude captives is reasonable for three fundamental reasons, all of which have been thoroughly addressed above. First, doing so is consistent with section 4(a)(1) of the Bank Act, which is reflective of a congressionally created statutory scheme to limit the benefits of Bank membership to the types of institutions specifically listed therein. Second, captives are uniquely suited to serve as vehicles for the circumvention of that statutory provision and its underlying purposes and are being actively promoted for that use, and there is no countervailing public policy reason for them to be Bank members on the basis of their own functions, separate from their parents'. Third, defining ''insurance company'' in this manner is consistent with the likely intent of Congress, which would have viewed an insurance company as being a company in the business of ''risk-shifting and risk-distributing,'' as the Supreme Court described insurance less than a decade after the enactment of the Bank Act.[71] In addition, it is highly unlikely that Congress contemplated the existence of any class of eligible

[66] *See King* v. *Burwell,* 135 S. Ct. 2480 (2015); *FDA* v. *Brown & Williamson Tobacco Corp.,* 529 U.S. 120, 132–133 (2000).

[67] *See Helvering* v. *LeGierse,* 312 U.S. 531, 539–40 (1941) (stating that ''[h]istorically and commonly insurance involves risk-shifting and risk-distributing'' and finding that the transaction at issue did not involve those features and therefore was not insurance under the federal income tax laws); *Spring Canyon Coal Co.* v. *Commissioner of Internal Revenue,* 43 F.2d 78, 80 (10th Cir. 1930) (holding that a company's contribution to a self-insurance reserve was not deductible as an insurance premium under the federal income tax laws because there was no shifting of risk). In 1932, life insurance companies originated and invested in large numbers of residential mortgage loans; these longer-term assets were well matched in duration to their life insurance liabilities. Captives do not share that business model.

[68] *See* Shanique Hall, *Recent Developments in the Captive Insurance Industry,* NAIC Center for Insurance Policy and Research Newsletter (Jan. 2012), *http://www.naic.org/cipr_newsletter_archive/vol2_captive.htm* (last visited Dec. 8, 2015).

[69] Maureen A. Sanders, *Risk Retention Groups: Who's Sorry Now?,* 17 S. Ill. U.L.J. 531, 542, n. 76 (1993).

[70] Some commenters referred to the Church Properties Fire Insurance Corporation, which was formed by lay leaders of the Episcopal Church in 1929 in order to ''reduce costs by selling direct to churches and their affiliated organizations.'' *See Episcopalians Form Fire Insurance Concern To Reduce the Cost of Policies on Churches,* New York Times (May 23, 1929) at 1. To the extent that this entity could be characterized as an equivalent of a modern captive, it appears to have been most similar to either an association captive or a group captive, most of which would likely qualify as an ''insurance company'' under the final rule definition. Although the terms used vary from state to state, an ''association captive'' is generally understood to be a captive that it is sponsored or owned by a group of entities within a particular trade, industry, or service organization and that insures only the risks of its owners or their affiliates. *See* Hall, *supra.*

[71] *Helvering* v. *LeGierse,* 312 U.S. at 539.

financial institution having the characteristics of modern captives (which, as discussed, did not then exist) that make captives feasible to use as funding conduits for entities Congress did not deem eligible for Bank membership, and even less likely that Congress would have approved of such use, which effectively circumvents the very membership restrictions it imposed.

Several commenters asserted that the Agency's proposal to address that concern by focusing only on captives was ''arbitrary'' (and therefore not within the Agency's authority to adopt) because it disregarded the possibility that other types of members had passed advance proceeds on to non-members through intercompany transfers and could continue to do so in the future. The majority of members that are not captives are owned by holding companies that are not themselves eligible for membership and there is little question that advance proceeds may flow through to the parent companies in many cases. Given the fungibility of money and the typically complex structures of modern financial institutions, it would be extremely difficult for FHFA, or any agency, to develop a workable means of preventing all such transfers. However, even assuming that a small number of non-captive members could be acting effectively as conduits for their parent companies, no evidence suggests that any type of member institution other than captives is, as a class, being used to any material degree for such purposes. In contrast, there is abundant evidence, detailed above, that almost all members that are captives as defined in the final rule were established and sought to become Bank members for the primary purpose of acting as conduits for their ineligible parents. Given this, as well as their unique suitability for such purposes and the general absence of any other compelling rationale for them to be members, FHFA's exclusion of captives in this final rule is reasonable.

7. FHFA Has the Authority To Require the Termination of Captives That Were Previously Admitted to Bank Membership

Section 6(d)(2)(A) of the Bank Act provides that the board of directors of a Bank ''may terminate'' the membership of any member institution if, ''subject to the regulations of the Director'' of FHFA, it determines that any of the statutory grounds for termination exist. Those grounds include a failure to comply with any provision of the Bank Act or FHFA regulations.[72] A number of commenters asserted that this provision vests discretionary termination authority in each Bank and that, consequently, FHFA does not have the authority to require a Bank to terminate the membership of captives that were admitted under the regulations in force at the time of admission. In support of that assertion, several of those commenters also noted that the Bank Act had previously contained a provision explicitly authorizing the Bank System regulator to remove a member for cause (including failure to comply with statutory or regulatory provision) after a hearing, but that Congress removed that explicit authorization in 1999 when it adopted the current termination provision.[73]

Although the 1999 amendments did transfer the mechanism of termination from the Bank System regulator to the Banks themselves, it is not plausible to suggest, as do the commenters, that Congress thereby stripped the regulator of its authority to require the removal of a member when doing so is necessary to halt a violation of the statute or regulations. The use of the words ''may terminate'' indicates that Congress intended to permit a Bank's board of directors some degree of discretion in deciding whether and when to terminate an institution's membership, but that discretion is limited by the statutory language subjecting the exercise of that termination authority to the regulations of the Director.[74] In this case, the Director has adopted regulatory amendments implementing a provision of the Bank Act in a way that makes captives—including those that were previously admitted—ineligible for membership. When effective, the amended regulation will be binding on the Banks, which will be obliged to comply with its provisions to the same extent that they are obliged to comply with any other statutory or regulatory requirement.

Section 6(d)(2)(A) may permit a Bank to exercise its discretion, for example, in deciding whether and when to terminate the membership of an institution that has committed a statutory or regulatory violation for which no particular sanction is specified. The express caveat in section 6(d)(2)(A) making a Bank's termination authority subject to FHFA regulations, as well as FHFA's broad powers as supervisor and regulator of the Banks and its statutory duty to administer the Bank Act in a manner that promotes the Act's purposes and protects the public interest, provide the Agency with sufficient authority to adopt a regulation that, as the final rule does, specifies the circumstances in which a violation of the law requires a Bank to exercise its termination authority. The exercise of this regulatory authority is appropriate where, as here, the violation is not one of technical noncompliance with a minor requirement, but of the fundamental principles defining eligibility for membership and access to the Bank System, the purposes of which would be undermined if membership were allowed to continue. For these reasons, when a member is in violation of a lawfully adopted regulation for which the required sanction is termination of membership, a Bank does not have the discretion to refuse to terminate the member when and as required by the regulation.

Apart from questioning FHFA's power to regulate the Banks' termination authority under section 6(d)(2)(A), a few commenters offered other reasons that they believed the Agency cannot require a Bank to terminate the membership of its existing captive members. One asserted that requiring the termination of existing captive members would give rise to a ''takings'' claim against the United States in that it would deprive former captive members of their right to a pro rata share of the retained earnings of their former Banks and of access to Bank advances and other products and services, without adequate compensation. Citing a ruling by the U.S. Court of Appeals for the D.C. Circuit that no federal agency may adopt a regulation that would give rise to a ''takings'' claim unless it is expressly authorized it to do so by statute,[75] the commenter further argued that FHFA may not adopt a regulation requiring termination because such an express statutory authorization does not exist.

Bank members—even those that are in compliance with all statutory and regulatory eligibility requirements—have no constitutionally protected property interest in continuing Bank membership. Although the Bank Act specifies that the holders of a Bank's the

[72] 12 U.S.C. 1426(d)(2)(A).

[73] *See Financial Services Modernization Act of 1999,* Pub. L. 106–102, sec. 608, 113 Stat. 1338, 1461 (1999).

[74] In addition, as the Court of Appeals for the D.C. Circuit has explained, '' 'May' ordinarily connotes discretion, but neither in lay nor legal understanding is the result inexorable. Rather, the conclusion to be reached 'depends on the context of the statute, and on whether it is fairly to be presumed that it was the intention of the legislature to confer a discretionary power or to impose an imperative duty.' '' *Thompson* v. *Clifford,* 408 F.2d 154, 158 (D.C. Cir. 1968) (*citations omitted*); *see also Halverson* v. *Slater,* 129 F.3d 180, 188–189 (D.C. Cir. 1997).

[75] *See Bell Atlantic Tel. Cos.* v. *FCC,* 24 F.3d 1441, 1445–46 (D.C. Cir 1994).

Class B stock ''shall own the retained earnings, surplus, undivided profits, and equity reserves, if any, of the [Bank],'' it also makes clear that, ''[e]xcept as specifically provided in [section 6 of the Bank Act] or through the declaration of a dividend or a capital distribution by a [Bank], or in the event of liquidation of the [Bank], a member shall have no right to withdraw or otherwise receive distribution of any portion of the retained earnings of the [Bank].'' [76] But even if members did have a constitutionally protected property interest in Bank membership, FHFA's regulation effects neither a *per se* taking nor a regulatory taking as courts have developed those concepts.

A *per se* taking occurs when the government physically appropriates real or personal property for its own use without just compensation.[77] A captive terminated as required under the final rule will be fully compensated when the Bank redeems its Bank stock for par value (the same amount paid by the captive when it acquired the stock) in the manner provided under the Bank's capital plan. Regardless of compensation, the captive's Bank stock will not have been physically appropriated by the government for its own use. Thus, there will have been no *per se* taking.

Neither will there be a regulatory taking, which occurs when the government imposes a restriction on the use of property that results a severe and unwarranted diminution in the property's value.[78] The terminated member will not only receive the par value of its Bank stock when the stock is redeemed, but will also continue to receive any dividends declared up to the time its stock is redeemed. Thus, there can be no claim that the economic value of the stock will have been destroyed. In addition, because the Banks have independent power to terminate membership, members have a reasonable expectation that their membership may be terminated at some point. Because dividend payments are at all times subject to the approval of the Bank's board of directors, there is no reasonable investment expectation that dividends will continue to be paid. Finally, because the captives became Bank members with full knowledge that all Bank activities are heavily regulated, they cannot claim to have had a reasonable investment-backed expectation that the regulatory regime would remain forever static. This is especially true in the case of entities that became members for the purpose of circumventing the statutory membership requirements.

Another commenter, who focused on FHFA's comments in the proposed rule **SUPPLEMENTARY INFORMATION** regarding the possibility that captive membership may pose unique safety and soundness issues, asserted that those concerns could not serve as a basis for requiring the termination of captive members until the Agency had taken the steps required by section 8 of the Bank Act. Section 8 requires that FHFA keep abreast of the state laws under which Bank members are chartered and regulated, and states that if FHFA concludes that the laws of any state provide inadequate protection to a Bank in making or collecting advances, the Agency may ''withhold or limit the operation'' of any Bank in that state until satisfactory conditions are established.[79] The commenter asserted that this statutory provision prohibits FHFA from taking any action with respect to captive members until it has first undertaken a study of all of the state laws under which they operate, and only after concluding that a particular state's laws fail to provide adequate protection to a Bank.

FHFA rejects the assertion that section 8 may be read to limit in any way the steps the Agency may take in fulfilling its statutory duty to ensure the safe and sound operation of the Banks. Even if section 8 could be so construed, it would not limit the Agency's ability to require the termination of captive members. Although the proposed rule discussed some safety and soundness concerns to which captive membership gives rise, the Agency's proposal and its ultimate decision to exclude captives from Bank membership and to require the termination of existing captives stems from its conclusion that they are being used to circumvent the statutory requirements governing the types of institutions that may become Bank members, and not primarily from safety and soundness concerns regarding captive insurers.[80] FHFA re-emphasizes that point in this final rule.

C. Discussion of Other Arguments Raised by Commenters

Most of the arguments made by commenters in opposition to the proposed captives provisions have been addressed in the discussion above regarding the legal and policy bases for FHFA's adoption of the final captives provisions. However, some commenters made other arguments that are not addressed above and that warrant discussion.

Many commenters stressed that mortgage REITs' substantial commitment to the residential mortgage market in the U.S. is consistent with the mission of the Banks, and argued that allowing them to access the low-cost funding that the Banks are able to provide will increase the level of private capital in the residential mortgage market, benefiting existing and potential homeowners and the public. Others similarly argued that preventing REITs from accessing Bank funding through their captive subsidiaries could increase instability in the residential mortgage market by reducing liquidity and curtailing the availability of long-term funding. FHFA acknowledges that mortgage REITs play a large role in the residential mortgage market and does not question the legitimacy of their activities. However, while FHFA has the duty to ensure that the operations and activities of the Banks ''foster liquid, efficient, competitive, and resilient national housing finance markets,'' it also has a duty to ensure that the Banks carry out that mission ''only through activities that are authorized under and consistent with'' the Bank Act and the Safety and Soundness Act.[81] Having concluded that the channeling of low-cost Bank funding to REITs and other ineligible entities through captive members is not authorized by or consistent with the Bank Act, the Agency is compelled to take action to put an end to that practice until such time, and on such terms, as Congress authorizes that access. Similarly, it is not appropriate for FHFA to expand Bank membership beyond the framework established by Congress in order to provide greater macroeconomic stability in times of financial stress, as urged by some commenters.

A number of other commenters argued that FHFA offered no analysis of the financial impact the proposed exclusion of captives would have on the Banks and their members, and asserted that excluding captives from membership would result in reduced

[76] 12 U.S.C. 1426(h). *See also Fahey* v. *O'Melveny & Myers,* 200 F.2d 420, 467 (9th Cir. 1952) (holding that the ''purchase of [Bank] stock is a condition of [Bank] membership and does not confer proprietary interest or a property right of any kind in any [Bank] itself'').

[77] *See Horne* v. *Dep't of Agriculture,* 135 S. Ct. 2419, 2426–27 (2015).

[78] *See Horne,* 135 S. Ct. at 2427.

[79] *See* 12 U.S.C. 1428.

[80] After describing the proposed captives provisions in the **SUPPLEMENTARY INFORMATION** to the proposed rule, FHFA stated that it was proposing to take those actions ''to address supervisory concerns about certain institutions that are ineligible for Bank membership, but that are using captives as vehicles through which they can obtain Bank advances to fund their business operations.'' *See* 79 FR 54848, 54853 (Sept. 12, 2014).

[81] 12 U.S.C. 4513(a)(1)(B).

income for the Banks in the short run and lost opportunities for income growth in the future. Any projection the Agency might attempt to make regarding the exclusion of captives would be speculative. Despite the fact that the number of captive members has increased dramatically since 2012, they still constitute a very small percentage of the Banks' membership base, and the number that would have been approved for membership in future years cannot be estimated. Similarly, while the amount of advances currently outstanding to captives is known, it is not possible to project what future levels would have been because of the difficulty of estimating not only the number of potential captive members forgone, but also what their level of demand for advances would have been.

Regardless of the financial impact, which is unknown, FHFA cannot allow the Banks to continue to engage in activities that it has concluded are not authorized under the law. Congress mandated the establishment of the Banks in order to advance public policy goals and, in order to ensure that they could fulfill those goals, provided them with initial funding from the Treasury Department and granted them tax and other advantages not generally enjoyed by ordinary for-profit corporations. Accordingly, unlike ordinary corporations, the Banks are not free to undertake any and all activities that they judge to be profitable from a business perspective without regard to the limitations imposed by their authorizing statute. Against the uncertain financial impact on the Banks of this regulation must be counterbalanced the equally uncertain financial effects of expanded government exposure and possible economic distortions from supporting expanded categories of businesses.

Many commenters pointed out that any action that might reduce the income of any Bank to any extent would necessarily reduce the amount of funds available for those Banks' Affordable Housing Programs (AHP), because the statute requires 10 percent of a Bank's earnings to be dedicated to its AHP. But increasing AHP contributions is not a legitimate reason to enhance Banks' earnings by allowing access to Bank advances by ineligible entities. In any event, expanding Banks' income through the admission of members who should be regarded as ineligible under the Bank Act is a very low-leverage way of increasing the availability of AHP funds, because the statute requires only 10 percent of Bank earnings to be dedicated to the AHP.

Finally, some commenters questioned why FHFA cannot address its concerns regarding the use of captives as funding conduits by adopting more narrowly tailored restrictions, such as by excluding from membership only captives that are owned by ineligible entities or, even more narrowly, only those that FHFA has determined are actually being used as a funding conduit for an ineligible parent. In developing the final rule, FHFA fully considered a number of narrower options, but ultimately concluded that each those options either raised legal concerns, would not adequately address the Agency's policy concerns, or were not workable from a practical perspective.

For example, the Agency considered whether it would be possible to adopt a final rule allowing captives to be members, but including provisions restricting the extent to which the captive could pass advance proceeds on to an ineligible parent such as by establishing a specified percentage of a captive's assets that may be funded by advances or by requiring that all collateral be kept on the books of the captive. FHFA concluded that, while either of these options could be justified from a legal perspective, neither would be likely to be effective, given the fungibility of advance proceeds and the legal and other expert resources available to the captive's parent companies that would enable them to develop methods of effectively circumventing any such restrictions.[82]

FHFA also considered adopting a final rule that would have continued to allow membership for captives owned by entities eligible to become members. This option raises a legal question whether the statutory membership framework contemplates conditioning eligibility for membership on the activities or investments of a particular institution's parent company. Apart from that, however, this option would still allow institutions that are themselves eligible for membership to use captive subsidiaries to enable inexpensive access to multiple Banks. Like the use of captives by ineligible parents, this potential use by eligible parents raises substantial questions of policy and legitimacy under the Bank Act, in light of the statute's provision that a member may join only the Bank in the district in which its principal place of business is located.[83]

III. Section-by-Section Analysis of the Final Rule

A. Definitions—§ 1263.1

The final rule adds several new definitions to § 1263.1, as well as revises or deletes the definitions of a number of terms that appear in the existing regulation. Although most of these changes are non-substantive, newly added definitions for the terms ''insurance company'' and ''captive'' are intended to implement the main policy goal of the final rule—preventing circumvention of the Bank Act's membership categories by excluding captive insurers from Bank membership. The final rule defines ''insurance company'' as ''an entity that holds an insurance license or charter under the laws of a State and whose primary business is the underwriting of insurance for persons or entities that are not its affiliates.'' The rule defines ''captive'' as ''an entity that holds an insurance license or charter under the laws of a State, but that does not meet the definition of 'insurance company' set forth in this section or fall within any other category of institution that may be eligible for membership.'' The purpose of defining those terms is to distinguish, as among entities that are deemed to be an insurance company under state law, between those that may be eligible for Bank membership as an ''insurance company'' and those that are not eligible. An entity that is chartered or licensed under a state's insurance statutes but that neither meets the definition of ''insurance company'' nor falls within any of the other categories of institutions that may be eligible for membership under the statute or regulations, is ineligible for membership.

Both the terms ''insurance company'' and ''captive'' were defined in the proposed rule and the final definitions are similar to those that were proposed. The proposed rule would have defined ''insurance company'' to mean ''a company whose primary business is the underwriting of insurance for nonaffiliated persons or entities.'' It

[82] Some representatives of captive members represented to FHFA that their captive subsidiaries directly support residential housing finance and do not act as conduits to ineligible parents. However, as stated above, FHFA has been unable to develop an administratively feasible way to assure that this is the case or remains so, and in the great majority of instances that FHFA has reviewed, it is not. Also, in these cases, the captive is not engaged primarily in the business of insurance, meaning the business of shifting and spreading risk to unaffiliated parties, and, therefore, would not be an insurance company as Congress would have understood that concept in 1932.

[83] *See* 12 U.S.C. 1424(b). If a depository institution were to establish a captive insurer in a state in another Bank district, structured so that its books, records, and personnel were located there, the regulation, as revised by the final rule, would recognize that other state as the principal place of business of the captive for Bank membership purposes.

would have defined ''captive'' to mean ''a company that is authorized under state law to conduct an insurance business, but that does not meet the definition of 'insurance company' . . . or fall within any other category of institution eligible for membership.'' In the final rule, the latter part of the definition of ''captive'' remains as proposed, while the initial phrase has been revised to refer more precisely to ''an entity that holds an insurance license or charter under the laws of a State.'' The final rule adds that same initial phrase to the definition of ''insurance company,'' substituting it for the generic term ''a company'' that was used in the proposed definition. This was done to make clearer that these two definitions are meant to be read in conjunction with each other. In addition, in the final rule, the definition of ''insurance company'' now refers to an entity ''whose primary business is the underwriting of insurance for persons or entities that are not its affiliates,'' instead of one ''whose primary business is the underwriting of insurance for nonaffiliated persons or entities.'' The sole reason for this change in nomenclature is because, in response to the requests of a number of commenters, FHFA has added a definition of the word ''affiliate'' to the final rule.

Several commenters asserted that the term ''nonaffiliated persons or entities'' was too vague and could be read in a way that would exclude from the definition of ''insurance company'' (and therefore from eligibility for Bank membership) entities that, because of diffuse ownership or other factors, cannot be easily used as financing conduits. The types of entities identified were: Mutual insurance companies, which are owned by their policyholders; ''association captives,'' which may be incorporated as a mutual insurer under state captive statutes to insure a group of policyholders engaged in a related trade; and risk retention groups (RRGs), which are liability insurance companies that may be chartered as either captives or as traditional insurers under state law and that are authorized as RRGs under federal law.[84] FHFA has concluded that these types of insurance companies would in almost all cases be within the definition of ''insurance company'' adopted in the final rule and therefore would remain eligible for membership.

Two commenters provided specific recommendations as to how the term ''nonaffiliated persons or entities'' could be clarified so as to preclude the possibility that the definition of ''insurance company'' could be read to exclude entities that are not the intended targets of the proposal. One commenter, a Bank, suggested that FHFA define the term ''nonaffiliated persons or entities'' in the final rule to mean ''one or more persons or entities holding less than 50% equity ownership or voting control of the insurance company.''

Another commenter suggested that FHFA take an approach similar to that reflected in the Bank Holding Company Act (''BHCA''), which defines ''affiliate'' to mean ''any company that controls, is controlled by, or is under common control with another company.'' [85] In turn, the BHCA states that one company is considered to have ''control'' over another thereunder if it: (A) ''directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the bank or company''; (B) ''controls in any manner the election of a majority of the directors or trustees of the bank or company''; or (C) the Board of Governors of the Federal Reserve System (FRB) ''determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management or policies of the bank or company.'' [86] The commenter suggested that FHFA also adopt a ''safe harbor'' provision similar to one that applies to determinations made by the FRB under clause (C) of the foregoing which establishes a presumption that ''any company which directly or indirectly owns, controls, or has power to vote less than 5 per centum of any class of voting securities of a given . . . company does not have control over that . . . company.'' [87]

FHFA has decided to follow that commenter's basic suggestion by adopting the concepts of ''affiliate'' and ''control'' that are reflected in the BHCA because those terms have well established meanings, as illustrated by their being used also in the Safety and Soundness Act with respect to affiliates of Fannie Mae and Freddie Mac.[88] While the final definition of ''affiliate'' is taken from the BHCA, the text defining the scope of the word ''control'' (which in the final rule appears within the definition of ''affiliate'') is based not on the language of the BHCA itself, but on the somewhat more specific definition of that word that the FRB used in its implementing regulations.[89]

The final rule defines ''affiliate'' to mean ''any entity that controls, is controlled by, or is under common control with another entity.'' The new definition of ''affiliate'' also specifies that, for purposes of that definition, one entity ''controls'' another if it: (1) Owns or controls 25 percent or more of the outstanding voting stock, limited partnership shares, or similar interests of the other entity; (2) controls in any manner the election of a majority of the directors, trustees, or general partners of the other entity; or (3) has the power to exercise a controlling influence over the management or policies of the other entity through a management agreement, common directors or management officials, or by any other means.

The final rule definition of ''control'' does not include an equivalent of clause (C) in the BHCA definition of that term, which contemplates the possibility that the FRB may be required to hold hearings to determine whether one company exercises a controlling influence over another company. In other words, the rule does not contemplate that FHFA will under any circumstances hold a hearing to determine whether one entity ''controls'' another or to determine whether an entity falls within the definition of ''insurance company.'' Instead, a Bank may need to inquire into the facts of a particular case and apply its reasoned judgment in some circumstances. In applying the definition of ''control,'' a Bank should first make the relatively straightforward determination as to whether one entity exerts a controlling influence over another in the manner described in paragraphs (1) or (2) of the definition. If the answer to that question is ''yes,'' then the inquiry need go no further—one entity ''controls'' the other, and they are thus considered to be affiliates under the rule. If the answer to that question is ''no,'' then the Bank must consider, under paragraph (3), whether one entity has the power to exercise a controlling influence over the management or policies of the other entity by any other means, such as through a management agreement, common directors, or common management officials.

FHFA has also declined to include in the definition of ''control'' an equivalent to the BHCA provision establishing a presumption of non-control in cases where one company controls less than 5 percent of the voting stock of another.

[84] *See Federal Liability Risk Retention Act,* 15 U.S.C. 3901, *et seq.*

[85] 12 U.S.C. 1841(k).

[86] 12 U.S.C. 1841(a)(2).

[87] 12 U.S.C. 1841(a)(3).

[88] *See* 12 U.S.C. 4502(1).

[89] *See* 12 CFR 225.2(e).

FHFA believes that including such a provision will only further complicate the definition by appearing to require extensive inquiry into arrangements where one entity may control more than 5 percent, but less than 25 percent of the voting stock of another entity. To be clear, if a Bank determines that control does not exist in the manner described in paragraphs (1) or (2) and determines after reasonable inquiry that no alternative means of control exist as provided in paragraph (3), then it may presume that one entity does not control the other and, therefore, that they need not be considered affiliates under the rule.

Several commenters argued that the proposed rule also left unclear how a Bank would determine whether the ''underwriting of insurance for nonaffiliated persons or entities'' constitutes a company's ''primary business,'' in determining whether a particular entity fell within the definition of ''insurance company.'' One Bank suggested that FHFA define ''primary business'' to mean ''a business line (such as selling policies, including reinsurance policies or contracts of reinsurance) that constitutes more than half of the insurance company's business.'' However, the concept of half of a company's business invokes measurement questions more complex and protean than are easily susceptible of being addressed in regulation language of general applicability. FHFA believes that close interpretive questions are unlikely to arise with any frequency, but is prepared to provide interpretive guidance as needed in any appropriate cases.

Determinations regarding whether an institution meets the definition of ''insurance company,'' including determinations about what constitutes an ''affiliate'' and ''control,'' as well as the manner in which Banks should memorialize their conclusions with respect to those determinations in an applicant's membership application file, are addressed further in the discussion of final § 1263.2(b) below.

The one other substantive definitional change is to finalize the proposed expansion of the definition of ''home mortgage loan'' to include all types of MBS backed by qualifying loans and securities. Existing § 1263.1 generally defines ''home mortgage loan'' to include a loan that is secured by a first lien mortgage on one-to-four- or multi-family property, as well as a mortgage pass-through security that represents an undivided ownership interest in the underlying pool of mortgage loans. As proposed, the final rule replaces the existing reference to a pass-through security with a more general reference to a security representing either: (i) A right to receive a portion of the cash flows from a pool of qualifying loans; or (ii) an interest in other securities representing such a right. The reference to a right to receive a portion of the cash flows is intended to encompass both the rights of a holder of a mortgage pass-through security to an undivided ownership interest in the underlying loans and their principal and interest payments, as well as the rights of a holder ''debt-type'' instruments that grant the holder the right to a specified portion of the cash flows from the pooled mortgage loans. Thus, the revision is intended to bring within the definition of ''home mortgage loan'' all types of MBS—including pass-through securities, CMOs, REMICs, and principal-only and interest-only strips—that are fully backed by whole loans that meet the definition of ''home mortgage loan'' or by other MBS that are fully backed by such loans. The revised definition is not intended to include a bond or other debt security that is a general obligation of the issuer, even if it is collateralized by qualifying mortgage loans.

FHFA is making this revision in recognition of the fact that the capital markets do not distinguish between MBS structured as pass-through vehicles and those structured as debt instruments. In adopting the existing definition in 1993, the Finance Board codified the approach of its predecessor agency, the Federal Home Loan Bank Board (FHLBB), which had held that a mortgage-backed security must provide its holder with a *pro rata* ownership interest in each of the loans in the underlying pool of mortgage loans in order for the purchase of that MBS to constitute the equivalent of making or purchasing those underlying loans. Thus, while the Finance Board permitted mortgage pass-through securities, which are structured to give the holder a theoretical undivided ownership interest in each of the underlying loans, to be counted toward satisfaction of the ''makes long-term home mortgage loans'' requirement, it did not permit other types of MBS to be used for that purpose.

However, as explained in the **SUPPLEMENTARY INFORMATION** to the proposed rule, investors in today's financial markets recognize that the economic interest in the loans underlying such instruments is essentially the same for all types of MBS, regardless of their legal structure. Indeed, the availability of the many types of MBS with different characteristics that have evolved to meet investors' needs over the past several decades has made the secondary mortgage market much more liquid. In recognition of this, FHFA believes that it is appropriate to expand the definition of ''home mortgage loan'' to include all types of MBS backed by qualifying whole loans and eliminate the distinction that the regulations have historically drawn between pass-through securities and other types of MBS.

This revision was originally proposed in connection with FHFA's proposal to require an institution to hold at least one percent of its total assets in home mortgage loans in order to be deemed to comply with the ''makes long-term home mortgage loans'' eligibility requirement. The change was intended in part to ease the burden on members that would have been imposed by that new quantitative requirement by allowing them to satisfy the requirement with a wider range of first lien mortgage-related assets than would have been the case if the existing definition were retained. It was also intended in part to make it easier for the Banks to obtain the information necessary to confirm members' compliance with the one percent requirement from their regulatory financial reports. Notwithstanding that FHFA will not be finalizing the one percent requirement at this time, the Agency has decided to include the revised definition in the final rule for the reasons stated above.

In conjunction with the revision of the definition of ''home mortgage loan,'' the final rule also revises the definition of ''residential mortgage loan'' by replacing paragraph (5) (referring to ''mortgage pass-through securities'') and paragraph (6) (referring to ''mortgage debt securities'') with a new paragraph (5), which is intended to include both types of securities. The new provision is similar to paragraph (2) of the definition of ''home mortgage loan,'' referring generally to a security representing either: (i) A right to receive a portion of the cash flows from a pool of whole ''residential mortgage loans''; or (ii) an interest in other securities representing such a right. This revision is not intended to effect any substantive change, but merely to streamline the definition in light of the fact that the revisions to the definition of ''home mortgage loan'' make it unnecessary to distinguish between pass-through securities and other types of MBS in the definition of ''residential mortgage loan.''

Each of the remaining revisions to the definitions within § 1263.1 is intended either to remove a duplicative definition or to shorten or otherwise clarify the

definition itself or the regulatory text in which the defined term appears. Each of these revisions appeared in the proposed rule and each is being finalized essentially as proposed. None of the revisions is intended to alter the meaning of any defined term or substantive provision.

B. Membership Application Process—§§ 1263.2–1263.5

The final rule makes several revisions to subpart B of part 1263, which governs the membership application process.

As proposed, the final rule relocates to § 1263.2(a) from § 1263.6(a) language prohibiting any institution from becoming a member of a Bank unless it has submitted to that Bank a membership application that satisfies the requirements of part 1263, except as otherwise specified in part 1263 (such as in the case of transfers or certain consolidations). While existing § 1263.2(a) requires that an applicant submit an application that complies with the requirements of part 1263, it does not state explicitly that an institution may not become a member unless it has done so. FHFA believes that this statement is more appropriately situated in its new location, which addresses the membership application process, rather than its current location, which addresses the substantive membership eligibility requirements.

Existing § 1263.2(b) requires a Bank to prepare a written digest for each applicant stating whether or not the applicant meets each of the applicable membership eligibility requirements and providing support for its conclusions with respect to each requirement. The final rule revises this subsection to add a specific requirement that, in any digest prepared for an applicant whose eligibility for membership is contingent upon its meeting the new definition of ''insurance company,'' the Bank must state whether the applicant meets that definition and summarize the facts and identify the sources on which it relied in reaching that conclusion. In such cases, the digest should support the Bank's determination that an applicant qualifies as an ''insurance company'' by summarizing the bases for the Bank's conclusion that the applicant's primary business is the underwriting of insurance for persons or entities that are not its affiliates. In the case of a traditional life or casualty insurance company, for example, it may be sufficient to indicate that a majority of the company's premium income is derived from policies sold to unaffiliated parties. In the case of a mutual insurance company, for example, it may be sufficient to indicate that the company is organized in mutual form and that none of its policyholders has the power to control the election of persons to its board of directors. For a risk retention group, a Bank may be required to obtain additional information establishing that none of the owners control more than 25 percent of its voting shares. In a very few cases, a Bank may be required to conduct a more detailed analysis about whether any one or more policy holders can be said to have ''control'' over the applicant or related companies that may cause it to be considered an ''affiliate,'' as defined in § 1263.1.

Section 1263.2(c) of the existing regulation requires that a Bank create and maintain a membership file for each applicant. Paragraph (2) of that subsection requires that the Bank include in that file, as an attachment to the application digest, all materials required to document the applicant's eligibility for membership. Paragraph (2) further provides that the Bank ''may retain in the file only the relevant portions of the regulatory financial reports required by [part 1263].'' This provision is intended merely to allow a Bank the option of omitting from an applicant's file the portions of the applicant's regulatory financial report that are not relevant to its eligibility for membership. However, as currently phrased, the provision could be read as *prohibiting* the Bank from including the non-relevant portions. To eliminate the possibility of such a misreading, the final rule revises this provision to state, instead, that the Bank ''is not required to retain in the file'' portions of the reports ''that are not relevant to its decision on the membership application.''

Section 1263.3(c) of the existing regulation also addresses the timing and notice requirements applicable to a Bank's decision on an institution's application for membership. As proposed, the final rule makes a number of non-substantive revisions to that provision to state the requirements as to the timing of the Bank's decision more precisely. No change in meaning is intended.

Section 1263.4 of the existing regulation addresses the circumstances under which an institution may be admitted to membership in a Bank ''automatically''—that is, without the need to apply for membership. As proposed, the rule makes two minor wording changes to § 1263.4(a), which governs automatic membership for certain charter conversions, to make the provision read more clearly. No change in meaning is intended.

Existing § 1263.4(b) provides that any member whose membership is transferred pursuant to § 1263.18(d) shall automatically become a member of the Bank to which it transfers. However, while the cross-referenced provision—existing § 1263.18(d)—requires that the Banks involved agree on a ''method of orderly transfer'' before a ''transfer of membership'' takes effect, neither that provision nor § 1263.4(b) specifies the types of events that constitute a ''transfer'' of membership. As a result, FHFA has occasionally received questions about how § 1263.4(b) is to be applied.

FHFA proposed to revise § 1263.4(b) to remove the reference to a ''transfer'' and, instead, specify that a new membership application is not required when a member either physically relocates its principal place of business to another Bank district (such as through a consolidation) or redesignates its principal place of business to another Bank district as provided under § 1263.18(c). FHFA believes that both of these situations should be treated in the same manner because they are simply different means of bringing about the same result—*i.e.,* a change in the location of a member's principal place of business from one Bank district to another. No commenters objected to the proposed revisions, and FHFA is adopting them as proposed. FHFA has also added language to clarify that the automatic membership at the new Bank commences upon the purchase of the minimum amount of stock needed under the new Bank's capital structure plan.

Section 1263.5 of the existing regulation gives an institution whose membership application has been denied by a Bank the right to appeal the denial to FHFA. FHFA did not propose any substantive revisions to this section, but requested comments on whether the regulations needed to continue to afford applicants this right of appeal, given that no applicants have ever requested an appeal. The Agency received relatively few comments in response to this request, but those that did respond—mostly CDFIs and credit unions, but also a few of the Banks—were uniformly opposed to removal of the appeal provision. One representative letter from a CDFI cited the right of a CDFI applicant under existing § 1263.16(b)(1)(iii) to present to a Bank as part of its application any information it believes demonstrates that is satisfies the ''financial condition'' eligibility requirement. The commenter stated that the adoption of that provision, as well as FHFA's discussion of the provision in the **SUPPLEMENTARY**

INFORMATION to the final rule in which it was included, demonstrates that the Agency understands that Banks ''make judgments in their assessment of CDFI eligibility that could require additional review.'' The commenter concluded that, in light of ''the inconsistent experience with CDFI membership across the System . . . the option for an appeal process should be maintained.'' Because of the concerns expressed by commenters, FHFA has decided to retain the appeal provision in the regulation.

C. Membership Eligibility Requirements—§§ 1263.6–1263.18

Subpart C of the existing regulation, which includes §§ 1263.6 through 1263.18, addresses the requirements that an institution must meet in order to be eligible for Bank membership. Section 1263.6 sets forth all of the eligibility requirements, while the remaining sections of subpart C address more specifically the manner in which a Bank is to determine compliance with those requirements for the different types of institutions that may be eligible for membership.

The proposed rule would have revised §§ 1263.6, 1263.9 and 1263.10, and would have added a new § 1263.11 (thereby requiring the re-numbering of existing §§ 1263.11–1263.18), to require that an institution hold at least one percent of its assets in ''home mortgage loans'' to be deemed to satisfy the statutory eligibility requirement that it make long-term home mortgage loans, and that each member comply on an ongoing basis with that one percent requirement and, where applicable, with the statutory eligibility requirement that it have at least 10 percent of its total assets in ''residential mortgage loans'' as a condition of remaining a Bank member. Because, as discussed above, FHFA has decided not to implement those proposed ongoing asset ratio requirements at this time, the proposed revisions to subpart C that were meant to implement the new requirements are not included in the final rule. Nonetheless, the final rule makes some fairly extensive changes to subpart C in that it: Adds to § 1263.6 a provision addressing the treatment of captive insurers that were admitted to Bank membership prior to the effective date of the rule; finalizes a proposed new provision in § 1263.16 requiring insurance companies to provide audited financial statements as part of the membership application process; finalizes a proposed new provision in § 1263.18 addressing the manner in which a Bank is to determine the ''principal place of business'' for insurance companies and CDFIs; and makes non-substantive clarifying revisions to the texts of §§ 1263.14, 1263.15, 1263.17 and 1263.18.

1. General Eligibility Requirements—§ 1263.6

Section 1263.6 sets forth the general eligibility requirements for Bank membership and provides that entities that do not meet the requirements of part 1263 shall be ineligible for Bank membership. With respect to the manner in which this section is to be applied, the most significant change the final rule makes is in defining ''insurance company,'' as discussed in detail above. The introductory paragraph to § 1263.6(a) enumerates the types of institutions that are eligible under the Bank Act for membership. Entities of a type not listed in § 1263.6(a) and those, regardless of type, that do not meet the applicable requirements of part 1263, are not eligible for Bank membership. By defining the term ''insurance company'' in § 1263.1 to include only those entities ''whose primary business is the underwriting of insurance for persons or entities that are not its affiliates,'' the final rule makes clear that a captive, as defined in the regulation, is not an ''insurance company'' for purposes of section 4(a) of the Bank Act and § 1263.6(a) of the membership regulation. Thus, captives are not eligible for Bank membership, and those that the Bank had previously admitted to membership must wind down their relationships with the Banks in accordance with this final rule.

With respect to the text of § 1263.6(a) itself, the rule finalizes one proposed revision to the introductory paragraph. As discussed above, the final rule removes from this section and relocates to § 1263.2(a) language requiring all applicants to submit an application meeting all of the requirements of the Bank Act and FHFA regulations before it may become a member. FHFA believes that it is more appropriate for that requirement to be included with other material addressing the membership application process than in § 1263.6, which addresses the substantive membership eligibility requirements.

In conjunction with the implementation of the ongoing asset ratio requirements, the proposed rule also would have revised the introductory paragraph, which currently states that an institution meeting the requirements of paragraphs (a)(1) through (a)(6) of that subsection shall be ''eligible to *become* a member'' of a Bank, to provide that an institution shall be ''eligible to *be* a member'' if it meets those requirements. The final rule makes a slightly different change, by revising that paragraph to provide that an institution shall be ''eligible for Bank membership'' if it meets the listed requirements. Despite the fact that the final rule does not require the Banks to determine members' compliance with the ''makes long-term home mortgage loans'' and ''10 percent'' requirements on an ongoing periodic basis as would have been required under the proposed rule, FHFA is nonetheless making this revision to dispel any notion that the eligibility requirements of § 1263.6(a) are no longer of any relevance to a member once it has been approved for membership.[90]

The final rule makes one additional change to § 1263.6(a) that was not reflected in the proposed rule by adding a new paragraph (7) providing that, in addition to meeting the requirements listed in paragraphs (1) through (6), an institution must have complied with any applicable requirement of § 1263.6(b) or § 1263.6(c) to be eligible for membership. This revision is not meant to effect any substantive change, but is intended merely to provide clarity by ensuring that § 1263.6(a) contains a comprehensive list of all of the requirements an institution is, or may be, required to meet to be eligible for membership. Section 1263.6(b) refers to the ''10 percent'' requirement that applies to insured depository institutions that are not CFIs, while § 1263.6(c) refers to the requirement that an applicant that is not an insured depository institution have a level of mortgage-related assets that reflect a commitment to housing finance. The

[90] As explained in the proposed rule, the existing regulations already reflect the necessarily ongoing nature of several of the eligibility requirements, although they employ various enforcement mechanisms short of the ultimate sanction of termination to ensure continuing compliance with those requirements. For example, under the existing membership regulation, an applicant for Bank membership must in most cases satisfy the ''home financing policy'' requirement by demonstrating that it has achieved a rating of ''Satisfactory'' or better on its most recent CRA evaluation. While the regulations do not require a member to maintain a ''Satisfactory'' or better CRA rating in order to retain its Bank membership, they do mandate restrictions on access to advances for failure to maintain such a rating. *See* 12 CFR 1290.5(b). FHFA's advances regulation effectively enforces the ''financial condition'' requirement by permitting a Bank to limit a member's access to advances if its credit underwriting indicates that it is advisable to do so and requires a Bank to limit or restrict access to advances in the case of a member that lacks positive tangible capital, but that has not yet reached the point of insolvency. *See* 12 CFR 1266.4. The ''duly organized'' and ''subject to inspection and regulation'' eligibility requirements are essentially self-enforcing in that any member that fell out of compliance with either of those requirements could not continue to operate as a financial institution.

final rule makes no changes to subsections (b) or (c), which both refer to what an ''applicant'' must do to ''become'' a member. To make clear that compliance with those requirements will continue to be assessed only at the time of application, new § 1263.6(a)(7) states that an institution to which either of those requirements apply shall be eligible for Bank membership if it ''has complied'' with the applicable requirement.

Existing § 1263.6(d) states that ''[e]xcept as otherwise provided in this part, if an applicant does not satisfy the requirements of this part, the applicant is ineligible for membership.'' The proposed rule would have redesignated this provision as § 1263.6(c)(1) and revised it to read, ''Except as provided in paragraph (c)(2) of this section, an institution that does not satisfy the requirements of this part shall be ineligible to be a member of a Bank.'' In the final rule, the provision remains as § 1263.6(d), but is revised to read, ''Except as provided in paragraph (e) of this section, an institution that does not satisfy the requirements of this part shall be ineligible for membership.'' This revised language is similar to that which was proposed. As proposed, the final rule removes the initial qualifier ''[e]xcept as otherwise provided in this part,'' which is redundant in that the reference to satisfying the ''requirements of this part'' is most logically read to take into account any exceptions to the general requirements. At the same time, the final rule adds a new qualifier—''[e]xcept as provided in paragraph (e)''—which is a new provision, described immediately below, that specifies the manner in which the Banks are to wind down their business with existing captive members before terminating the membership of those captives.

Because FHFA has amended the regulation to make captives ineligible for membership, the final rule adds a new provision, § 1263.6(e), to govern the treatment of captives that were admitted to membership prior to the effective date of the final rule. Like the proposed rule, the final rule treats captives that had been admitted to membership before the date of publication of the proposed rule (September 12, 2014) (hereinafter referred to as ''pre-NPR captives'') differently from those that were admitted to membership on or after that date (hereinafter referred to as ''post-NPR captives'').

The final rule treats pre-NPR captives in essentially the same manner as would have been the case under the proposed rule. Section 1263.6(e)(1)(i) of the final rule permits a Bank five years from the effective date of the final rule to wind down its relationship with a pre-NPR captive. As proposed, the final rule also permits a Bank to continue to make or renew advances to such captives during that five year transition period, but only if: (A) After making or renewing an advance, the Bank's total outstanding advances to that captive would not exceed 40 percent of the captive's total assets; and (B) the maturity date of any new or renewed advance does not extend beyond the end of the five-year transition period. In the case of a captive that already has advances that exceed 40 percent of its assets, the final rule does not require a Bank to call those advances prior to their maturity date, but it does prevent the Bank from making or renewing any further advances to that captive until total outstanding advances have been reduced to below 40 percent of the captive's assets. Similarly, a Bank that already has made advances to captives that mature beyond five years from the effective date of the final rule may allow those to roll off in accordance with their terms, but may not renew them.

Section 1263.6(e)(1)(ii) of the final rule requires a Bank to terminate the membership of any pre-NPR captive no later than five years after the effective date of the rule. The Bank is to carry out the terminations as provided under § 1263.27, which is not amended by this final rule and which provides each Bank's board with the necessary authority to terminate the membership of any captive for failing to comply with a requirement of the Bank Act, as implemented by a regulation adopted by FHFA. The requirements of § 1263.27(b), regarding stock redemption periods, and § 1263.27(c), regarding post-termination membership rights, shall apply without exception to any terminated captive.

Final § 1263.6(e)(1)(ii) further requires a Bank, after terminating the membership of a pre-NPR captive, to liquidate outstanding advances to, settle other business transactions with, and repurchase or redeem Bank stock held by that captive in accordance with § 1263.29, which also is not revised by the final rule. This provision also makes clear that in terminating a pre-NPR captive's membership a Bank may nonetheless allow the captive to repay any existing advances in accordance with their contractual terms, regardless of whether their maturity dates occur after the date of the termination of membership, so long as the advances had been made in conformity with the regulations in effect at the time the advance was made. In such cases, the Bank would also delay the repurchase of Bank stock held by the captive in support of any such advance until after the advance has been repaid, in accordance with the Bank's capital plan. The five-year transition period for these pre-NPR captives is intended to mitigate to a reasonable extent the burden that the termination of membership might otherwise have on any such captive that became a Bank member in reliance on the previous membership regulations. The limitations on advances that may be made during this period are intended to permit a pre-NPR captive to continue to borrow at its existing levels for a reasonable period of time, while also limiting its ability to provide increased financing to affiliates that are ineligible for Bank membership.

The text of the proposed rule did not explicitly address the treatment of post-NPR captives, but, in the **SUPPLEMENTARY INFORMATION**, FHFA stated that it would interpret the rule to require the immediate termination of such captives' membership and the prompt liquidation of any outstanding advances, and that it would consider making those requirements explicit in the final rule if any Bank were to admit a captive to membership subsequent to the date of publication of the proposed rule. Notwithstanding that notice of the proposed consequences to captives admitted to membership after the date of the proposed rule, several Banks have continued to admit captives to membership, although at least some have obtained from such captives written acknowledgements of the possible immediate termination of their memberships. Because of those developments, FHFA has decided that it should address the treatment of those post-NPR captives explicitly in the final rule. In order to avoid the disruption to the Banks and those captives that could result from an immediate termination of membership and repayment of all advances, FHFA has reconsidered the position it took in the proposed rule and has decided to provide the Banks with a one-year transition period within which to wind down their affairs with any post-NPR captives they have admitted.

Accordingly, § 1263.6(e)(2)(i) of the final rule provides the Banks with a one-year transition period from the effective date of the final rule within which to wind down its relationships with any captives that had been admitted to membership on or after September 12, 2014. The final rule prohibits a Bank from making or renewing an advance to a post-NPR captive during that transition period, but does not require the immediate liquidation of any advances that may

already be outstanding on the effective date of the rule.

Section 1263.6(e)(2)(ii) of the final rule requires a Bank to terminate the membership of any post-NPR captive as provided under § 1263.27 no later than one year from the effective date of the final rule. It also requires generally that upon the termination of membership the Bank must liquidate all outstanding advances to the post-NPR captives, settle all other business transactions, and repurchase or redeem all Bank stock held by the terminated captive in accordance with § 1263.29. Thus, in contrast to pre-NPR captives, post-NPR captives must completely wind down all business relationships with the Banks, including the full repayment of all outstanding advances, prior to or simultaneously with the termination of membership.

2. Treatment of De Novo Insured Depository Institution Applicants—§ 1263.14

Section 1263.14 of the existing membership regulation sets forth special standards by which a Bank is to assess the compliance of a ''de novo applicant''—*i.e.,* an insured depository institution chartered less than three years prior to the date it applies for Bank membership—with the membership eligibility requirements. It deems each de novo applicant to be in compliance with the ''duly organized,'' ''subject to inspection and regulation,'' ''financial condition,'' and ''character of management'' eligibility requirements and provides an alternative means for such an applicant to meet the ''makes long-term home mortgage loans requirement'' if it cannot meet the general standard set forth in § 1263.9. With respect to both the ''10 percent'' and ''home financing policy'' requirements, it provides standards pursuant to which an applicant may be ''conditionally approved'' for membership at the time of application and then achieve full membership if additional criteria are met within a certain timeframe.

Although the proposed rule would have made no substantive changes to the existing standards, it would have significantly revised the text of this section (which would have been redesignated at § 1263.15) to provide greater clarity, primarily with respect to the standards for conditional approval and subsequent full membership. The proposed rule would, however, have added two new paragraphs to provide alternative standards by which a member that had been admitted as a de novo applicant could be deemed to comply with the proposed ongoing asset ratio requirements for a period of time before being required to meet the standards that would have applied to all other members.

Like the proposed rule, the final rule significantly revises the text of this section (which remains as § 1263.14 in the final rule), but organizes the material differently than was proposed. Again, these changes are intended primarily to state the requirements regarding conditional approval and subsequent full membership more clearly and are not meant to implement any substantive change. Because FHFA is not implementing the proposed ongoing asset ratio requirements at this time, the proposed provisions relating to those requirements are not included in final § 1263.14.

In the existing regulation, the term ''de novo applicant'' is defined in § 1263.14(a) and is used throughout the remainder of § 1263.14 to refer to an insured depository institution that was chartered less than three years prior to the date it applies for Bank membership. As proposed, the final rule substitutes ''de novo insured depository institution'' for ''de novo applicant'' to make clear that the time-limited exceptions for entities formed within the preceding three years apply only to insured depository institutions and not to insurance companies or non-depository CDFIs. In addition, the rule moves that definition from § 1263.14(a) to § 1263.1, where the definitions of other terms that are used in part 1263 are located. As is the case with the existing membership regulation, the final rule does not provide any special standards for measuring the compliance of recently formed insurance company or non-depository CDFI applicants with the membership eligibility requirements.

While the final rule also revises the text of § 1263.14(a) to reflect the new nomenclature, it retains the substance of the existing subsection by deeming each de novo insured depository institution applicant to be in compliance with the ''duly organized,'' ''subject to inspection and regulation,'' ''financial condition,'' and ''character of management'' eligibility requirements. This reflects the fact that the chartering entity and the federal deposit insurer would have evaluated those areas in connection with granting the charter and approving the institution for deposit insurance.[91]

Existing § 1263.14(b) allows a de novo insured depository institution to satisfy the ''makes long-term home mortgage loans'' requirement by providing a written justification acceptable to the Bank of how its home financing credit policy and lending practices will include originating or purchasing long-term home mortgage loans. The final rule makes minor revisions to the text of this subsection, but retains the substance of the existing provision.

Existing § 1263.14(c) deems a de novo insured depository institution to which the ''10 percent'' requirement applies and that has been in operation for less than one year to be ''conditionally . . . in compliance'' with that requirement at the time of application, and grants the institution ''conditional membership approval'' until the institution reaches the one-year anniversary of its commencement of operations. At that point, if the institution provides evidence acceptable to the Bank that it holds at least 10 percent of its assets in residential mortgage loans, it is deemed to be ''in compliance'' with the ''10 percent'' requirement. If the institution is unable to provide such evidence within that time frame, it is deemed to be ''in noncompliance'' with the ''10 percent'' requirement, its ''conditional membership approval is deemed null and void,'' is terminated, and its membership stock must be redeemed in accordance with § 1263.29.

The final rule revises the structure of § 1263.14(c) (condensing it from five paragraphs to three) and to its nomenclature, but makes only one minor change to the substance of that subsection. That substantive change is reflected in final § 1263.14(c)(1). As currently written, that paragraph appears to deem any de novo insured depository institution applicant to which it applies to be in mere conditional compliance with the ''10 percent'' requirement, without allowing for the possibility (perhaps slight) that the applicant may be able to demonstrate that it is already in full compliance with that requirement as provided in § 1263.10. The final rule remedies this oversight by specifying, in § 1263.14(c)(1), that the subsection applies to ''a de novo insured depository institution applicant that commenced its initial business operations less than one year before applying for Bank membership [that] is subject to, but cannot yet meet, the 10 percent requirement . . . as provided in § 1263.10.'' If an institution already complies with § 1263.10 at the time it applies for membership, it is not subject to the procedures set forth in § 1263.14(c) under the final rule. With respect to applicants to which § 1263.14(c) does apply, final

[91] *See* 61 FR 42531, 42538 (Aug. 16, 1996) (discussing reasoning behind adoption of streamlined requirements for de novo insured depository institutions).

§ 1263.14(c)(1) provides that a Bank shall conditionally approve such an applicant for membership if it meets all other applicable requirements (which include the other membership eligibility requirements as modified for de novo insured depository institutions under this section).

Final § 1263.14(c)(2) provides that if an institution that was conditionally approved for membership demonstrates to the satisfaction of its Bank that it satisfies the ''10 percent'' requirement as provided under § 1263.10 within one year after it begins its business operations, its membership approval shall become final—*i.e.,* it shall be considered to be fully approved for membership (unless it also remains subject to conditional approval under § 1263.14(d)). Conversely, final § 1263.14(c)(3) provides that if such an institution fails to demonstrate its full compliance with the ''10 percent'' requirement within one year after it begins its business operations, its conditional membership approval shall become void.

Existing § 1263.14(d) deems any de novo insured depository institution that has not yet received its first CRA performance evaluation to be in conditional compliance with the ''home financing policy'' requirement if it provides a written justification acceptable to the Bank of how and why its home financing credit policy and lending practices will meet the credit needs of its community. The existing regulation allows a Bank to conditionally approve an applicant for membership on this basis until it receives its first CRA evaluation. If the institution receives a ''Satisfactory'' or better rating on its first CRA evaluation, it is deemed to be in full compliance with the ''home financing policy'' requirement and its membership approval shall become final (unless it also remains subject to conditional approval under § 1263.14(c)). If it fails to achieve a ''Satisfactory'' rating on that evaluation, it is considered to be out of compliance (unless that presumption is rebutted as specified in the regulation) and its conditional membership approval becomes void. The final rule revises the structure and nomenclature of § 1263.14(d) that parallel the revisions made to § 1263.14(c), but makes no substantive changes to that subsection.

The final rule adds a new subsection (e) to § 1263.14 to consolidate existing requirements that apply to conditional membership approvals under subsections (c) and (d). Final § 1263.14(e) provides that a de novo insured depository institution that has been conditionally approved for membership under § 1263.14(c)(1) or § 1263.14(d)(1) is subject to all regulations applicable to members generally, including those relating to stock purchase requirements and advances or collateral, notwithstanding that its membership may be merely conditional for some period of time. Final § 1263.14(e) also provides that if an institution's conditional membership approval becomes void as provided in § 1263.14(c)(3) or § 1263.14(d)(3), then the Bank must liquidate any outstanding indebtedness and redeem or repurchase its capital stock as it would for any other terminated member under § 1263.29.

3. Recently Consolidated Applicants—§ 1263.15

Section 1263.15 provides guidance to the Banks about how to assess a membership application submitted by an institution that recently has undergone a merger or other business combination with another institution. The existing provision specifies the manner in which the Banks must apply the ''financial condition,'' ''home financing policy,'' ''makes long-term home mortgage loans,'' and ''10 percent'' requirements to such applicants. The final rule makes numerous non-substantive revisions to that section so as to provide greater clarity, but makes no substantive changes.

With respect to the ''financial condition'' requirement, final § 1263.15(a) requires a recently consolidated applicant that has not filed consolidated financial reports with its regulator for at least six quarters or three calendar years to provide the Bank with whatever regulatory reports it has filed as a consolidated institution, plus *pro forma* financial statements for any quarters for which actual combined financial reports are not available. With respect to the ''home financing policy'' requirement, final § 1263.15(b) requires a recently consolidated applicant that has not yet received its first CRA performance evaluation as a consolidated entity to provide a written justification acceptable to the Bank of how and why its home financing credit policy and lending practices will meet the credit needs of its community. With respect to the ''makes long-term home mortgage loans'' and ''10 percent'' requirements, final § 1263.15(c) allows a recently consolidated applicant that has not yet filed a regulatory financial report as a consolidated entity to provide the Bank instead with the *pro forma* financial statements that it had provided to the regulator that approved the consolidation.

4. Financial Condition of CDFIs and Insurance Companies—§ 1263.16

Existing § 1263.16 governs the application of the ''financial condition'' requirement to insurance company and certain CDFI applicants. By regulation, in order for such an institution to be eligible for membership its financial condition must be ''such that advances may be safely made to it.'' [92] The Bank Act applies this ''financial condition'' requirement only to certain insured depository institutions,[93] but both FHFA and the Finance Board have applied this requirement by regulation to all institutions, including insurance companies, as a matter of safety and soundness.[94] The final rule does not alter this approach.

Under existing § 1263.16(a), an insurance company applicant is deemed to meet the ''financial condition'' requirement if the Bank determines, based on the information contained in the applicant's most recent regulatory financial report, that it meets all of its minimum statutory and regulatory capital requirements and, in addition, meets all applicable capital standards established by the NAIC, regardless of whether those NAIC standards have been adopted by the state in which the company is subject to regulation. As proposed, the final rule carries forward those requirements, but also adds a new provision that requires a Bank to review an insurance company applicant's most recent audited financial statements and to determine that its financial condition is such that the Bank can safely make advances to it before that applicant may be deemed to meet the ''financial condition'' requirement. The final rule requires that the Bank make the latter determination based upon audited financial statements prepared in accordance with generally accepted accounting principles (GAAP), if they are available, but allows the use of financial statements prepared in accordance with statutory accounting principles if GAAP statements are not available.

[92] 12 CFR 1263.6(a)(4).

[93] *See* 12 U.S.C. 1424(a)(2)(B).

[94] *See* 58 FR 43522, 43531–34 (1993) (discussion in **SUPPLEMENTARY INFORMATION** to Finance Board's first post-FIRREA final rule on Bank Membership of the agency's decision to apply the requirements of section 4(a)(2)(B) of the Bank Act to insurance companies, as well as insured depository institutions).

5. Determination of Appropriate District for Bank Membership—§ 1263.18

The Bank Act provides that an eligible institution may become a member only of the Bank of the district in which the institution's ''principal place of business'' (PPOB) is located, but does not define that term.[95] The existing membership regulation includes both a general provision for determining the location of an institution's PPOB, as well as an alternative provision that allows an institution to request that the Bank designate a different state for the PPOB if certain requirements are met. Under the general provision, the PPOB is deemed to be the state in which an institution ''maintains its home office established as such in conformity with the laws under which the institution is organized.'' [96] The alternative provision allows an institution to designate a different state as its PPOB if it meets a three-part test for establishing that it has a sufficient connection to that other state.[97]

a. Proposed PPOB Provisions

The proposed rule would have redesignated § 1263.18 as § 1263.19, but retained the basic structure of that section (while adding additional paragraphs, as noted below). That section remains as § 1263.18 under the final rule. In the discussion of the substantive revisions to that section below, the existing, proposed, and final provisions are all referred to as being located in § 1263.18 in order to avoid confusion.

The proposed rule would have made three substantive revisions to § 1263.18 that were intended to address how the Banks designate the PPOB for certain insurance company and community development financial institution (CDFI) members. As more insurance companies and CDFIs have become Bank members, they have revealed shortcomings in the current regulation's application to some situations that these institutions can present that do not arise with depository institutions, such as being domiciled in one state but conducting all business operations from a different state. As noted in the **SUPPLEMENTARY INFORMATION** to the proposed rule, FHFA had previously declined a request to allow the Banks to look solely to the state of domicile for an insurance company or the state of incorporation for a CDFI to identify the PPOB, because that approach would allow for the possibility of an institution having its ''principal'' place of business for membership purposes at a location from which it actually conducts no business activities. Such an arrangement is not consistent with the statute.

To address these issues, FHFA first proposed to amend the general PPOB provision by adding a requirement that an institution also must actually conduct business activities from its home office location in order for the home office to be designated as the PPOB. The intent was to make clear that a mere legal presence, such as a statutory home office or a registered agent's office at which no business is conducted, is not sufficient by itself to constitute a company's PPOB. FHFA was prompted to make this revision by learning of instances in which insurance companies and CDFIs had sought to become members of the Bank whose district included the state under whose laws those entities had been domiciled or incorporated, even though they conducted all of their business activities elsewhere.

FHFA also proposed to add a new section that would be specific to insurance companies and CDFIs, which would apply only in those cases in which an institution could not satisfy the general requirements for determining its PPOB. Thus, the new provision would apply only to an institution that did not have an actual ''home office'' established under the laws of its chartering statute, or that had such a ''home office'' but did not conduct business operations from that location, and that could not satisfy the existing three-part test for designating an alternative location for its PPOB. Under the proposed provision, a Bank would be required to designate as the institution's PPOB ''the geographic location from which the institution actually conducts the predominant portion of its business activities.'' The proposed rule further required that a Bank make these PPOB determinations based on the totality of the circumstances related to a particular institution and using ''objective factors'' for making the decision. The proposal included three examples of such objective factors, which were the location of the institution's senior executives, the locations of the offices from which it conducts business, and the locations from which its non-executive officers and employees carry out the institution's business activities.

Lastly, the proposed rule included a separate provision for designating the PPOB for those insurance companies that maintain no physical business presence in any state. As more insurance companies have become Bank members, FHFA has learned that certain insurance companies, such as those that are part of a holding company, may not maintain any physical office premises of their own that might be designated as their PPOB. Moreover, such companies may not have their own dedicated officers or employees, but instead may have joint employees or officers who are primarily employed by a separate affiliated insurance company. Those persons also may be situated at different geographic locations, *i.e.,* the locations of the business offices of the affiliated companies, rather than at one central location. Such companies also may contract with unaffiliated service providers to perform the services that ordinarily would be performed by a company's employees. For such companies, where it is not possible to identify a single physical location from which the insurance company can be said to actually conduct the predominant portion of its business activities, the proposed rule would have allowed the Banks to designate the insurance company's state of domicile as its PPOB.

b. Comment Letters on Proposed PPOB Provisions

Approximately 80 comment letters addressed some aspect of these proposed PPOB amendments. Many of the comment letters were substantively identical and contended that using the state of domicile or incorporation would be the most logical way to determine the PPOB for CDFI and insurance company members. They also noted that the existing three-part test for redesignating a member's PPOB already provided an adequate alternative means for members to designate a place other than the state of domicile or incorporation. These commenters also criticized creating a separate PPOB provision for insurance company and CDFI members, saying that it would promote district shopping by such members and would create an unfair advantage for insurance companies over depository institution members.

Many other comment letters also urged FHFA to look solely to the state of domicile as the PPOB for insurance companies. Their principal reasons

[95] 12 U.S.C. 1424(b). An institution may, in the alternative, become a member of the Bank of an adjoining district, if that is demanded by convenience and the Director of FHFA approves that arrangement. There is no record of this statutory alternative ever having been used.

[96] *See* 12 CFR 1263.18(b).

[97] The regulation allows an institution to have a state other than the one in which it maintains its home office designated as its PPOB, provided that: (i) at least 80 percent of the institution's accounting books, records, and ledgers are maintained in that state; (ii) a majority of the institution's board of director and board committee meetings are held in that state; and (iii) a majority of the institution's five highest paid officers have their places of employment located in that state. *See* 12 CFR 1263.18(c).

included: the simplicity of the approach; it would allow Banks to focus only on the insurance laws of the states in their districts; it would defer to state regulators on what constitutes a ''home office''; it would avoid the inconsistent results that would likely occur if each Bank made its own decisions about what constituted the ''predominant portion'' of an institution's business; and it would recognize the realities of the marketplace, in which the concept of large institutions having a single physical location from which they conduct their business is no longer the norm.

Nine Banks submitted separate letters that were nearly identical in substance and generally opposed the revisions to the PPOB regulation. These letters also suggested certain revisions, one of which FHFA has decided to incorporate into the final rule, as described below. The Banks also favored using the state of domicile as the PPOB for insurance companies, urging FHFA to recognize the central importance of the domicile to the operation and regulation of any insurance company, and to defer to state insurance regulators' determination of what constitutes an insurance company's ''home office.'' The Banks further contended that principles of safety and soundness favor using the state of domicile, as that would avoid requiring each Bank to become familiar with the insurance regulators and laws for states outside of its district. A number of commenters other than the Banks also raised these same points in favor of using the state of domicile as the PPOB.

The Banks recommended substantive revisions to the proposed rule. For the general PPOB provision—which would allow the home office to be designated as the PPOB only if the institution also conducted some ''business operations'' from that office—the Banks recommended that FHFA specify what activities would constitute ''business operations.'' Specifically, the Banks asked that FHFA define the term ''business operations'' to include an institution having any business, operations, or sales office in the domiciliary state, having any officer's place of employment located in the domiciliary state, or conducting any business in the domiciliary state, including the sale of insurance policies. The Banks contended that the addition of such requirements would ensure that an institution had more than a ''mere legal presence'' in its domiciliary state.

The Banks recommended similar revisions to the provision that would have applied solely to certain insurance companies and CDFI members, and which would have required a Bank to identify ''the geographic location from which the institution actually conducts the predominant portion of its business activities.'' The Banks recommended that FHFA add specific metrics to that provision that would provide clear guidance about what factors would constitute ''the predominant portion'' of a company's business activities. Specifically, the Banks recommended that the final rule allow the PPOB to be determined based on any two of the following factors: (1) The location of a plurality of the institution's employees; (2) the location of the places of employment of a plurality of certain specified senior executives; or (3) the location of the company's largest office (as measured by number of employees). Each of the Banks' proposed metrics is similar to the more generally phrased ''objective factors'' that FHFA had included as examples in the proposed rule, *i.e.,* ''the location from which the institution's senior officers direct, control, and coordinate'' an institution's activities, the ''locations of the offices from which the institution conducts its business,'' and ''the location from which its other officers and employees carry out the business activities.'' As discussed below, FHFA is persuaded that the final rule would be improved by the addition of the specific metrics suggested by the Banks and has incorporated them into the final rule.

All of the Banks that submitted similar comment letters also supported the third substantive revision in the proposed rule, which would have allowed the Banks to designate the state of domicile as the PPOB for any insurance company that maintains no physical offices of its own and has no employees of its own (*i.e.,* they are shared with other affiliates or the employee functions are performed by contractors), or whose executives may be situated at multiple locations. In addition to the matters discussed above, all of the Banks submitted supplemental comment letters in July 2015 that expressed their views on how to determine the PPOB for a captive insurance company. Certain Banks favored using the state of domicile for captives, while others favored other approaches, such as the location of the parent company or the location of any affiliated company that is already a member of a Bank. Several of the Banks expressed concerns that allowing captives to use the state of domicile as their PPOB would encourage ''district shopping'' among the Banks by the parent companies of prospective captive members, which could undermine the cooperative nature of the Bank System. Because FHFA has defined the term ''insurance company'' to exclude captives and has required the termination of membership for existing captives members, FHFA has not addressed this issue in the final rule.

c. Overview of Final PPOB Provisions

In the final rule, FHFA has decided to adopt certain of the substantive amendments largely as they were proposed, and to modify the other provisions by incorporating the revisions recommended by the Banks. All of these provisions are to be applied prospectively, and thus will not affect current members. In addition, FHFA is adopting as proposed clarifying amendments to the ''transfer of membership'' provisions of § 1263.18(d)(1), which deals with transfers of membership from one Bank to another. The proposed rule would have revised this provision to make clear that it applies to instances where a member of one Bank either redesignates or relocates its PPOB to a state located in another Bank district. A ''redesignation'' of a PPOB can occur if a member satisfies the three-part test set out in § 1263.18(c), which remains unchanged in the final rule. A ''relocation'' of a member's PPOB would occur if it were to physically relocate its home office, as identified in its charter, to another state, such as in connection with a corporate reorganization, merger, or acquisition, and continued to conduct business from that new location. This revision is intended to reflect the two methods by which transfers of membership can occur—which had previously not been described by the regulation—and is related to revisions made to § 1263.4(b), regarding ''automatic membership'' that can occur as a result of such changes in a member's principal place of business. No commenters opposed these revisions to § 1263.18(d)(1).

d. General PPOB/Home Office Test

The final rule adopts the amendment to the general PPOB provision, § 1263.18(b), as it was proposed. Thus, the general approach for designating the PPOB for any member is to identify the state within which the institution maintains its home office, as the home office is established in accordance with the laws under which the institution is organized, and to confirm that the institution also conducts business operations from that office. As noted previously, as increasing numbers of insurance companies and CDFIs have become members, FHFA has learned that it is possible for them to conduct all

of their business activities in states other than those under whose laws they are domiciled or incorporated. Moreover, although the law of most states may require an insurance company to maintain a ''home office'' within the domicile state, FHFA is also aware of instances in which the statutory ''home office'' claimed to be the PPOB for membership purposes has been nothing more than the address of an in-state registered agent, such as a law firm, whose sole function may be to accept service of process on behalf of the insurance company. FHFA has received inquiries from the Banks about how to determine the PPOB for such institutions, and is aware of instances in which Banks have agreed between themselves that in such cases the appropriate Bank for membership purposes is the Bank from whose district the insurance company or CDFI actually conducts its business operations, not the state of domicile.

As noted in the proposed rule, FHFA believes that the term ''principal place of business'' must be read to require that some material amount of business activities be conducted at that location, and that a mere legal presence—such as being domiciled or incorporated under the laws of a particular state, without more—is not sufficient to establish an institution's PPOB. Accordingly, in order to be consistent with Section 4(b) of the Bank Act, FHFA believes that it must amend the existing ''home office'' provision to address the above-described situations by requiring that the institution also conduct some business operations from its home office in order for that home office to be designated as its PPOB. The final rule retains the requirement of the existing rule, which requires that the ''home office'' be established as such under state law. FHFA has not accepted the Banks' suggested revisions to this paragraph—which would specify certain activities that could constitute conducting business operations from the home office—principally because the examples provided were too attenuated to be consistent with FHFA's concept of a ''principal'' place of business. The amendment made by the final rule should have no effect on depository institution applicants. The charters for depository institutions typically designate a location within a state as the institution's ''home office,'' which location also will be a branch office at which the institution conducts some portion of its lending and deposit taking business, which is sufficient to meet the new standard. The amendment also should not adversely affect insurance company applicants because, as was pointed out by some commenters, most insurance companies in fact conduct some or all of their business operations from offices located within their state of domicile, and because the final rule includes a new provision, § 1263.18(f), that specifically addresses insurance companies and CDFIs that cannot satisfy the general PPOB provision.

A significant number of commenters urged FHFA not to amend § 1263.18(b) and to ''retain'' what they believed to be its current regulatory approach, which they characterized as a ''state of domicile'' test for insurance companies. Neither FHFA nor any of its predecessor agencies has ever adopted a regulation that established a state of domicile approach for insurance companies or that otherwise specifically addressed insurance companies. The most likely reason is that the Bank System regulators had not previously seen any need to address those issues because insurance companies have, until relatively recently, been a very small portion of the membership base. Although the Bank Act has authorized insurance companies to become members since 1932, only in recent years has the number of insurance companies grown significantly. For example, as recently as 1996, the Bank System had no more than 31 insurance company members, out of a total membership base of 6,146.[98] By the end of 2014, the number of insurance company members had grown to 304, out of 7,367 total members.[99] Also, FHFA has become aware of the need to provide more specific guidance for identifying the PPOB for insurance companies and to first consider whether the state of domicile, by itself, is sufficient under the statute to constitute an insurance company's PPOB.

Moreover, although the language of the current regulation, which refers to the ''home office established as such in conformity with the laws under which the institution is organized,'' could arguably be read as tantamount to a ''state of domicile'' test, neither FHFA nor its predecessors has ever adopted that interpretation. Indeed, the history of this regulation indicates that it is unlikely that the predecessor agencies ever considered the concept of an insurance company's domicile when they adopted this language. The current language appears to date to 1958, when the FHLBB adopted a definition of ''principal office'' as part of its regulations that applied to savings associations that were insured by the Federal Savings and Loan Insurance Corporation (FSLIC). The 1981 regulations of the FSLIC defined ''principal office'' in much the same way as FHFA currently defines ''principal place of business,'' [100] but the context makes clear that the term could not have applied to insurance companies because it appeared within the regulations of the FSLIC, which applied only to federally insured savings and loan associations.[101] Through the more recent revisions to the membership regulations, neither FHFA nor the Finance Board has ever addressed whether it intended the term to be synonymous with an insurance company's state of domicile or a CDFI's state of incorporation. Moreover, although certain commenters contended that the Agency has used a ''state of domicile'' test for insurance companies, the fact is that some Banks currently have as members insurance companies that are domiciled outside of the Bank's district. That suggests that even the Banks have not viewed FHFA's regulations as mandating the use of the state of domicile for making PPOB determinations.

[98] *See* Federal Home Loan Bank System, *1996 Financial Report* at 10–11.

[99] *See* Federal Home Loan Banks, *2014 Combined Financial Report* at 32. The same was true in the early years of the Bank System, as the annual reports for the Federal Home Loan Bank Board indicate that: as of June 30, 1935, there were three insurance companies among 3,324 total members; as of June 30, 1937, there were twelve insurance companies among 3,886 total members; and as of December 31, 1952 there were five insurance companies among 4,056 total members.

[100] *See* 12 CFR 561.7 (1981). That provision defined ''principal office'' to mean ''the home office of an institution established as such in conformity with the laws under which the insured institution is organized.'' The term ''insured institution'' was defined to mean a savings and loan association the deposits of which were insured by the FSLIC. 12 CFR 561.1 (1981). The 1981 Code of Federal Regulation citation indicates that that definition of ''principal office'' was adopted as part of the FSLIC regulations in 1958 and had not subsequently been amended.

[101] The definition of ''principal office'' at 12 CFR 561.7 (1981) was located within definitional sections of the regulations of the FSLIC, which applied only to federally insured savings and loan associations. Thus, there would have been no reason for the FSLIC to have considered anything having to do with insurance companies because they were not eligible for FSLIC insurance. The FHLBB did have separate regulations in 1981 governing the Bank System, but those regulations did not define ''principal office'' or ''principal place of business.'' It was not until 1987 that the FHLBB incorporated this long-standing FSLIC definition of ''principal office'' into its membership regulations, which it did by cross-referencing the FSLIC definition. *See* 12 CFR 523.3–2 (1988) (PPOB for membership purposes is the state in which an institution maintains its ''principal office'' as defined in 12 CFR 561.7). In 1993, the Finance Board eliminated the cross-reference and provided that for membership purposes an institution's PPOB is the state in which it maintains its home office, established as such under the laws under which the institution is organized. *See* 12 CFR 933.5(b) (1994).

The comment letters also raised other reasons for using a state of domicile approach, which include: (1) The belief that a separate PPOB provision for insurance companies would be unfair to depository institution members; (2) the need to recognize the primacy of state law with regard to matters of insurance company regulation; and (3) the belief that Banks should not be required to become familiar with the insurance laws for states outside of their districts. FHFA does not believe that any of those arguments are sufficient to overcome the Bank Act's requirement of more than a mere legal presence to constitute an institution's ''principal'' place of business. As to the unfairness issue, FHFA reiterates that it has adopted the amendments to address a specific concern—*i.e.,* the possibility that insurance companies and CDFIs can conduct business entirely outside of the state in which they are domiciled or incorporated, that is not presented by depository institutions. Adopting a regulation that addresses specific situations that are unique to insurance companies and CDFIs is a proper exercise of FHFA's regulatory authority and does not confer any advantage on insurance company or CDFI members.

As to the concern about not recognizing the primacy of state law on matters relating to the regulation of insurance companies, FHFA notes that the final rule does not purport to regulate in any way the operation of insurance companies. Rather, it implements a provision of the Bank Act, the interpretation of which Congress has vested solely in FHFA. The fact that a state insurance regulator may deem a simple legal presence to be sufficient to constitute an institution's ''home office'' for purposes of the state insurance code does not mean that FHFA must construe the Bank Act in the same manner or that FHFA must defer to the interpretations of fifty different state insurance commissioners on that point. At its core, the final rule simply indicates the Bank to which an insurance company may apply for membership; it does not in any way interfere with the ability of a state insurance regulator to oversee the operations of the insurance companies domiciled in its state.

A number of the comment letters noted that FHFA has issued guidance stressing the importance of the Banks understanding the laws under which their insurance company members are chartered and developing relationships with the state insurance regulators. These commenters also have reasoned that it would be most consistent with that guidance for FHFA to adopt a state of domicile PPOB standard because doing so would allow the Banks to concentrate their resources on the insurance laws and insurance regulators for the states in their own districts. They have also contended that requiring them to develop such knowledge and relationships with the insurance regulators of other states would impose a significant burden. While FHFA acknowledges that developing a level of expertise about the insurance laws of any state and developing a relationship with the state insurance commissioners does require a commitment of time and resources, it does not believe that doing so would constitute an undue burden for any Bank. As noted previously, some Banks already have insurance company members that are domiciled in states outside of their districts. FHFA is not aware of any difficulties arising at those Banks from the fact that the state of domicile is outside of the Banks' districts. Indeed, FHFA has been told in at least one instance that Bank staff was fully committed to developing the same level of expertise and communication regarding insurance company members domiciled outside of their district as they had done for those domiciled within the district.

e. PPOB for Certain Insurance Companies and CDFIs

As proposed, § 1263.18(f) included two separate components—one dealing with certain CDFIs and insurance companies, and one dealing with insurance companies lacking any distinct physical presence. The first provision would have established a separate PPOB standard for insurance companies and CDFIs for which the Banks could not determine the PPOB under either the general provision of § 1263.18(b) (either because they lack a home office designated as such under state law or did not conduct business from their home office) or the alternative three-part test provision of § 1263.18(c). For those institutions, the proposed rule would have required the Banks to determine the geographic location from which the institutions actually conduct the predominant portion of their business activities, using ''objective factors'' to make that determination. The proposal included three examples of such objective factors. The second provision would have required the Banks to designate the state of domicile as the PPOB for an insurance company that did not have a physical presence in any state.

The Banks and others criticized the first provision, contending that the term ''predominant portion of its business activities'' was too vague and would result in different Banks reaching different conclusions as to what facts constitute the predominant portion of a company's business activities. As noted previously, the Banks recommended adding specific metrics to this provision, which FHFA agrees would make the final rule clearer and easier to administer. Accordingly, FHFA has incorporated the Banks' suggested revisions into the final rule.

In the final rule, FHFA has modified proposed § 1263.18(f) in two respects, by adding language based on the comment letters from the Banks, and by replacing the proposed language that had dealt with insurance companies that maintain no physical offices of their own. Subsection (f) addresses only those insurance companies and CDFIs for which a Bank cannot designate the PPOB under the general provision of § 1263.18(b) or the existing three-part test of § 1263.18(c). The final rule retains the core concept of the proposed rule, which requires the Banks to designate as the PPOB for these institutions the geographic location from which the institutions actually conduct the predominant portion of their business activities.

To address the concerns of the commenters, FHFA has deleted the language of the proposal that would have required the Banks to make these determinations based on the totality of the circumstances and objective factors. In place of that language FHFA has added new language that closely follows the language recommended by the Banks. FHFA agrees that the three factors recommended by the Banks will provide a reasonable proxy for ascertaining the location from which an institution can be said to conduct the predominant portion of its business. Thus, the final rule will allow the Banks to deem an institution to conduct the predominant portion of its business in the state in which any two of three specified factors are present. The three factors are: (i) The state in which the institution's largest office (as measured by the number of employees) is located; (ii) the state in which a plurality of the institution's employees are located; and (iii) the state in which a plurality of the institution's senior executives are located. In the event that there is an institution for which this test does not work because each of the three factors would identify a different state, then the Bank would be required to analyze the matter under the general standard of paragraph (f)(1), meaning that it should look to these and other factors of the Bank's choosing to determine from which of those three possible states the institution actually conducts the

predominant portion of its business activities.

FHFA expects that there will be very few instances in which an institution would be unable to use this test, but because it is possible that each of these factors may point to a different state FHFA has decided to retain the general ''predominant portion of its business activities'' standard in the final rule to address such possibilities. The final rule adds new language, located in paragraph (f)(3) providing that if a Bank determines that it is unable to determine from which of those geographic locations the institution actually conducts the predominant portion of its business, then it shall designate the state of domicile as the PPOB. In considering the number of employees and senior executives for a particular insurance company or CDFI subject to this paragraph, the Banks should consider all such persons, regardless of whether those persons may also serve as joint employees or senior executives for affiliated companies. For purposes of this provision, the term ''senior executives'' is defined to include all officers at or above the level of senior vice president, and the final rule includes a non-exclusive list of examples of titles of the positions that would qualify as senior executives for this purpose.

f. PPOB for Insurance Companies With No Physical Offices

The proposed rule included one provision that dealt with insurance companies that have no physical offices of their own—*i.e.,* they neither own nor rent any office space. That provision would have permitted a Bank to designate the state of domicile as the PPOB for such insurance companies, provided that the insurance company also had no employees of its own or whose senior officers are situated at multiple locations. The intent of this provision was to address situations that some Banks have brought to FHFA's attention in the case of insurance company applicants that are part of a holding company structure and that use employees and executives of their affiliated insurance companies as joint employees, or that use third party service providers to perform the services that otherwise would be performed by an institution's own employees. Most of the Banks supported this amendment and no commenters affirmatively opposed it, except to the extent that it was thought that it could be used by captives to ''district shop'' among the Banks.

In the final rule, however, FHFA has removed this provision because the situation that it was designed to address is now adequately covered under the revised provisions of the final rule, as described immediately above, which allow for the state of domicile to be designated as the PPOB if the Bank cannot use the two-factor test or otherwise identify a particular geographic location from which the predominant portion of the business is conducted. Thus, under this provision an insurance company that neither owns nor rents office space in its own name can use its state of domicile as its PPOB so long as a plurality of its employees and a plurality of its senior executives are not located in the same state.

The final rule also has relocated into a new § 1263.18(g) language from the proposed rule pertaining to the Banks' recordkeeping obligations with respect to their designation of their members' PPOBs. The substance of this provision is unchanged from the proposed rule. The final rule also carries over without substantive change the amendments to § 1263.18(d), pertaining to transfers of Bank membership resulting from the relocation or redesignation of an institution's PPOB.

D. Bank Stock Requirements—§§ 1263.20–1263.23

Subpart D of part 1263 currently sets forth certain requirements regarding the purchase and disposition of Bank stock. As proposed, the final rule repeals several provisions within this subpart that relate to the purchase and disposition of Bank stock in accordance with the law in effect prior to the enactment of the Financial Services Modernization Act of 1999 [102] (hereinafter, the ''GLB Act''). Among other things, the GLB Act amended the Bank Act to require each Bank to establish and operate under its own capital structure plan.[103] The provisions being repealed no longer have any effect because all of the Banks are now operating under GLB Act capital plans. The provisions being repealed are: (1) § 1263.19, which generally requires Bank capital stock to be sold at par (because this requirement is now addressed in FHFA's regulations governing Bank capital); (2) portions of § 1263.20 that relate to the pre-GLB Act subscription capital requirements; (3) § 1263.21, pertaining to the issuance and form of Bank stock, primarily under the pre-GLB Act regime; and (4) portions of § 1261.22 relating to the redemption of excess shares of pre-GLB Act capital stock. The final rule retains the substance of the remaining provisions of existing subpart D, although those provisions have been reorganized to reflect the GLB Act capital provisions more explicitly.

As proposed, § 1263.20(a) of the final rule provides that an institution becomes a member only upon the purchase of the amount of membership stock required under the Bank's capital plan. This further requires an approved applicant to purchase the required stock within 60 days, or else its membership approval becomes void. This carries over much of the substance of existing provisions that now appear, respectively, in paragraphs (a)(2) and (d) of existing § 1263.20.

Final § 1263.20(b) requires a Bank to issue its capital stock to a new member only after it has approved the institution for membership and received payment in full for the par value of the Bank stock. This replaces a similar provision, which had appeared in § 1263.21(a) of the existing regulation. Section 1263.20(c) of the final rule carries over the substance of existing § 1263.20(e), and requires that each Bank report to FHFA information regarding each new member's minimum investment in Bank capital stock, in accordance with the instructions provided in FHFA's Data Reporting Manual.

The final rule also retains the substance of existing § 1263.22(b)(1), which requires each Bank to calculate annually each member's required minimum stock holdings for purposes of determining the number of votes that the member may cast in that year's election of directors, and sets forth the procedures and timing that each Bank must follow with regard to that calculation. That material is carried over with some minor textual edits to provide greater clarity, as the sole provision of proposed § 1263.22. Existing § 1263.23, which governs excess Bank stock, is retained without change.

E. Withdrawal, Termination, and Readmission—§§ 1263.24–1263.30

As proposed, the final rule implements a non-substantive structural change to part 1263 by consolidating sections that are currently dispersed among subparts E through H into subpart E.

Existing § 1263.24 governs the effects that a merger or other consolidation of members has on their membership status. The final rule would retain nearly all of the existing text of that section without change, but would revise § 1263.24(b)(5) to remove references to Banks that have not yet

[102] Pub. L. 106–102, sec. 608, 113 Stat. 1338, 1458–61 (Nov. 12, 1999).

[103] *See* 12 U.S.C. 1426.

converted to a GLB Act capital structure. The final rule also deletes existing § 1263.24(d), which addresses FHFA approval for transfers of Bank stock that occur in a merger of members, because it too implements a provision of the Bank Act that was repealed by the GLB Act.

Section 1263.26 of the existing regulation governs voluntary withdrawal from Bank membership. Paragraph (d) of that section conditioned the ability of a member to withdraw on FHFA having certified that the withdrawal will not cause the Bank system to fail to contribute the amounts required to fund the interest payments owed on obligations issued by the Resolution Funding Corporation (REFCorp).[104] Because the Banks satisfied their obligation to contribute to the debt service on the REFCorp bonds as of July 2011, this provision has become moot. The final rule deletes that provision but leaves the remainder of § 1263.26 unchanged.

Section 1263.27 of the existing regulation establishes the grounds and procedures for the involuntary termination of an institution's Bank membership, as well as the rights of an institution whose membership is terminated. The final rule retains that section without change.

F. Other Membership Provisions—§§ 1263.31–1263.32

As proposed, the final rule consolidates sections of part 1263 that are currently contained in subparts I and J—§§ 1263.31 and 1263.32—into subpart F. The final rule retains these remaining provisions of the existing membership regulation without change, except that the cross-reference to § 1263.22(b)(1) found in § 1263.31(d) (which requires each member to provide its Bank annually with the data necessary to calculate its minimum required holdings of Bank stock) would be revised to reflect its redesignation as § 1263.22.

IV. Consideration of Differences Between the Banks and the Enterprises

Section 1313(f) of the Safety and Soundness Act requires the Director of FHFA, when promulgating regulations relating to the Banks, to consider the differences between the Banks and the Enterprises (Fannie Mae and Freddie Mac) as they relate to: The Banks' cooperative ownership structure; the mission of providing liquidity to members; the affordable housing and community development mission; their capital structure; and their joint and several liability on consolidated obligations.[105] The Director also may consider any other differences that are deemed appropriate. In preparing this final rule, the Director considered the differences between the Banks and the Enterprises as they relate to the above factors, and determined that the rule is appropriate.

V. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) requires that FHFA consider the impact of paperwork and other information collection burdens imposed on the public.[106] Under the PRA and the implementing regulations of the Office of Management and Budget (OMB), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid control number assigned by OMB.[107] FHFA's regulation ''Members of the Federal Home Loan Banks,'' located at 12 CFR part 1263, contains several collections of information that OMB has approved under control number 2590–0003, which is due to expire on December 31, 2016.

The proposed rule would have added a new collection of information to part 1263 related to the proposal to require an institution to hold at least one percent of its assets in ''home mortgage loans'' in order to satisfy the statutory ''makes long-term home mortgage loans'' and to require members to meet both that one percent requirement and the statutory ''10 percent'' requirement (where applicable) on an ongoing basis as a condition of remaining a Bank member. Because these changes are not being implemented in the final rule, there will be no new collection of information under part 1263; in addition, the existing collections under part 1263 will remain the same as those that have been approved by OMB under the existing clearance. Therefore, FHFA has withdrawn its request to OMB to approve a revision to control number 2590–0003.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act[108] (RFA) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities.[109] FHFA has considered the impact of the final rule under the RFA. The General Counsel of FHFA certifies that the final rule is not likely to have a significant economic impact on a substantial number of small entities because the regulation applies only to the Banks, which are not small entities for purposes of the RFA.

List of Subjects in 12 CFR Part 1263

Federal home loan banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons stated in the **SUPPLEMENTARY INFORMATION**, FHFA revises 12 CFR part 1263 to read as follows:

PART 1263—MEMBERS OF THE BANKS

Subpart A—Definitions

Sec.
1263.1 Definitions.

Subpart B—Membership Application Process

1263.2 Membership application requirements.
1263.3 Decision on application.
1263.4 Automatic membership.
1263.5 Appeals.

Subpart C—Eligibility Requirements

1263.6 General eligibility requirements.
1263.7 Duly organized requirement.
1263.8 Subject to inspection and regulation requirement.
1263.9 Makes long-term home mortgage loans requirement.
1263.10 Ten percent requirement for certain insured depository institution applicants.
1263.11 Financial condition requirement for depository institutions and CDFI credit unions.
1263.12 Character of management requirement.
1263.13 Home financing policy requirement.
1263.14 De novo insured depository institution applicants.
1263.15 Recently consolidated applicants.
1263.16 Financial condition requirement for insurance company and certain CDFI applicants.
1263.17 Rebuttable presumptions.
1263.18 Determination of appropriate Bank district for membership.

Subpart D—Stock Requirements

1263.19 [Reserved]
1263.20 Stock purchase.
1263.21 [Reserved]

[104] *See* 12 U.S.C. 1441b(f)(2)(C).

[105] 12 U.S.C. 4513(f).

[106] *See* 44 U.S.C. 3507(a) and (d).

[107] *See* 44 U.S.C. 3512(a); 5 CFR 1320.8(b)(3)(vi).

[108] 5 U.S.C. 601, *et seq.*

[109] *See* 5 U.S.C. 605(b).

1263.22 Annual calculation of stock holdings.
1263.23 Excess stock.

Subpart E—Withdrawal, Termination, and Readmission

1263.24 Consolidations involving members.
1263.25 [Reserved]
1263.26 Voluntary withdrawal from membership.
1263.27 Involuntary termination of membership.
1263.28 [Reserved]
1263.29 Disposition of claims.
1263.30 Readmission to membership.

Subpart F—Other Membership Provisions

1263.31 Reports and examinations.
1263.32 Official membership insignia.

Authority: 12 U.S.C. 1422, 1423, 1424, 1426, 1430, 1442, 4511, 4513.

Subpart A—Definitions

§ 1263.1 Definitions.

For purposes of this part:

Adjusted net income means net income, excluding extraordinary items such as income received from, or expense incurred in, sales of securities or fixed assets, reported on a regulatory financial report.

Affiliate means any entity that controls, is controlled by, or is under common control with another entity. For purposes of this definition, one entity controls another if it:

(1) Directly or indirectly, or acting through one or more other persons, owns, controls, or has the power to vote twenty-five (25) percent or more of the outstanding shares of any class of voting securities of the other entity, including shares of common or preferred stock, general or limited partnership shares or interests, or similar interests that entitle the holder:

(i) To vote for or to select directors, trustees, or partners (or individuals exercising similar functions) of that entity; or

(ii) To vote on or to direct the conduct of the operations or other significant policies of that entity;

(2) Controls in any manner the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of the other entity; or

(3) Otherwise has the power to exercise, directly or indirectly, a controlling influence over the management or policies of the other entity through a management agreement, common directors or management officials, or by any other means.

Aggregate unpaid loan principal means the aggregate unpaid principal of a subscriber's or member's home mortgage loans, home-purchase contracts and similar obligations.

Allowance for loan and lease losses means a specified balance-sheet account held to fund potential losses on loans or leases, which is reported on a regulatory financial report.

Appropriate regulator means:

(1) In the case of an insured depository institution or a CDFI credit union, an appropriate Federal banking agency or appropriate State regulator, as applicable; or

(2) In the case of an insurance company, an appropriate State regulator accredited by the NAIC.

Captive means an entity that holds an insurance license or charter under the laws of a State, but that does not meet the definition of ''insurance company'' set forth in this section or fall within any other category of institution that may be eligible for membership.

CDFI credit union means a State-chartered credit union that has been certified as a CDFI by the CDFI Fund and that does not have federal share insurance.

CDFI Fund means the Community Development Financial Institutions Fund established under section 104(a) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4703(a)).

CFI asset cap means $1 billion, as adjusted annually by FHFA, beginning in 2009, to reflect any percentage increase in the preceding year's Consumer Price Index (CPI) for all urban consumers, as published by the U.S. Department of Labor.

Class A stock means capital stock issued by a Bank, including subclasses, that has the characteristics specified in section 6(a)(4)(A)(i) of the Bank Act (12 U.S.C. 1426(a)(4)(A)(i)) and applicable FHFA regulations.

Class B stock means capital stock issued by a Bank, including subclasses, that has the characteristics specified in section 6(a)(4)(A)(ii) of the Bank Act (12 U.S.C. 1426(a)(4)(A)(ii)) and applicable FHFA regulations.

Combination business or farm property means real property for which the total appraised value is attributable to residential, and business or farm uses.

Community development financial institution or CDFI means an institution that is certified as a community development financial institution by the CDFI Fund under the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq.*), other than a bank or savings association insured under the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*), a holding company for such a bank or savings association, or a credit union insured under the Federal Credit Union Act (12 U.S.C. 1751 *et seq.*).

Community financial institution or CFI means an institution:

(1) The deposits of which are insured under the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*); and

(2) The total assets of which, as of the date of a particular transaction, are less than the CFI asset cap, with total assets being calculated as an average of total assets over three years, with such average being based on the institution's regulatory financial reports filed with its appropriate regulator for the most recent calendar quarter and the immediately preceding 11 calendar quarters.

Composite regulatory examination rating means a composite rating assigned to an institution following the guidelines of the Uniform Financial Institutions Rating System (issued by the Federal Financial Institutions Examination Council), including a CAMELS rating or other similar rating, contained in a written regulatory examination report.

Consolidation means a combination of two or more business entities, and includes a consolidation of two or more entities into a new entity, a merger of one or more entities into another entity, or a purchase of substantially all of the assets and assumption of substantially all of the liabilities of an entity by another entity.

CRA means the Community Reinvestment Act of 1977 (12 U.S.C. 2901 *et seq.*).

CRA performance evaluation means, unless otherwise specified, a formal performance evaluation of an institution prepared by its appropriate regulator as required by the CRA or, if such a formal evaluation is unavailable for a particular institution, an informal or preliminary evaluation.

De novo insured depository institution means an insured depository institution with a charter approved by its appropriate regulator within the three years prior to the date the institution applies for Bank membership.

Dwelling unit means a single room or a unified combination of rooms designed for residential use.

Enforcement action means any written notice, directive, order, or agreement initiated by an applicant for Bank membership or by its appropriate regulator to address any operational, financial, managerial, or other deficiencies of the applicant identified by such regulator. An ''enforcement action'' does not include a board of directors' resolution adopted by the applicant in response to examination weaknesses identified by such regulator.

Funded residential construction loan means the portion of a loan secured by real property made to finance the on-site construction of dwelling units on one-to-four family property or multifamily property disbursed to the borrower.

Gross revenues means, in the case of a CDFI applicant, total revenues received from all sources, including grants and other donor contributions and earnings from operations.

Home mortgage loan means:

(1) A loan, whether or not fully amortizing, or an interest in such a loan, which is secured by a mortgage, deed of trust, or other security agreement that creates a first lien on one of the following interests in property:

(i) One-to-four family property or multifamily property, in fee simple;

(ii) A leasehold on one-to-four family property or multifamily property under a lease of not less than 99 years that is renewable, or under a lease having a period of not less than 50 years to run from the date the mortgage was executed; or

(iii) Combination business or farm property where at least fifty (50) percent of the total appraised value of the combined property is attributable to the residential portion of the property, or in the case of any community financial institution, combination business or farm property, on which is located a permanent structure actually used as a residence (other than for temporary or seasonal housing), where the residence constitutes an integral part of the property; or

(2) A security representing:

(i) A right to receive a portion of the cash flows from a pool of long-term loans, provided that, at the time of issuance of the security, all of the loans meet the requirements of paragraph (1) of this definition; or

(ii) An interest in other securities, all of which meet the requirements of paragraph (2)(i) of this definition.

Insurance company means an entity that holds an insurance license or charter under the laws of a State and whose primary business is the underwriting of insurance for persons or entities that are not its affiliates.

Insured depository institution means an insured depository institution as defined in section 2(9) of the Bank Act, as amended (12 U.S.C. 1422(9)).

Long-term means a term to maturity of five years or greater at the time of origination.

Manufactured housing means a manufactured home as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5402(6)).

Multifamily property means:

(1) Real property that is solely residential and includes five or more dwelling units;

(2) Real property that includes five or more dwelling units combined with commercial units, provided that the property is primarily residential; or

(3) Nursing homes, dormitories, or homes for the elderly.

NAIC means the National Association of Insurance Commissioners.

Nonperforming loans and leases means the sum of the following, reported on a regulatory financial report:

(1) Loans and leases that have been past due for 90 days (60 days, in the case of credit union applicants) or longer but are still accruing;

(2) Loans and leases on a nonaccrual basis; and

(3) Restructured loans and leases (not already reported as nonperforming).

Nonresidential real property means real property that is not used for residential purposes, including business or industrial property, hotels, motels, churches, hospitals, educational and charitable institution buildings or facilities, clubs, lodges, association buildings, golf courses, recreational facilities, farm property not containing a dwelling unit, or similar types of property.

One-to-four family property means:

(1) Real property that is solely residential, including one-to-four family dwelling units or more than four family dwelling units if each dwelling unit is separated from the other dwelling units by dividing walls that extend from ground to roof, such as row houses, townhouses, or similar types of property;

(2) Manufactured housing if applicable State law defines the purchase or holding of manufactured housing as the purchase or holding of real property;

(3) Individual condominium dwelling units or interests in individual cooperative housing dwelling units that are part of a condominium or cooperative building without regard to the number of total dwelling units therein; or

(4) Real property which includes one-to-four family dwelling units combined with commercial units, provided the property is primarily residential.

Operating expenses means, in the case of a CDFI applicant, expenses for business operations, including, but not limited to, staff salaries and benefits, professional fees, interest, loan loss provision, and depreciation, contained in the applicant's audited financial statements.

Other real estate owned means all other real estate owned (*i.e.,* foreclosed and repossessed real estate), reported on a regulatory financial report, and does not include direct and indirect investments in real estate ventures.

Regulatory examination report means a written report of examination prepared by the applicant's appropriate regulator, containing, in the case of insured depository institution applicants, a composite rating assigned to the institution following the guidelines of the Uniform Financial Institutions Rating System, including a CAMELS rating or other similar rating.

Regulatory financial report means a financial report that an applicant is required to file with its appropriate regulator on a specific periodic basis, including the quarterly call report for commercial banks and savings associations, quarterly or semi-annual call report for credit unions, NAIC's annual or quarterly statement for insurance companies, or other similar report, including such report maintained by the appropriate regulator in an electronic database.

Residential mortgage loan means any one of the following types of loans, whether or not fully amortizing:

(1) A home mortgage loan;

(2) A funded residential construction loan;

(3) A loan secured by manufactured housing whether or not defined by State law as secured by an interest in real property;

(4) A loan secured by a junior lien on one-to-four family property or multifamily property;

(5) A security representing:

(i) A right to receive a portion of the cash flows from a pool of loans, provided that, at the time of issuance of the security, all of the loans meet the requirements of one of paragraphs (1) through (4) of this definition; or

(ii) An interest in other securities that meet the requirements of paragraph (5)(i) of this definition;

(6) A home mortgage loan secured by a leasehold interest, as defined in paragraph (1)(ii) of the definition of ''home mortgage loan,'' except that the period of the lease term may be for any duration; or

(7) A loan that finances one or more properties or activities that, if made by a member, would satisfy the statutory requirements for the Community Investment Program established under section 10(i) of the Bank Act (12 U.S.C. 1430(i)), or the regulatory requirements established for any Community Investment Cash Advance program.

Restricted assets means both permanently restricted assets and

temporarily restricted assets, as those terms are used in Financial Accounting Standard No. 117, or any successor publication.

Total assets means the total assets reported on a regulatory financial report or, in the case of a CDFI applicant, the total assets contained in the applicant's audited financial statements.

Unrestricted cash and cash equivalents means, in the case of a CDFI applicant, cash and highly liquid assets that can be easily converted into cash that are not restricted in a manner that prevents their use in paying expenses, as contained in the applicant's audited financial statements.

Subpart B—Membership Application Process

§ 1263.2 Membership application requirements.

(a) *Application.* Except as otherwise specified in this part, no institution may become a member of a Bank unless it has submitted to that Bank an application that satisfies the requirements of this part. The application shall include a written resolution or certification duly adopted by the applicant's board of directors, or by an individual with authority to act on behalf of the applicant's board of directors, of the following:

(1) *Applicant review.* The applicant has reviewed the requirements of this part and, as required by this part, has provided to the best of its knowledge the most recent, accurate, and complete information available; and

(2) *Duty to supplement.* The applicant will promptly supplement the application with any relevant information that comes to its attention prior to the Bank's decision on whether to approve or deny the application, and if the Bank's decision is appealed pursuant to § 1263.5, prior to resolution of any appeal by FHFA.

(b) *Digest.* The Bank shall prepare a written digest for each applicant stating whether or not the applicant meets each of the requirements in §§ 1263.6 to 1263.18, the Bank's findings, and the reasons therefor. In preparing a digest for an applicant whose satisfaction of the membership eligibility requirements of § 1263.6(a) is contingent upon its meeting the definition of ''insurance company'' set forth in § 1263.1, the Bank shall state its conclusion as to whether the applicant meets that definition and summarize the bases for that conclusion.

(c) *File.* The Bank shall maintain a membership file for each applicant for at least three years after the Bank decides whether to approve or deny membership or, in the case of an appeal to FHFA, for three years after the resolution of the appeal. The membership file shall contain at a minimum:

(1) *Digest.* The digest required by paragraph (b) of this section.

(2) *Required documents.* All documents required by §§ 1263.6 to 1263.18, including documents required to establish or rebut a presumption under this part, shall be described in and attached to the digest. The Bank is not required to retain in the file portions of regulatory financial reports that are not relevant to its decision on the membership application. If an applicant's appropriate regulator requires return or destruction of a regulatory examination report, the date that the report is returned or destroyed shall be noted in the file.

(3) *Additional documents.* Any additional document submitted by the applicant, or otherwise obtained or generated by the Bank, concerning the applicant.

(4) *Decision resolution.* The decision resolution described in § 1263.3(b).

§ 1263.3 Decision on application.

(a) *Authority.* FHFA hereby authorizes the Banks to approve or deny all applications for membership, subject to the requirements of this part. The authority to approve membership applications may be exercised only by a committee of the Bank's board of directors, the Bank president, or a senior officer who reports directly to the Bank president, other than an officer with responsibility for business development.

(b) *Decision resolution.* For each applicant, the Bank shall prepare a written resolution duly adopted by the Bank's board of directors, by a committee of the board of directors, or by an officer with delegated authority to approve membership applications. The decision resolution shall state:

(1) That the statements in the digest are accurate to the best of the Bank's knowledge, and are based on a diligent and comprehensive review of all available information identified in the digest; and

(2) The Bank's decision and the reasons therefor. Decisions to approve an application should state specifically that:

(i) The applicant is authorized under the laws of the United States and the laws of the appropriate State to become a member of, purchase stock in, do business with, and maintain deposits in, the Bank to which the applicant has applied; and

(ii) The applicant meets all of the membership eligibility criteria of the Bank Act and this part.

(c) *Action on applications.* The Bank shall act on an application within 60 calendar days of the date the Bank deems the application to be complete. An application is ''complete'' when a Bank has obtained all the information required by this part, and any other information the Bank deems necessary, to process the application. If an application that was deemed complete subsequently is deemed incomplete because the Bank determines during the review process that additional information is necessary to process the application, the Bank may suspend the 60-day processing period until the Bank again deems the application to be complete, at which time the processing period shall resume. The Bank shall notify an applicant in writing when it deems the applicant's application to be complete, and shall maintain a copy of the notice in the applicant's membership file. The Bank shall notify an applicant whenever it suspends or resumes the 60-day processing period, and shall maintain a written record of those notifications in the applicant's membership file. Within three business days of a Bank's decision on an application, the Bank shall provide the applicant and FHFA with a copy of the Bank's decision resolution.

§ 1263.4 Automatic membership.

(a) *Automatic membership for certain charter conversions.* An insured depository institution member that converts from one charter type to another automatically shall become a member of the Bank of which the converting institution was a member on the effective date of the conversion, provided that the converted institution continues to be an insured depository institution and the assets of the institution immediately before and immediately after the conversion are not materially different. In such case, all relationships existing between the member and the Bank at the time of such conversion may continue.

(b) *Automatic membership for transfers.* Any member that relocates its principal place of business to another Bank district or that redesignates its principal place of business to another Bank district pursuant to § 1263.18(c) automatically shall become a member of the Bank of that district upon the purchase of the minimum amount of Bank stock required for membership in that Bank, as required by § 1263.20.

(c) *Automatic membership, in the Bank's discretion, for certain consolidations.* (1) If a member

institution (or institutions) and a nonmember institution are consolidated, and the consolidated institution has its principal place of business in a State in the same Bank district as the disappearing institution (or institutions), and the consolidated institution will operate under the charter of the nonmember institution, on the effective date of the consolidation, the consolidated institution may, in the discretion of the Bank of which the disappearing institution (or institutions) was a member immediately prior to the effective date of the consolidation, automatically become a member of such Bank upon the purchase of the minimum amount of Bank stock required for membership in that Bank, as required by § 1263.20, provided that:

(i) 90 percent or more of the consolidated institution's total assets are derived from the total assets of the disappearing member institution (or institutions); and

(ii) The consolidated institution provides written notice to such Bank, within 60 calendar days after the effective date of the consolidation, that it desires to be a member of the Bank.

(2) The provisions of § 1263.24(b)(4)(i) shall apply, and upon approval of automatic membership by the Bank, the provisions of § 1263.24(c) shall apply.

§ 1263.5 Appeals.

(a) *Appeals by applicants.*—(1) *Filing procedure.* Within 90 calendar days of the date of a Bank's decision to deny an application for membership, the applicant may file a written appeal of the decision with FHFA.

(2) *Documents.* The applicant's appeal shall be addressed to the Deputy Director for Federal Home Loan Bank Regulation, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20219, with a copy to the Bank, and shall include the following documents:

(i) *Bank's decision resolution.* A copy of the Bank's decision resolution; and

(ii) *Basis for appeal.* An applicant must provide a statement of the basis for the appeal with sufficient facts, information, analysis, and explanation to rebut any applicable presumptions, or otherwise to support the applicant's position.

(b) *Record for appeal.*—(1) *Copy of membership file.* Upon receiving a copy of an appeal, the Bank whose action has been appealed (appellee Bank) shall provide FHFA with a copy of the applicant's complete membership file. Until FHFA resolves the appeal, the appellee Bank shall supplement the materials provided to FHFA as any new materials are received.

(2) *Additional information.* FHFA may request additional information or further supporting arguments from the appellant, the appellee Bank, or any other party that FHFA deems appropriate.

(c) *Deciding appeals.* FHFA shall consider the record for appeal described in paragraph (b) of this section and shall resolve the appeal based on the requirements of the Bank Act and this part within 90 calendar days of the date the appeal is filed with FHFA. In deciding the appeal, FHFA shall apply the presumptions in this part, unless the appellant or appellee Bank presents evidence to rebut a presumption as provided in § 1263.17.

Subpart C—Eligibility Requirements

§ 1263.6 General eligibility requirements.

(a) *Requirements.* Any building and loan association, savings and loan association, cooperative bank, homestead association, insurance company, savings bank, community development financial institution (including a CDFI credit union), or insured depository institution shall be eligible for Bank membership if:

(1) It is duly organized under tribal law, or under the laws of any State or of the United States;

(2) It is subject to inspection and regulation under the banking laws, or under similar laws, of any State or of the United States or, in the case of a CDFI, is certified by the CDFI Fund;

(3) It makes long-term home mortgage loans;

(4) Its financial condition is such that advances may be safely made to it;

(5) The character of its management is consistent with sound and economical home financing;

(6) Its home financing policy is consistent with sound and economical home financing; and

(7) It has complied with any applicable requirement of paragraphs (b) and (c) of this section.

(b) *Additional eligibility requirement for insured depository institutions other than community financial institutions.* In order to be eligible to become a member of a Bank, an insured depository institution applicant other than a community financial institution also must have at least 10 percent of its total assets in residential mortgage loans.

(c) *Additional eligibility requirement for applicants that are not insured depository institutions.* In order to be eligible to become a member of a Bank, an applicant that is not an insured depository institution also must have mortgage-related assets that reflect a commitment to housing finance, as determined by the Bank in its discretion.

(d) *Ineligibility.* Except as provided in paragraph (e) of this section, an institution that does not satisfy the requirements of this part shall be ineligible for membership.

(e) *Treatment of captives previously admitted to membership.* A Bank that admitted one or more captives to membership prior to February 19, 2016 shall wind down its relationship with, and terminate the membership of, each of those captives as provided in this paragraph (e).

(1) *Captives admitted prior to September 12, 2014.*—(i) A Bank shall have until February 19, 2021 to wind down its business transactions with any captive that it had admitted to membership prior to September 12, 2014, notwithstanding the captive's ineligibility for Bank membership. The Bank may make or renew an advance to such a captive only if:

(A) After making or renewing the advance, its total outstanding advances to that captive would not exceed 40 percent of the captive's total assets; and

(B) The new or renewed advance has a maturity date no later than February 19, 2021.

(ii) A Bank shall terminate the membership of any captive described in paragraph (e)(1)(i) of this section no later than February 19, 2021, as provided under § 1263.27. After termination, the Bank shall require the liquidation of any outstanding indebtedness owed by, and the settlement of all other outstanding business transactions with, such terminated captive, and shall redeem or repurchase the Bank stock owned by the captive in accordance with § 1263.29; provided that the Bank may allow the captive to repay any outstanding advance made or last renewed in accordance with the applicable requirements then in effect and having a maturity date later than its date of termination in accordance with its terms and delay the repurchase of any Bank stock held in support of that advance until after the advance has been repaid, in accordance with the Bank's capital plan.

(2) *Captives admitted on or after September 12, 2014.*—(i) A Bank shall have until February 19, 2017 to wind down its business transactions with any captive that it had admitted to membership on or after September 12, 2014, notwithstanding the captive's ineligibility for Bank membership. The

Bank shall not make or renew any advance to such a captive.

(ii) A Bank shall terminate the membership of any captive described in paragraph (e)(2)(i) of this section no later than February 19, 2017, as provided under § 1263.27. Upon termination, the Bank shall require the liquidation of any outstanding indebtedness owed by, and the settlement of all other outstanding business transactions with, such terminated captive, and shall redeem or repurchase the Bank stock owned by the captive in accordance with § 1263.29; provided that all advances outstanding to that member must be repaid in full by the termination date.

§ 1263.7 Duly organized requirement.

An applicant shall be deemed to be duly organized, as required by section 4(a)(1)(A) of the Bank Act (12 U.S.C. 1424(a)(1)(A)) and § 1263.6(a)(1), if it is chartered by a State or federal agency as a building and loan association, savings and loan association, cooperative bank, homestead association, insurance company, savings bank, or insured depository institution or, in the case of a CDFI applicant, is incorporated under State or tribal law.

§ 1263.8 Subject to inspection and regulation requirement.

An applicant shall be deemed to be subject to inspection and regulation, as required by section 4(a)(1)(B) of the Bank Act (12 U.S.C. 1424 (a)(1)(B)) and § 1263.6(a)(2) if, in the case of an insured depository institution or insurance company applicant, it is subject to inspection and regulation by its appropriate regulator. A CDFI applicant that is certified by the CDFI Fund is not subject to this requirement.

§ 1263.9 Makes long-term home mortgage loans requirement.

An applicant shall be deemed to make long-term home mortgage loans, as required by section 4(a)(1)(C) of the Bank Act (12 U.S.C. 1424(a)(1)(C)) and § 1263.6(a)(3), if, based on the applicant's most recent regulatory financial report filed with its appropriate regulator, or other documentation provided to the Bank, in the case of a CDFI applicant that does not file such reports, the applicant originates or purchases long-term home mortgage loans.

§ 1263.10 Ten percent requirement for certain insured depository institution applicants.

An insured depository institution applicant that is subject to the 10 percent requirement of section 4(a)(2)(A) of the Bank Act (12 U.S.C. 1424(a)(2)(A)) and § 1263.6(b) shall be deemed to comply with that requirement if, based on the applicant's most recent regulatory financial report filed with its appropriate regulator, the applicant has at least 10 percent of its total assets in residential mortgage loans, except that any assets used to secure mortgage-backed securities as described in paragraph (5) of the definition of ''residential mortgage loan'' set forth in § 1263.1 shall not be used to meet this requirement.

§ 1263.11 Financial condition requirement for depository institutions and CDFI credit unions.

(a) *Review requirement.* In determining whether a building and loan association, savings and loan association, cooperative bank, homestead association, savings bank, insured depository institution, or CDFI credit union has complied with the financial condition requirements of section 4(a)(2)(B) of the Bank Act (12 U.S.C. 1424(a)(2)(B)) and § 1263.6(a)(4), the Bank shall obtain as a part of the membership application and review each of the following documents:

(1) *Regulatory financial reports.* The regulatory financial reports filed by the applicant with its appropriate regulator for the last six calendar quarters and three year-ends preceding the date the Bank receives the application;

(2) *Financial statement.* In order of preference—

(i) The most recent independent audit of the applicant conducted in accordance with generally accepted auditing standards by a certified public accounting firm which submits a report on the applicant;

(ii) The most recent independent audit of the applicant's parent holding company conducted in accordance with generally accepted auditing standards by a certified public accounting firm which submits a report on the consolidated holding company but not on the applicant separately;

(iii) The most recent directors' examination of the applicant conducted in accordance with generally accepted auditing standards by a certified public accounting firm;

(iv) The most recent directors' examination of the applicant performed by other external auditors;

(v) The most recent review of the applicant's financial statements by external auditors;

(vi) The most recent compilation of the applicant's financial statements by external auditors; or

(vii) The most recent audit of other procedures of the applicant.

(3) *Regulatory examination report.* The applicant's most recent available regulatory examination report prepared by its appropriate regulator, a summary prepared by the Bank of the applicant's strengths and weaknesses as cited in the regulatory examination report, and a summary prepared by the Bank or applicant of actions taken by the applicant to respond to examination weaknesses;

(4) *Enforcement actions.* A description prepared by the Bank or applicant of any outstanding enforcement actions against the applicant, responses by the applicant, reports as required by the enforcement action, and verbal or written indications, if available, from the appropriate regulator of how the applicant is complying with the terms of the enforcement action; and

(5) *Additional information.* Any other relevant document or information concerning the applicant that comes to the Bank's attention in reviewing the applicant's financial condition.

(b) *Standards.* An applicant of the type described in paragraph (a) of this section shall be deemed to be in compliance with the financial condition requirement of section 4(a)(2)(B) of the Bank Act (12 U.S.C. 1424(a)(2)(B)) and § 1263.6(a)(4), if:

(1) *Recent composite regulatory examination rating.* The applicant has received a composite regulatory examination rating from its appropriate regulator within two years preceding the date the Bank receives the application;

(2) *Capital requirement.* The applicant meets all of its minimum statutory and regulatory capital requirements as reported in its most recent quarter-end regulatory financial report filed with its appropriate regulator; and

(3) *Minimum performance standard*—(i) Except as provided in paragraph (b)(3)(iii) of this section, the applicant's most recent composite regulatory examination rating from its appropriate regulator within the past two years was ''1'', or the most recent rating was ''2'' or ''3'' and, based on the applicant's most recent regulatory financial report filed with its appropriate regulator, the applicant satisfied all of the following performance trend criteria—

(A) *Earnings.* The applicant's adjusted net income was positive in four of the six most recent calendar quarters;

(B) *Nonperforming assets.* The applicant's nonperforming loans and leases plus other real estate owned, did not exceed 10 percent of its total loans and leases plus other real estate owned, in the most recent calendar quarter; and

(C) *Allowance for loan and lease losses.* The applicant's ratio of its allowance for loan and lease losses plus the allocated transfer risk reserve to

nonperforming loans and leases was 60 percent or greater during four of the six most recent calendar quarters.

(ii) For applicants that are not required to report financial data to their appropriate regulator on a quarterly basis, the information required in paragraph (b)(3)(i) of this section may be reported on a semi-annual basis.

(iii) A CDFI credit union applicant must meet the performance trend criteria in paragraph (b)(3)(i) of this section irrespective of its composite regulatory examination rating.

(c) *Eligible collateral not considered.* The availability of sufficient eligible collateral to secure advances to the applicant is presumed and shall not be considered in determining whether an applicant is in the financial condition required by section 4(a)(2)(B) of the Bank Act (12 U.S.C. 1424(a)(2)(B)) and § 1263.6(a)(4).

§ 1263.12 Character of management requirement.

(a) *General.* A building and loan association, savings and loan association, cooperative bank, homestead association, savings bank, insured depository institution, insurance company, and CDFI credit union shall be deemed to be in compliance with the character of management requirements of section 4(a)(2)(C) of the Bank Act (12 U.S.C. 1424(a)(2)(C)) and § 1263.6(a)(5) if the applicant provides to the Bank an unqualified written certification duly adopted by the applicant's board of directors, or by an individual with authority to act on behalf of the applicant's board of directors, that:

(1) *Enforcement actions.* Neither the applicant nor any of its directors or senior officers is subject to, or operating under, any enforcement action instituted by its appropriate regulator;

(2) *Criminal, civil or administrative proceedings.* Neither the applicant nor any of its directors or senior officers has been the subject of any criminal, civil or administrative proceedings reflecting upon creditworthiness, business judgment, or moral turpitude since the most recent regulatory examination report; and

(3) *Criminal, civil or administrative monetary liabilities, lawsuits or judgments.* There are no known potential criminal, civil or administrative monetary liabilities, material pending lawsuits, or unsatisfied judgments against the applicant or any of its directors or senior officers since the most recent regulatory examination report, that are significant to the applicant's operations.

(b) *CDFIs other than CDFI credit unions.* A CDFI applicant, other than a CDFI credit union, shall be deemed to be in compliance with the character of management requirement of § 1263.6(a)(5), if the applicant provides an unqualified written certification duly adopted by the applicant's board of directors, or by an individual with authority to act on behalf of the applicant's board of directors, that:

(1) *Criminal, civil or administrative proceedings.* Neither the applicant nor any of its directors or senior officers has been the subject of any criminal, civil or administrative proceedings reflecting upon creditworthiness, business judgment, or moral turpitude in the past three years; and

(2) *Criminal, civil or administrative monetary liabilities, lawsuits or judgments.* There are no known potential criminal, civil or administrative monetary liabilities, material pending lawsuits, or unsatisfied judgments against the applicant or any of its directors or senior officers arising within the past three years that are significant to the applicant's operations.

§ 1263.13 Home financing policy requirement.

(a) *Standard.* An applicant shall be deemed to be in compliance with the home financing policy requirements of section 4(a)(2)(C) of the Bank Act (12 U.S.C. 1424(a)(2)(C)) and § 1263.6(a)(6), if the applicant has received a CRA rating of ''Satisfactory'' or better on its most recent CRA performance evaluation.

(b) *Written justification required.* An applicant that is not subject to the CRA shall file, as part of its application for membership, a written justification acceptable to the Bank of how and why the applicant's home financing policy is consistent with the Bank System's housing finance mission.

§ 1263.14 De novo insured depository institution applicants.

(a) *Presumptive compliance.* A de novo insured depository institution applicant shall be deemed to meet the duly organized, subject to inspection and regulation, financial condition, and character of management requirements of §§ 1263.7, 1263.8, 1263.11 and 1263.12, respectively.

(b) *Makes long-term home mortgage loans requirement.* A de novo insured depository institution applicant shall be deemed to make long-term home mortgage loans, as required by section 4(a)(1)(C) of the Bank Act (12 U.S.C. 1424(a)(1)(C)) and § 1263.6(a)(3), if it has filed as part of its application for membership a written justification acceptable to the Bank of how its home financing credit policy and lending practices will include originating or purchasing long-term home mortgage loans.

(c) *10 percent requirement.*—(1) *Conditional approval.* If a de novo insured depository institution applicant that commenced its initial business operations less than one year before applying for Bank membership is subject to, but cannot yet meet, the 10 percent requirement of section 4(a)(2)(A) of the Bank Act (12 U.S.C. 1424(a)(2)(A)) and § 1263.6(b) as provided in § 1263.10, a Bank may conditionally approve that applicant for membership if it meets all other applicable requirements.

(2) *Approval may become final.* If, within one year after commencement of its initial business operations, an institution that was conditionally approved for membership under paragraph (c)(1) of this section supplies evidence acceptable to the Bank that it satisfies the 10 percent requirement as provided under § 1263.10, its membership approval shall become final.

(3) *Approval may become void.* If an institution that was conditionally approved for membership under paragraph (c)(1) does not satisfy the requirements of paragraph (c)(2) of this section, it shall be deemed to be out of compliance with the 10 percent requirement, and its conditional membership approval shall become void.

(d) *Home financing policy requirement.*—(1) *Conditional approval.* If a de novo insured depository institution applicant cannot meet the home financing policy requirement of section 4(a)(2)(C) of the Bank Act (12 U.S.C. 1424(a)(2)(C)) and § 1263.6(a)(6) as provided under § 1263.13 because it has not received its first CRA performance evaluation, a Bank may conditionally approve that applicant for membership if it meets all other applicable requirements and has included in its application a written justification acceptable to the Bank of how and why its home financing credit policy and lending practices will meet the credit needs of its community.

(2) *Approval may become final.* If an institution that was conditionally approved for membership under paragraph (d)(1) of this section supplies evidence acceptable to the Bank that it has satisfied the home financing policy requirement as provided under § 1263.13 by receiving a CRA rating of ''Satisfactory'' or better on its first CRA

performance evaluation, its membership approval shall cease to be conditional.

(3) *Approval may become void.* If an institution that was conditionally approved for membership under paragraph (d)(1) of this section receives a rating of ''Needs to Improve'' or ''Substantial Non-Compliance'' on its first CRA performance evaluation, and fails to rebut the presumption of non-compliance with the home financing policy requirement as provided under § 1263.17(f), it shall be deemed to be out of compliance with that requirement and its conditional membership approval shall become void.

(e) *Other rules.* An institution that has been conditionally approved for membership under paragraph (c)(1) or (d)(1) of this section shall be subject to all regulations applicable to members generally, including those relating to stock purchase requirements and or collateral, notwithstanding that its membership may be conditional for some period of time. If an institution's conditional membership approval becomes void as provided in paragraphs (c)(3) or (d)(3) of this section, then the Bank shall liquidate any outstanding indebtedness owed by the institution to the Bank and redeem or repurchase its capital stock in accordance with § 1263.29.

§ 1263.15 Recently consolidated applicants.

An applicant that has recently consolidated with another institution is subject to the requirements of §§ 1263.7 to 1263.13 except as provided in this section.

(a) *Financial condition requirement.* For purposes of § 1263.11(a)(1) and 1263.11(b)(3)(i)(A), a recently consolidated applicant that has not yet filed regulatory financial reports as a consolidated entity for six quarters or three calendar year-ends shall provide to the Bank:

(1) All regulatory financial reports that the applicant has filed as a consolidated entity; and

(2) *Pro forma* combined financial statements for those quarters for which actual combined regulatory financial reports are unavailable.

(b) *Home financing policy requirement.* For purposes of § 1263.13, a recently consolidated applicant that has not yet received its first CRA performance evaluation as a consolidated entity shall file as part of its application a written justification acceptable to the Bank of how and why the applicant's home financing credit policy and lending practices will meet the credit needs of its community.

(c) *Makes long-term home mortgage loans requirement; 10 percent requirement.* For purposes of determining compliance with §§ 1263.9 and 1263.10, a Bank may, in its discretion, permit a recently consolidated applicant that has not yet filed a regulatory financial report as a consolidated entity to provide the *pro forma* financial statement for the consolidated entity that the consolidating entities filed with the regulator that approved the consolidation.

§ 1263.16 Financial condition requirement for insurance company and certain CDFI applicants.

(a) *Insurance companies.*—(1) An insurance company applicant shall be deemed to meet the financial condition requirement of § 1263.6(a)(4) if the Bank determines:

(i) Based on the information contained in the applicant's most recent regulatory financial report filed with its appropriate regulator, that the applicant meets all of its minimum statutory and regulatory capital requirements and the capital standards established by the NAIC; and

(ii) Based on the applicant's most recent audited financial statements, that the applicant's financial condition is such that the Bank can safely make advances to it.

(2) In making the determination required under paragraph (a)(1)(ii) of this section, the Bank shall use audited financial statements that have been prepared in accordance with generally accepted accounting principles, if they are available. If they are not available, the Bank may use audited financial statements prepared in accordance with statutory accounting principles.

(b) *CDFIs other than CDFI credit unions.*—(1) *Review requirement.* In order for a Bank to determine whether a CDFI applicant, other than a CDFI credit union, has complied with the financial condition requirement of § 1263.6(a)(4), the applicant shall submit, as a part of its membership application, each of the following documents, and the Bank shall consider all such information prior to acting on the application for membership:

(i) *Financial statements.* An independent audit conducted within the prior year in accordance with generally accepted auditing standards by a certified public accounting firm, plus more recent quarterly statements, if available, and financial statements for the two years prior to the most recent audited financial statement. At a minimum, all such financial statements must include income and expense statements, statements of activities, statements of financial position, and statements of cash flows. The financial statement for the most recent year must include separate schedules or disclosures of the financial position of each of the applicant's affiliates, descriptions of their lines of business, detailed financial disclosures of the relationship between the applicant and its affiliates (such as indebtedness or subordinate debt obligations), disclosures of interlocking directorships with each affiliate, and identification of temporary and permanently restricted funds and the requirements of these restrictions;

(ii) *CDFI Fund certification.* The certification that the applicant has received from the CDFI Fund. If the certification is more than three years old, the applicant must also submit a written statement attesting that there have been no material events or occurrences since the date of certification that would adversely affect its strategic direction, mission, or business operations; and

(iii) *Additional information.* Any other relevant document or information a Bank requests concerning the applicant's financial condition that is not contained in the applicant's financial statements, as well as any other information that the applicant believes demonstrates that it satisfies the financial condition requirement of § 1263.6(a)(4), notwithstanding its failure to meet any of the financial condition standards of paragraph (b)(2) of this section.

(2) *Standards.* A CDFI applicant, other than a CDFI credit union, shall be deemed to be in compliance with the financial condition requirement of § 1263.6(a)(4) if it meets all of the following minimum financial standards—

(i) *Net asset ratio.* The applicant's ratio of net assets to total assets is at least 20 percent, with net and total assets including restricted assets, where net assets is calculated as the residual value of assets over liabilities and is based on information derived from the applicant's most recent financial statements;

(ii) *Earnings.* The applicant has shown positive net income, where net income is calculated as gross revenues less total expenses, is based on information derived from the applicant's most recent financial statements, and is measured as a rolling three-year average;

(iii) *Loan loss reserves.* The applicant's ratio of loan loss reserves to loans and leases 90 days or more delinquent (including loans sold with

full recourse) is at least 30 percent, where loan loss reserves are a specified balance sheet account that reflects the amount reserved for loans expected to be uncollectible and are based on information derived from the applicant's most recent financial statements;

(iv) *Liquidity.* The applicant has an operating liquidity ratio of at least 1.0 for the four most recent quarters, and for one or both of the two preceding years, where the numerator of the ratio includes unrestricted cash and cash equivalents and the denominator of the ratio is the average quarterly operating expense.

§ 1263.17 Rebuttable presumptions.

(a) *Rebutting presumptive compliance.* The presumption that an applicant meeting the requirements of §§ 1263.7 to 1263.16 is in compliance with the corresponding eligibility requirements of section 4(a) of the Bank Act (12 U.S.C. 1424(a)) and § 1263.6(a) and (b), may be rebutted, and the Bank may deny membership to an applicant, if the Bank obtains substantial evidence to overcome the presumption of compliance.

(b) *Rebutting presumptive noncompliance.* The presumption that an applicant not meeting a particular requirement of §§ 1263.8, 1263.11, 1263.12, 1263.13, or 1263.16, is not in compliance with the corresponding eligibility requirement of section 4(a) of the Bank Act (12 U.S.C. 1424(a)) and § 1263.6(a) may be rebutted and the applicant shall be deemed to be in compliance with an eligibility requirement, if it satisfies the applicable requirements in this section.

(c) *Presumptive noncompliance by insurance company applicant with ''subject to inspection and regulation'' requirement of § 1263.8.* If an insurance company applicant is not subject to inspection and regulation by an appropriate State regulator accredited by the NAIC, as required by § 1263.8, the applicant or the Bank shall prepare a written justification that provides substantial evidence acceptable to the Bank that the applicant is subject to inspection and regulation as required by § 1263.6(a)(2), notwithstanding the regulator's lack of NAIC accreditation.

(d) *Presumptive noncompliance with financial condition requirements of §§ 1263.11 and 1263.16*—(1) *Applicants subject to § 1263.11.* For applicants subject to § 1263.11, in the case of an applicant's lack of a composite regulatory examination rating within the two-year period required by § 1263.11(b)(1), a variance from the rating required by § 1263.11(b)(3)(i), or a variance from a performance trend criterion required by § 1263.11(b)(3)(i), the applicant or the Bank shall prepare a written justification pertaining to such requirement that provides substantial evidence acceptable to the Bank that the applicant is in the financial condition required by § 1263.6(a)(4), notwithstanding the lack of rating or variance.

(2) *Applicants subject to § 1263.16.* For applicants subject to § 1263.16, in the case of an insurance company applicant's variance from a capital requirement or standard of § 1263.16(a) or, in the case of a CDFI applicant's variance from the standards of § 1263.16(b), the applicant or the Bank shall prepare a written justification pertaining to such requirement or standard that provides substantial evidence acceptable to the Bank that the applicant is in the financial condition required by § 1263.6(a)(4), notwithstanding the variance.

(e) *Presumptive noncompliance with character of management requirement of § 1263.12*—(1) *Enforcement actions.* If an applicant or any of its directors or senior officers is subject to, or operating under, any enforcement action instituted by its appropriate regulator, the applicant shall provide or the Bank shall obtain:

(i) *Regulator confirmation.* Written or verbal confirmation from the applicant's appropriate regulator that the applicant or its directors or senior officers are in substantial compliance with all aspects of the enforcement action; or

(ii) *Written analysis.* A written analysis acceptable to the Bank indicating that the applicant or its directors or senior officers are in substantial compliance with all aspects of the enforcement action. The written analysis shall state each action the applicant or its directors or senior officers are required to take by the enforcement action, the actions actually taken by the applicant or its directors or senior officers, and whether the applicant regards this as substantial compliance with all aspects of the enforcement action.

(2) *Criminal, civil or administrative proceedings.* If an applicant or any of its directors or senior officers has been the subject of any criminal, civil or administrative proceedings reflecting upon creditworthiness, business judgment, or moral turpitude since the most recent regulatory examination report or, in the case of a CDFI applicant, during the past three years, the applicant shall provide or the Bank shall obtain—

(i) *Regulator confirmation.* Written or verbal confirmation from the applicant's appropriate regulator that the proceedings will not likely result in an enforcement action; or

(ii) *Written analysis.* A written analysis acceptable to the Bank indicating that the proceedings will not likely result in an enforcement action or, in the case of a CDFI applicant, that the proceedings will not likely have a significantly deleterious effect on the applicant's operations. The written analysis shall state the severity of the charges, and any mitigating action taken by the applicant or its directors or senior officers.

(3) *Criminal, civil or administrative monetary liabilities, lawsuits or judgments.* If there are any known potential criminal, civil or administrative monetary liabilities, material pending lawsuits, or unsatisfied judgments against the applicant or any of its directors or senior officers since the most recent regulatory examination report or, in the case of a CDFI applicant, occurring within the past three years, that are significant to the applicant's operations, the applicant shall provide or the Bank shall obtain—

(i) *Regulator confirmation.* Written or verbal confirmation from the applicant's appropriate regulator that the liabilities, lawsuits or judgments will not likely cause the applicant to fall below its applicable capital requirements set forth in §§ 1263.11(b)(2) and 1263.16(a); or

(ii) *Written analysis.* A written analysis acceptable to the Bank indicating that the liabilities, lawsuits or judgments will not likely cause the applicant to fall below its applicable capital requirements set forth in § 1263.11(b)(2) or § 1263.16(a), or the net asset ratio set forth in § 1263.16(b)(2)(i). The written analysis shall state the likelihood of the applicant or its directors or senior officers prevailing, and the financial consequences if the applicant or its directors or senior officers do not prevail.

(f) *Presumptive noncompliance with home financing policy requirements of §§ 1263.13 and 1263.14(d).* If an applicant received a ''Substantial Non-Compliance'' rating on its most recent CRA performance evaluation, or a ''Needs to Improve'' CRA rating on its most recent CRA performance evaluation and a CRA rating of ''Needs to Improve'' or better on any immediately preceding formal CRA performance evaluation, the applicant shall provide or the Bank shall obtain:

(1) *Regulator confirmation.* Written or verbal confirmation from the applicant's appropriate regulator of the applicant's recent satisfactory CRA performance,

including any corrective action that substantially improved upon the deficiencies cited in the most recent CRA performance evaluation(s); or

(2) *Written analysis.* A written analysis acceptable to the Bank demonstrating that the CRA rating is unrelated to home financing, and providing substantial evidence of how and why the applicant's home financing credit policy and lending practices meet the credit needs of its community.

§ 1263.18 Determination of appropriate Bank district for membership.

(a) *Eligibility.* (1) An institution eligible to be a member of a Bank under the Bank Act and this part may be a member only of the Bank of the district in which the institution's principal place of business is located, except as provided in paragraph (a)(2) of this section. A member shall promptly notify its Bank in writing whenever it relocates its principal place of business to another State and the Bank shall inform FHFA in writing of any such relocation.

(2) An institution eligible to become a member of a Bank under the Bank Act and this part may be a member of the Bank of a district adjoining the district in which the institution's principal place of business is located, if demanded by convenience and then only with the approval of FHFA.

(b) *Principal place of business.* Except as otherwise designated in accordance with this section, the principal place of business of an institution is the State in which the institution maintains its home office established as such in conformity with the laws under which the institution is organized and from which the institution conducts business operations.

(c) *Designation of principal place of business*—(1) A member or an applicant for membership may request in writing to the Bank in the district where the institution maintains its home office that a State other than the State in which it maintains its home office be designated as its principal place of business. Within 90 calendar days of receipt of such written request, the board of directors of the Bank in the district where the institution maintains its home office shall designate a State other than the State where the institution maintains its home office as the institution's principal place of business, provided that, all of the following criteria are satisfied:

(i) At least 80 percent of the institution's accounting books, records, and ledgers are maintained, located or held in such designated State;

(ii) A majority of meetings of the institution's board of directors and constituent committees are conducted in such designated State; and

(iii) A majority of the institution's five highest paid officers have their place of employment located in such designated State.

(2) Written notice of a designation made pursuant to paragraph (c)(1) of this section shall be sent to the Bank in the district containing the designated State, FHFA, and the institution.

(3) The notice of designation made pursuant to paragraph (c)(1) of this section shall include the State designated as the principal place of business and the Bank of which the subject institution is eligible to be a member.

(4) If the board of directors of the Bank in the district where the institution maintains its home office fails to make the designation requested by the member or applicant pursuant to paragraph (c)(1) of this section, then the member or applicant may request in writing that FHFA make the designation.

(d) *Transfer of membership.* (1) In the case of a member whose principal place of business has been designated as a State located in another Bank district in accordance with paragraph (c) of this section, or in the case of a member that has relocated its principal place of business to a State in another Bank district, the transfer of membership from one Bank to another Bank shall not take effect until the Banks involved reach an agreement on a method of orderly transfer.

(2) In the event that the Banks involved fail to agree on a method of orderly transfer, FHFA shall determine the conditions under which the transfer shall take place.

(e) *Effect of transfer.* A transfer of membership pursuant to this section shall be effective for all purposes, but shall not affect voting rights in the year of the transfer and shall not be subject to the provisions on termination of membership set forth in section 6 of the Bank Act (12 U.S.C. 1426) or §§ 1263.26 and 1263.27, nor the restriction on reacquiring Bank membership set forth in § 1263.30.

(f) *Insurance companies and CDFIs.* (1) For an insurance company or CDFI that cannot satisfy the requirements of paragraphs (b) or (c) of this section for designating its principal place of business, a Bank shall designate as the principal place of business the geographic location from which the institution actually conducts the predominant portion of its business activities.

(2) A Bank may deem an institution to conduct the predominant portion of its business activities in a particular State if any two of the following three factors are present:

(i) The institution's largest office, as measured by the number of employees, is located in that State;

(ii) A plurality of the institution's employees are located in that State; or

(iii) The places of employment for a plurality of the institution's senior executives are located in that State.

(3) If a Bank cannot designate a State as the principal place of business under paragraph (f)(1) of this section, and cannot otherwise identify a geographic location from which the institution actually conducts the predominant portion of its business activities, it shall designate the State of domicile or incorporation as the principal place of business for that institution.

(4) For purposes of paragraph (f)(2) of this section, the term ''senior executive'' means all officers at or above the level of ''senior vice president'' and includes the positions of president, executive vice president, chief executive officer, chief financial officer, chief operating officer, general counsel, as well as any individuals who perform functions similar to those positions whether or not the individual has an official title.

(g) *Records.* A Bank designating the principal place of business for a member under this section shall document the bases for its determination in writing and shall include that documentation in the membership digest and application file for the institution that are required under § 1263.2.

Subpart D—Stock Requirements

§ 1263.19 [Reserved]

§ 1263.20 Stock purchase.

(a) *Minimum purchase requirement.* An institution that has been approved for membership in a Bank as provided in this part shall become a member of that Bank upon purchasing the amount of stock required under the membership stock purchase provisions of that Bank's capital structure plan. If an institution fails to purchase the minimum amount of stock required for membership within 60 calendar days after the date on which it is approved for membership, the membership approval shall become void and that institution may not become a member of that Bank until after it has filed a new application and the Bank has approved that application pursuant to the requirements of this part.

(b) *Issuance of stock.* After approving an institution for membership, and in return for payment in full of the par value, a Bank shall issue to that institution the amount of capital stock

required to be purchased under the Bank's capital structure plan.

(c) *Reports.* Each Bank shall report to FHFA information regarding the minimum investment in Bank capital stock made by each new member referred to in paragraph (a) of this section, in accordance with the instructions provided in the Data Reporting Manual.

§ 1263.21 [Reserved]

§ 1263.22 Annual calculation of stock holdings.

A Bank shall calculate annually each member's required minimum holdings of Bank stock using calendar year-end financial data provided by the member to the Bank, pursuant to § 1263.31(d), and shall notify each member of the result. The notice shall clearly state that the Bank's calculation of each member's minimum stock holdings is to be used to determine the number of votes that the member may cast in that year's election of directors and shall identify the State within the district in which the member will vote. A member that does not agree with the Bank's calculation of the minimum stock purchase requirement or with the identification of its voting State may request FHFA to review the Bank's determination. FHFA shall promptly determine the member's minimum required holdings and its proper voting State, which determination shall be final.

§ 1263.23 Excess stock.

(a) *Sale of excess stock.* Subject to the restriction in paragraph (b) of this section, a member may purchase excess stock as long as the purchase is approved by the member's Bank and is permitted by the laws under which the member operates.

(b) *Restriction.* Any Bank with excess stock greater than one percent of its total assets shall not declare or pay any dividends in the form of additional shares of Bank stock or otherwise issue any excess stock. A Bank shall not issue excess stock, as a dividend or otherwise, if after the issuance, the outstanding excess stock at the Bank would be greater than one percent of its total assets.

Subpart E—Withdrawal, Termination and Readmission

§ 1263.24 Consolidations involving members.

(a) *Consolidation of members.* Upon the consolidation of two or more institutions that are members of the same Bank into one institution operating under the charter of one of the consolidating institutions, the membership of the surviving institution shall continue and the membership of each disappearing institution shall terminate on the cancellation of its charter. Upon the consolidation of two or more institutions, at least two of which are members of different Banks, into one institution operating under the charter of one of the consolidating institutions, the membership of the surviving institution shall continue and the membership of each disappearing institution shall terminate upon cancellation of its charter, provided, however, that if more than 80 percent of the assets of the consolidated institution are derived from the assets of a disappearing institution, then the consolidated institution shall continue to be a member of the Bank of which that disappearing institution was a member prior to the consolidation, and the membership of the other institutions shall terminate upon the effective date of the consolidation.

(b) *Consolidation into nonmember*—(1) *In general.* Upon the consolidation of a member into an institution that is not a member of a Bank, where the consolidated institution operates under the charter of the nonmember institution, the membership of the disappearing institution shall terminate upon the cancellation of its charter.

(2) *Notification.* If a member has consolidated into a nonmember that has its principal place of business in a State in the same Bank district as the former member, the consolidated institution shall have 60 calendar days after the cancellation of the charter of the former member within which to notify the Bank of the former member that the consolidated institution intends to apply for membership in such Bank. If the consolidated institution does not so notify the Bank by the end of the period, the Bank shall require the liquidation of any outstanding indebtedness owed by the former member, shall settle all outstanding business transactions with the former member, and shall redeem or repurchase the Bank stock owned by the former member in accordance with § 1263.29.

(3) *Application.* If such a consolidated institution has notified the appropriate Bank of its intent to apply for membership, the consolidated institution shall submit an application for membership within 60 calendar days of so notifying the Bank. If the consolidated institution does not submit an application for membership by the end of the period, the Bank shall require the liquidation of any outstanding indebtedness owed by the former member, shall settle all outstanding business transactions with the former member, and shall redeem or repurchase the Bank stock owned by the former member in accordance with § 1263.29.

(4) *Outstanding indebtedness.* If a member has consolidated into a nonmember institution, the Bank need not require the former member or its successor to liquidate any outstanding indebtedness owed to the Bank or to redeem its Bank stock, as otherwise may be required under § 1263.29, during:

(i) The initial 60 calendar-day notification period;

(ii) The 60 calendar-day period following receipt of a notification that the consolidated institution intends to apply for membership; and

(iii) The period of time during which the Bank processes the application for membership.

(5) *Approval of membership.* If the application of such a consolidated institution is approved, the consolidated institution shall become a member of that Bank upon the purchase of the amount of Bank stock necessary, when combined with any Bank stock acquired from the disappearing member, to satisfy the minimum stock purchase requirements established by the Bank's capital structure plan.

(6) *Disapproval of membership.* If the Bank disapproves the application for membership of the consolidated institution, the Bank shall require the liquidation of any outstanding indebtedness owed by, and the settlement of all other outstanding business transactions with, the former member, and shall redeem or repurchase the Bank stock owned by the former member in accordance with § 1263.29.

(c) *Dividends on acquired Bank stock.* A consolidated institution shall be entitled to receive dividends on the Bank stock that it acquires as a result of a consolidation with a member in accordance with applicable FHFA regulations.

§ 1263.25 [Reserved]

§ 1263.26 Voluntary withdrawal from membership.

(a) *In general*—(1) Any institution may withdraw from membership by providing to the Bank written notice of its intent to withdraw from membership. A member that has so notified its Bank shall be entitled to have continued access to the benefits of membership until the effective date of its withdrawal. The Bank need not commit to providing any further services, including advances, to a withdrawing member that would mature

or otherwise terminate subsequent to the effective date of the withdrawal. A member may cancel its notice of withdrawal at any time prior to its effective date by providing a written cancellation notice to the Bank. A Bank may impose a fee on a member that cancels a notice of withdrawal, provided that the fee or the manner of its calculation is specified in the Bank's capital plan.

(2) A Bank shall notify FHFA within 10 calendar days of receipt of any notice of withdrawal or notice of cancellation of withdrawal from membership.

(b) *Effective date of withdrawal.* The membership of an institution that has submitted a notice of withdrawal shall terminate as of the date on which the last of the applicable stock redemption periods ends for the stock that the member is required to hold, as of the date that the notice of withdrawal is submitted, under the terms of a Bank's capital plan as a condition of membership, unless the institution has cancelled its notice of withdrawal prior to the effective date of the termination of its membership.

(c) *Stock redemption periods.* The receipt by a Bank of a notice of withdrawal shall commence the applicable 6-month and 5-year stock redemption periods, respectively, for all of the Class A and Class B stock held by that member that is not already subject to a pending request for redemption. In the case of an institution, the membership of which has been terminated as a result of a merger or other consolidation into a nonmember or into a member of another Bank, the applicable stock redemption periods for any stock that is not subject to a pending notice of redemption shall be deemed to commence on the date on which the charter of the former member is cancelled.

§ 1263.27 Involuntary termination of membership.

(a) *Grounds.* The board of directors of a Bank may terminate the membership of any institution that:

(1) Fails to comply with any requirement of the Bank Act, any regulation adopted by FHFA, or any requirement of the Bank's capital plan;

(2) Becomes insolvent or otherwise subject to the appointment of a conservator, receiver, or other legal custodian under federal or State law; or

(3) Would jeopardize the safety or soundness of the Bank if it were to remain a member.

(b) *Stock redemption periods.* The applicable 6-month and 5-year stock redemption periods, respectively, for all of the Class A and Class B stock owned by a member and not already subject to a pending request for redemption, shall commence on the date that the Bank terminates the institution's membership.

(c) *Membership rights.* An institution whose membership is terminated involuntarily under this section shall cease being a member as of the date on which the board of directors of the Bank acts to terminate the membership, and the institution shall have no right to obtain any of the benefits of membership after that date, but shall be entitled to receive any dividends declared on its stock until the stock is redeemed or repurchased by the Bank.

§ 1263.28 [Reserved]

§ 1263.29 Disposition of claims.

(a) *In general.* If an institution withdraws from membership or its membership is otherwise terminated, the Bank shall determine an orderly manner for liquidating all outstanding indebtedness owed by that member to the Bank and for settling all other claims against the member. After all such obligations and claims have been extinguished or settled, the Bank shall return to the member all collateral pledged by the member to the Bank to secure its obligations to the Bank.

(b) *Bank stock.* If an institution that has withdrawn from membership or that otherwise has had its membership terminated remains indebted to the Bank or has outstanding any business transactions with the Bank after the effective date of its termination of membership, the Bank shall not redeem or repurchase any Bank stock that is required to support the indebtedness or the business transactions until after all such indebtedness and business transactions have been extinguished or settled.

§ 1263.30 Readmission to membership.

(a) *In general.* An institution that has withdrawn from membership or otherwise has had its membership terminated and which has divested all of its shares of Bank stock, may not be readmitted to membership in any Bank, or acquire any capital stock of any Bank, for a period of five years from the date on which its membership terminated and it divested all of its shares of Bank stock.

(b) *Exceptions.* An institution that transfers membership between two Banks without interruption shall not be deemed to have withdrawn from Bank membership or had its membership terminated.

Subpart F—Other Membership Provisions

§ 1263.31 Reports and examinations.

As a condition precedent to Bank membership, each member:

(a) Consents to such examinations as the Bank or FHFA may require for purposes of the Bank Act;

(b) Agrees that reports of examination by local, State or federal agencies or institutions may be furnished by such authorities to the Bank or FHFA upon request;

(c) Agrees to give the Bank or the appropriate Federal banking agency, upon request, such information as the Bank or the appropriate Federal banking agency may need to compile and publish cost of funds indices and to publish other reports or statistical summaries pertaining to the activities of Bank members;

(d) Agrees to provide the Bank with calendar year-end financial data each year, for purposes of making the calculation described in § 1263.22; and

(e) Agrees to provide the Bank with copies of reports of condition and operations required to be filed with the member's appropriate Federal banking agency, if applicable, within 20 calendar days of filing, as well as copies of any annual report of condition and operations required to be filed.

§ 1263.32 Official membership insignia.

Members may display the approved insignia of membership on their documents, advertising and quarters, and likewise use the words ''Member Federal Home Loan Bank System.''

Dated: January 11, 2016.

Melvin L. Watt,

Director, Federal Housing Finance Agency.

[FR Doc. 2016–00761 Filed 1–19–16; 8:45 am]

BILLING CODE 8070–01–P

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Federal Register

Vol. 81, No. 12

Wednesday, January 20, 2016

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FEDERAL REGISTER PAGES AND DATE, JANUARY

1–144 4
145–370 5
371–718 6
719–868 7
869–1114 8
1115–1290 11
1291–1480 12
1481–1850 13
1851–2066 14
2067–2724 15
2725–2966 19
2967–3288 20

CFR PARTS AFFECTED DURING JANUARY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

2701 1115

3 CFR

Proclamations:
9385 713
9386 715
9387 717
9388 1851
Administrative Orders:
Memorandums:
Memorandum of January 4, 2016 719

5 CFR

Proposed Rules:
870 1336

7 CFR

57 1481
205 2067
271 2725
272 2725
275 2725
3570 1861
Proposed Rules:
271 398
272 398
273 398
274 398
278 398
331 2762
457 1337
810 ..... 2774, 2775
996 2775

7 CFR

Proposed Rules:
319 3033

8 CFR

204 2068
214 2068
248 2068
274a 2068

9 CFR

91 2967
Proposed Rules:
121 2762

10 CFR

72 ..... 371, 1116
429 ..... 580, 1028, 2628
430 ..... 580, 2320, 2328
431 ..... 1028, 2420
Proposed Rules:
50 410
72 412
430 1688
431 2111

12 CFR

1263 3246
Proposed Rules:
Ch. I 1923
Ch. II 1923
Ch. III 1923

13 CFR

143 1115
Proposed Rules:
120 2129

14 CFR

21 1482
39 ..... 145, 147, 869, 1291, 1483, 1486, 1489, 1492, 1494, 1497, 1502, 1504, 1508, 1870, 1874
45 1482
61 ..... 1, 1292
71 ..... 1511, 1877, 2084, 2986, 2987
91 ..... 721, 727
97 1511
121 1
135 1
183 1292
Proposed Rules:
36 1923
39 ..... 22, 24, 27, 28, 30, 32, 34, 38, 191, 1345, 1563, 1565, 1568, 1570, 1573, 1577, 1580, 1582, 1584, 1586, 1588, 2131, 2134, 2783, 2785, 3038, 3042, 3045, 3051, 3053, 3056, 3059, 3061, 3066
71 1590
91 1923
382 193

15 CFR

902 ..... 150, 1878
950 1118
Proposed Rules:
922 879

16 CFR

1 2742
306 2054
1109 2
1500 2
Proposed Rules:
23 1349

17 CFR

23 636
140 636
229 2743
232 3
239 2743
Proposed Rules:
3 1359

240.....733

18 CFR

381.....2748

19 CFR

10.....2085
12.....2086
24.....2085
162.....2085
163.....2085
178.....2085

20 CFR

Proposed Rules:
30.....2787
404.....41

21 CFR

176.....5
884 .....354, 364, 378
Proposed Rules:
172.....42

22 CFR

171.....2988
Proposed Rules:
147.....44

24 CFR

200.....1120
280.....1120
570.....1120
Proposed Rules:
Ch. IX.....881

26 CFR

1.....2088
Proposed Rules:
1 ....194, 882, 1364, 1592, 3069
20.....1364
25.....1364
26.....1364
31.....1364
301.....1364

27 CFR

478.....1307
479.....2658

28 CFR

571.....1880

29 CFR

4022.....2088

31 CFR

285.....1318

32 CFR

706.....8

33 CFR

117 .....10, 1121, 2089
151.....173
165 .....11, 2749, 2989

Proposed Rules:
110.....194
165.....3069

36 CFR

Proposed Rules:
13.....1592
261.....2788

38 CFR

3.....1512
Proposed Rules:
17.....196

39 CFR

3017.....869
Proposed Rules:
3000.....1931
3001.....1931
3008.....1931

40 CFR

52 .....296, 1122, 1124, 1127, 1128, 1320, 1514, 1881, 1882, 1884, 1887, 1890, 2090, 2991, 2993
62.....380
70.....1890, 2090
81.....1514, 2993
141.....13
174.....3001
180 .....1522, 1526, 1890
Proposed Rules:
Ch. I.....1365
52 .....1133, 1136, 1141, 1144, 1935, 2004, 2136, 2140, 2159, 3078
62.....414
70.....2159
81.....1144
98.....2536
122.....415
130.....2791
180.....2803

41 CFR

Proposed Rules:
300–3.....884
301–11.....884
301–12.....884
301–70.....884

42 CFR

38.....3004
50.....3004
51.....3004
51a.....3004
51b.....3004
51c.....3004
51d.....3004
52.....3004
52a.....3004
52b.....3004
52c.....3004
52d.....3004
52e.....3004
55a.....3004
56.....3004
57.....3004
59.....3004
59a.....3004
62.....3004
63a.....3004
64.....3004
65.....3004
65a.....3004
66.....3004
67.....3004
124.....3004
136.....3004
403.....3004
417.....3004
430.....3004
433.....3004
434.....3004
435.....3004
436.....3004
438.....3004
440.....3004
441.....3004
456.....3004
457.....3004
1001.....3004
Proposed Rules:
73.....2805
100.....884

44 CFR

64.....1894, 1897
Proposed Rules:
206.....3082

45 CFR

16.....3004
63.....3004
75.....3004
87.....3004
95.....3004
98.....3004
164.....382
261.....3004
262.....2092, 3004
263.....3004
264.....2092
265.....2092, 3004
286.....3004
287.....3004
301.....3004
302.....3004
303.....3004
304.....3004
309.....3004
400.....3004
1000.....3004
1301.....3004
1304.....3004
1309.....3004
1321.....3004
1326.....3004
1328.....3004
1336.....3004
1355.....3004
1357.....3004

47 CFR

1.....396
5.....1899
20.....173
52.....1131
73.....2751
90.....2106
Proposed Rules:
1.....1802
2.....1802
15.....1802
20.....204
25.....1802
30.....1802
64.....3085
69.....3086
73.....2818
74.....2818
101.....1802

48 CFR

501.....1531
504.....1531
509.....1531
519.....1531
522.....1531
536.....1531
537.....1531
552.....1531
570.....1531
1022.....2760
1052.....2760
Proposed Rules:
19.....3087
42.....3087
52.....3087
216.....1596
225.....1596
252.....1596

49 CFR

Proposed Rules:
195.....885
512.....47

50 CFR

16.....1534
17.....1322, 1900
223.....3023
300.....1878, 2110
600.....1762
622.....1762, 3031
635.....19
660.....183
665.....2761
679 .....150, 184, 188
680.....1557
Proposed Rules:
17 .....214, 435, 1000, 1368, 1597
32.....886, 887
36.....886, 887
223.....1376
224.....1376
660.....215, 2831
679.....897

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List December 23, 2015

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