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DEPARTMENT OF COMMERCE

Office of the Secretary

2 CFR Part 1329

15 CFR Part 29

[Docket No. 0907271171–6029–03]

RIN 0605–AA43

Implementation of OMB Guidance on Drug-Free Workplace Requirements

AGENCY: U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: The U.S. Department of Commerce (Commerce) is removing its regulation implementing the prior government-wide common rule on drug-free workplace requirements for financial assistance, and issuing a new regulation to adopt updated Office of Management and Budget (OMB) guidance on the topic. This action implements OMB's initiative to streamline and consolidate into one title of the Code of Federal Regulations (CFR) all Federal regulations on drug-free workplace requirements for financial assistance. These changes constitute an administrative simplification that would make no substantive change in Commerce's policy or procedures for drug-free workplace.

DATES: This rule will be effective on February 22, 2016.

FOR FURTHER INFORMATION CONTACT: Gary Johnson, *Gjohnso3@doc.gov,* 202 482–1679.

SUPPLEMENTARY INFORMATION:

Background

The Drug-Free Workplace Act of 1988, Public Law 100–690, Title V, Subtitle D; 41 U.S.C. 701, *et seq.,* was enacted as a part of omnibus drug legislation on November 18, 1988. Subsequent to its enactment, Federal agencies issued a common interim final rule to implement the act as it applied to grants (54 FR 4946, January 31, 1989). The rule was a subpart of the government-wide common rule on nonprocurement suspension and debarment. The agencies issued a final common rule after consideration of public comments (55 FR 21681, May 25, 1990). The common rule was updated in 2003, to, among other things, account for changes in circumstances and to ensure the rule was written in plain language. (68 FR 66534, November 26, 2003).

In 2004, OMB established Title 2 of the CFR as the new central location for OMB guidance and agency-implementing regulations concerning grants and agreements (69 FR 26276, May 11, 2004). In conjunction with that action, OMB announced its intention to replace common rules with OMB guidance that agencies could adopt in brief regulations. OMB began that process by proposing (70 FR 51863, August 31, 2005) and finalizing (71 FR 66431, November 15, 2006) government-wide guidance on nonprocurement suspension and debarment in 2 CFR part 180.

As the next step in that process, OMB finalized (74 FR 28149, June 15, 2009) government-wide guidance for policies and procedures to implement drug-free workplace requirements for financial assistance. The guidance requires each agency to replace the common rule on drug-free workplace requirements that the agency previously issued in its own CFR title with a brief regulation in 2 CFR adopting the government-wide policies and procedures.

On May 25, 2010, Commerce proposed new regulations to implement OMB's guidelines on drug-free workplace requirements (75 FR 29215). Specifically, Commerce proposed to take two regulatory actions: (1) Removing its drug-free workplace common rule from 15 CFR part 29; and (2) replacing the common rule with a regulation at 2 CFR part 1329 adopting OMB's government-wide policies and procedures for a drug-free workplace. Commerce proposed, and this final rule enacts, no substantive change to either the Department's or the Government's policies on a drug-free workplace, but instead merely moves the location of the policy in the Code of Federal Regulations from one part to another.

Commerce received no comments on this proposed rulemaking, and now is making that proposed action final. There are no changes from the proposed rule, which is adopted in final form as it was proposed.

Executive Order 12866

OMB has determined this rule to be not significant for purposes of E.O. 12866.

Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b))

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), at the proposed rule stage, the Chief Counsel for Regulation certified to the Chief Counsel for Advocacy at the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. No comments were received in response to the proposed rule. Accordingly, no regulatory flexibility analysis was required, and none was prepared.

Unfunded Mandates Act of 1995 (Sec. 202, Pub. L. 104–4)

This regulatory action does not contain a Federal mandate that will result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector of $100 million or more in any one year.

Paperwork Reduction Act of 1995 (44 U.S.C., Chapter 35)

This regulatory action does not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act.

Federalism (Executive Order 13132)

This regulatory action does not have Federalism implications, as set forth in Executive Order 13132. It does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects

2 CFR Part 1329

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

15 CFR Part 29

Administrative practice and procedure, Drug abuse, Grant programs,

Reporting and recordkeeping requirements.

Issued this 14th day of January 2016 at Washington, DC.

Barry E. Berkowitz,

Director for Acquisition Management and Procurement Executive.

Accordingly, for the reasons set forth in the preamble, and under the authority of 5 U.S.C. 301 and 41 U.S.C.701 *et seq.,* the U. S. Department of Commerce proposes to add 2 CFR part 1329 and remove 15 CFR part 29 as follows:

Title 2—Grants and Agreements

PART 1329—REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

■ 1. Add Part 1329 in Subtitle B, Chapter XIII, to read as follows:

PART 1329—REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

Sec.

1329.10 What does this part do?
1329.20 Does this part apply to me?
1329.30 What policies and procedures must I follow?

Subpart A—Purpose and Coverage [Reserved]

Subpart B—Requirements for Recipients Other Than Individuals

1329.225 Whom in the Department of Commerce does a recipient other than an individual notify about a criminal drug conviction?

Subpart C—Requirements for Recipients Who Are Individuals

1329.300 Whom in the Department of Commerce does a recipient who is an individual notify about a criminal drug conviction?

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1329.400 What method do I use as an agency awarding official to obtain a recipient's agreement to comply with the OMB guidance?

Subpart E—Violations of This Part and Consequences

1329.500 Who in the Department of Commerce determines that a recipient other than an individual violated the requirements of this part?
1329.505 Who in the Department of Commerce determines that a recipient who is an individual violated the requirements of this part?

Subpart F—Definitions [Reserved]

Authority: 5 U.S.C. 301; 41 U.S.C. 701–707.

§ 1329.10 What does this part do?

This part requires that the award and administration of Department of Commerce grants and cooperative agreements comply with Office of Management and Budget (OMB) guidance implementing the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701–707, as amended, hereafter referred to as ''the Act'') that applies to grants. It thereby—

(a) Gives regulatory effect to the OMB guidance (subparts A through F of 2 CFR part 182) for the Department of Commerce's grants and cooperative agreements; and

(b) Establishes Department of Commerce policies and procedures for compliance with the Act that are the same as those of other Federal agencies, in conformance with the requirement in 41 U.S.C. 705 for Governmentwide implementing regulations.

§ 1329.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB guidance in subparts A through F of 2 CFR part 182 (see table at 2 CFR 182.115(b)) apply to you if you are a—

(a) Recipient of a Department of Commerce grant or cooperative agreement; or

(b) Department of Commerce awarding official.

§ 1329.30 What policies and procedures must I follow?

(a) *General.* You must follow the policies and procedures specified in applicable sections of the OMB guidance in subparts A through F of 2 CFR part 182, as implemented by this part.

(b) *Specific sections of OMB guidance that this part supplements.* In implementing the OMB guidance in 2 CFR part 182, this part supplements four sections of the guidance, as shown in the following table. For each of those sections, you must follow the policies and procedures in the OMB guidance, as supplemented by this part.

Section of OMB guidance	Section in this part where supplemented	What the supplementation clarifies
(1) 2 CFR 182.225(a)	§ 1329.225	Whom in the Department of Commerce a recipient other than an individual must notify if an employee is convicted for a violation of a criminal drug statute in the workplace.
(2) 2 CFR 182.300(b)	§ 1329.300	Whom in the Department of Commerce a recipient who is an individual must notify if he or she is convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity.
(3) 2 CFR 182.500	§ 1329.500	Who in the Department of Commerce is authorized to determine that a recipient other than an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.
(4) 2 CFR 182.505	§ 1329.505	Who in the Department of Commerce is authorized to determine that a recipient who is an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.

(c) *Sections of the OMB guidance that this part does not supplement.* For any section of OMB guidance in subparts A through F of 2 CFR part 182 that is not listed in paragraph (b) of this section, Department of Commerce policies and procedures are the same as those in the OMB guidance.

Subpart A—Purpose and Coverage

[Reserved]

Subpart B—Requirements for Recipients Other Than Individuals

§ 1329.225 Whom in the Department of Commerce does a recipient other than an individual notify about a criminal drug conviction?

A recipient other than an individual that is required under 2 CFR 182.225(a) to notify Federal agencies about an employee's conviction for a criminal drug offense must notify each Department of Commerce office from which it currently has an award.

Subpart C—Requirements for Recipients Who Are Individuals

§ 1329.300 Whom in the Department of Commerce does a recipient who is an individual notify about a criminal drug conviction?

A recipient who is an individual and is required under 2 CFR 182.300(b) to notify Federal agencies about a conviction for a criminal drug offense must notify each Department of Commerce office from which it currently has an award.

Subpart D—Responsibilities of Agency Awarding Officials

§ 1329.400 What method do I use as an agency awarding official to obtain a recipient's agreement to comply with the OMB guidance?

To obtain a recipient's agreement to comply with applicable requirements in the OMB guidance at 2 CFR part 182, you must include the following term or condition in the award: Drug-free workplace. You as the recipient must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 CFR part 1329, which adopts the Govemmentwide implementation (2 CFR part 182) of sec. 5152–5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701–707).

Subpart E—Violations of This Part and Consequences

§ 1329.500 Who in the Department of Commerce determines that a recipient other than an individual violated the requirements of this part?

The Secretary of Commerce or designee determines that a recipient other than an individual violated the requirements of this part.

§ 1329.505 Who in the Department of Commerce determines that a recipient who is an individual violated the requirements of this part?

The Secretary of Commerce or designee determines that a recipient who is an individual violated the requirements of this part.

Subpart F—Definitions [Reserved]

Title 15—Commerce and Foreign Trade

PART 29—[REMOVED AND RESERVED]

■ 2. Remove and reserve part 29.

[FR Doc. 2016–01078 Filed 1–21–16; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2015–0079]

Black Stem Rust; Additions of Rust-Resistant Species and Varieties

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: We are amending the black stem rust quarantine and regulations by adding nine varieties to the list of rust-resistant *Berberis* species and varieties. This action will allow for the interstate movement of these newly developed varieties without unnecessary restrictions.

DATES: This rule will be effective on March 22, 2016, unless we receive written adverse comments or written notice of intent to submit adverse comments on or before February 22, 2016. If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a document in the **Federal Register** withdrawing this rule before the effective date.

ADDRESSES: You may submit comments or written notice of intent to submit adverse comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0079.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2015–0079, 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-2015-0079* 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. Randolph Cadet, National Policy Manager, Black Stem Rust, Pest Management, PHP, PPQ, APHIS, 4700 River Road, Unit 26, Riverdale, MD 20737–1231; (301) 851–2094.

SUPPLEMENTARY INFORMATION:

Background

Black stem rust is one of the most destructive plant diseases of small grains that is known to exist in the United States. The disease is caused by a fungus (*Puccinia graminis*) that reduces the quality and yield of infected wheat, oat, barley, and rye crops. In addition to infecting small grains, the fungus lives on a variety of alternate host plants that are species of the genera *Berberis, Mahoberberis,* and *Mahonia.* The fungus is spread from host to host by windborne spores.

The black stem rust quarantine and regulations, which are contained in 7 CFR 301.38 through 301.38–8 (referred to below as the regulations), quarantine the conterminous 48 States and the District of Columbia and govern the interstate movement of certain plants of the genera *Berberis, Mahoberberis,* and *Mahonia,* known as barberry plants. The species of these plants are categorized as either rust-resistant or rust-susceptible. Rust-resistant plants do not pose a risk of spreading black stem rust or of contributing to the development of new races of the rust; rust-susceptible plants do pose such risks. Section 301.38–2 of the regulations includes a listing of regulated articles and indicates those species and varieties of the genera *Berberis, Mahoberberis,* and *Mahonia* that are known to be rust-resistant. Although rust-resistant species are included as regulated articles, they may be moved into or through protected areas if accompanied by a certificate. In accordance with the procedures described below under ''Dates,'' this direct final rule will add the following *B. thunbergii* varieties to the list of rust-resistant *Berberis* species in § 301.38–2(a)(1):

- *B. thunbergii* 'BailAnna' Moscato;
- *B. thunbergii* 'BailElla' Lambrusco;
- *B. thunbergii* 'Daybreak';
- *B. thunbergii* 'BailErin' Limoncello;
- *B. thunbergii* 'BailJulia' Toscana;
- *B. thunbergii* 'NCBT1';
- *B. thunbergii x calliantha* 'NCBX3';
- *B. thunbergii x media* 'NCBX1'; and
- *B. thunbergii x media* 'NCBX2'.

The addition of these species is based on recent testing to determine rust resistance conducted by the Agricultural Research Service of the United States Department of Agriculture (USDA) at its Cereal Disease Laboratory in St. Paul, MN. The testing is performed in the following manner: In a greenhouse, the suspect plant or test subject is placed under a screen with a control plant—a known rust-susceptible species of *Berberis, Mahoberberis,* or *Mahonia.* Infected wheat stems, a primary host of black stem rust, are placed on top of the screen. The plants are moistened and maintained in 100 percent humidity. This causes the spores to swell and fall on the plants lying under the screen. The plants are then observed for 7 days at 20–80 percent relative humidity. If the rust-susceptible plant shows signs of infection after 7 days and the test plants do not, the test results indicate that the test plants are rust-resistant. This test must be performed 12 times, and all 12 tests must yield the same result before USDA can make a determination as to whether the test plants are rust-resistant. The test may be conducted on

12 individual plants, or it may be performed multiple times on fewer plants (*e.g.,* six plants tested twice or three plants tested four times). The tests must be performed on new growth, just as the leaves are unfolding. Therefore, the tests are usually conducted in the spring or fall, during the growing season. All 12 tests generally cannot be conducted on the same day because of the plants' different growth stages. Based on over 30 years of experience with this test, we believe that 12 is the reliable test sample size on which USDA can make its determination. We do not know of any plant that was subsequently discovered to be rust-susceptible after undergoing the test procedure 12 times and being determined by USDA to be rust-resistant.

Dates

We are publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, on March 22, 2016, unless we receive written adverse comments or written notice of intent to submit adverse comments on or before February 22, 2016.

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a document in the **Federal Register** withdrawing this rule before the effective date. We will then publish a proposed rule for public comment.

As discussed above, if we receive no written adverse comments or written notice of intent to submit adverse comments within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a document in the **Federal Register** before the effective date of this direct final rule confirming that it is effective on the date indicated in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This analysis provides the basis, as required by the Regulatory Flexibility Act, for certification by the APHIS Administrator that the rule will not have a significant economic impact on a substantial number of small entities.

This direct final rule will amend 7 CFR 301.38–2 by adding nine varieties to the list of rust-resistant *Berberis* species and varieties. The nursery and floriculture industries that may be affected by this rule are largely composed of small entities. We expect these entities to benefit from the rule, by being able to market interstate barberry species and varieties that have been determined to be rust-resistant.

The introduction and spread of plant pests can result in damage to crops and losses to the U.S. agricultural sector. For the purpose of this analysis and following the Small Business Administration (SBA) guidelines, we note that a major segment of entities potentially affected by this rule are classified within the following industries: Nursery and Tree Production (NAICS 111421), and Floriculture Production (NAICS 111422). According to the Census of Agriculture, these two categories, along with Greenhouse production, which makes up the rest of NAICS 1114, included 52,777 farms in 2012, and represented 2.5 percent of all farms in the United States. These entities are considered small by SBA standards if their annual sales are $750,000 or less. Over 87 percent of the farms in these industries had annual sales of less than $500,000.

Barberry plants are not one of the crops tracked by the Census of Agriculture and therefore data on production and number of producers are not available. Nurseries producing barberry plant species and varieties will not be negatively affected. In fact, they will benefit from being able to market the nine varieties interstate. In addition, the rule does not require any additional reporting, recordkeeping, or other compliance measures beyond what is already in place.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

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 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

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. In § 301.38–2, paragraph (a)(1) is amended by adding, in alphabetical order, nine rust-resistant *Berberis* species to read as follows:

§ 301–38–2 Regulated articles.

(a) * * *

(1) * * *

B. thunbergii 'BailAnna' Moscato

B. thunbergii 'BailElla' Lambrusco

B. thunbergii 'BailErin' Limoncello

* * * * *

B. thunbergii BailJulia' Toscana

* * * * *

B. thunbergii 'Daybreak'

* * * * *

B. thunbergii 'NCBT1'

* * * * *

B. thunbergii x calliantha 'NCBX3'

B. thunbergii x media 'NCBX1'

B. thunbergii x media 'NCBX2'

* * * * *

Done in Washington, DC, this 15th day of January 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–01252 Filed 1–21–16; 8:45 am]

BILLING CODE 3410–34–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1251

[Document Number NASA–2015–0008]

RIN 2700–AD85

Discrimination on the Basis of Disability in Federally Assisted and Federally Conducted Programs and Activities

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This rule revises the National Aeronautics and Space Administration (NASA) regulations implementing section 504 of the Rehabilitation Act of 1973 (section 504), which prohibits discrimination on the basis of disability in programs, services, and activities by recipients of Federal financial assistance from NASA as well as those programs, services, and activities conducted by NASA. The revisions to this rule are part of NASA's retrospective plan under Executive Order 13563 completed in August 2011. NASA's full plan can be accessed at: *http://www.nasa.gov/open/*.

DATES: *Effective:* February 22, 2016.

FOR FURTHER INFORMATION CONTACT: Robert Cosgrove, Equal Opportunity Specialist, (202) 358–0446.

SUPPLEMENTARY INFORMATION:

I. Background

NASA implements the requirements of Section 504 of the Rehabilitation Act of 1973 (section 504), which prohibits discrimination on the basis of disability in federally conducted and federally assisted programs or activities, through its regulations in Part 1251.

On November 13, 2014 NASA published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** at 79 FR 67384 to amend its section 504 regulations to incorporate changes to the meaning and interpretation of the section 504 definition of disability required by the Americans with Disabilities Act Amendments Act of 2008 (ADA Amendments Act), include an affirmative statement of the longstanding requirement for reasonable accommodations in programs, services, and activities, and include a definition of direct threat and a provision describing the parameters of the existing direct threat defense to a claim of discrimination. The rule also proposed to clarify the existing obligation to provide auxiliary aids and services to qualified individuals with disabilities, update the methods of communication that recipients may use to inform program beneficiaries of their obligation to comply with section 504 to reflect changes in technology, adopt updated accessibility standards applicable to the design, construction, and alteration of buildings and facilities, establish time periods for compliance with these updated accessibility standards, and provide NASA with access to recipient data and records to determine compliance with section 504, and made administrative updates to correct titles.

NASA also proposed amending its section 504 regulations to incorporate changes required by the Rehabilitation Act Amendments of 1992 (1992 Amendments) by revising subpart 1251.2—Employment Practices (federally assisted programs) and § 1251.540—Employment (federally conducted programs) and instead referencing the U.S. Equal Employment Opportunity Commission's (EEOC's) Americans with Disabilities Act of 1990 (ADA) title I regulation. NASA also proposed updating outdated terminology and references that currently exist in Part 1251 including changing the word ''handicapped'' and similar variations of that word that appear throughout part 1251, and replacing it with ''people first'' language (*e.g.,* ''individuals with disabilities'') consistent with the requirements of the 1992 Amendments.

II. Review of This Rule by Department of Justice Pursuant to Executive Order 12250

This final rule has been reviewed and approved by the U.S. Department of Justice (DOJ) in the exercise of its section 504 coordination authority under Executive Order 12250.

III. Discussion of Comments on the Proposed Rulemaking

NASA received only one comment from a member of the public in response to its NPRM. This individual raised three concerns which are discussed below.

Issue 1

The commenter suggested that NASA simplify its language by replacing the phrase ''nonhandicapped persons'' wherever it is used in the regulations with the phrase ''persons without a disability'' rather than the phrase proposed by NASA, ''persons who do not have a disability'' NASA agrees and is making this change, except that instead of the phrase ''persons without a disability,'' NASA will use the phrase ''individuals without disabilities.''

Issue 2

The commenter also objected to NASA's inclusion of the activity of ''speaking'' in the list of major life activities in proposed § 1251.102(h)(2)(ii)(A). In the commenter's view, because the list already provided ''communicating'' as an example, including ''speaking'' was redundant and unnecessary. NASA disagrees with the commenter. The ADA Amendments Act specifically references both ''speaking'' and ''communicating'' in its list of examples of major life activities. See 42 U.S.C. 12102(2)(A). NASA's final rule no longer spells out a list of examples of major life activities, however, because the rule now incorporates by reference the definition of disability contained in DOJ's ADA title II regulation at 29 CFR part 35.[1]

Issue 3

The commenter also suggested that NASA revise the definition of disability in § 1251.102(h)(2)(iii)(A)(*2*) to narrow its application to fewer individuals with disabilities because in the commenter's view, it is too broad. NASA declines to adopt this recommendation as it proposes a change that is inconsistent with the changes to section 504 that were made by the ADA Amendments Act. Congress enacted the ADA Amendments Act to restore the understanding that the definition of disability shall be broadly construed and applied without extensive analysis, in response to the Supreme Court decisions in *Sutton* v. *United Air Lines, Inc.,* 527 U.S. 471 (1999), and *Toyota Motor Manufacturing, Kentucky, Inc.* v. *Williams,* 534 U.S. 184 (2002), which interpreted the term ''substantially limits'' to require a greater degree of limitation than was intended by Congress. The ADA Amendments Act also amended the Rehabilitation Act of 1973 to conform the section 504 definition of disability at 29 U.S.C. 705(20)(B) to the ADA Amendments Act. NASA has decided, that in order to ensure, as Congress intended, that its section 504 definition of disability is interpreted consistently with the ADA Amendments Act, the final rule will incorporate by reference the definition of disability specified in the ADA title II regulation at 28 CFR part 35.

[1] DOJ published its NPRM proposing to amend its title II and title III ADA regulations to incorporate the requirements of the ADA Amendments Act in the **Federal Register** on January 30, 2014. 79 FR 4839. This regulation incorporates the current version of the DOJ definition at 28 CFR part 35 and once DOJ publishes its final rule revising its definition of disability, this rule will apply to that revised definition.

Since the publication of the NPRM, NASA has added definitions of ''drug abuse'' and ''illegal use of drugs,'' and a provision specifically addressing the application of section 504 to persons who use illegal drugs. These provisions were added to conform the regulations to the express requirements of the Rehabilitation Act of 1973. *See* 29 U.S.C. 705(10) and (20)(C)(i–iii). NASA has also added a safe harbor provision to § 1251.301 to eliminate an inconsistency between the requirements for existing facilities in title II of the ADA and the corresponding requirements for section 504.

Finally, NASA has made a number of nonsubstantive clarifying edits and corrections to the regulatory text.

IV. Overlap of Coverage of NASA's Section 504 Federally Assisted Rule With Coverage of the ADA

NASA's section 504 federally assisted regulation at § 1251.1 applies to recipients to whom the Agency extends Federal financial assistance, such as research, education, and training grants, and cooperative agreements, as well as programs, services, and activities conducted by NASA. NASA's section 504 federally assisted regulation at § 1251.103 prohibits denial of the benefits of, exclusion from participation in, or other discrimination against qualified individuals with disabilities in programs or activities because a recipient's facilities are inaccessible to or unusable by persons with disabilities. Many of the entities that receive financial assistance from NASA are also covered by Title II of the ADA (title II), which prohibits discrimination on the basis of disability by public entities (*i.e.,* state and local governments and their agencies) or Title III of the ADA (title III), which prohibits discrimination on the basis of disability by: (1) Public accommodations (*i.e.,* private entities that own, operate, lease, or lease to places of public accommodation); (2) newly constructed and altered commercial facilities; and (3) private entities that offer certain examinations and courses related to educational and occupational certification. Where possible and appropriate, NASA has tried to ensure consistency with its revised section 504 regulatory text to maintain consistency with the corresponding ADA requirements.

V. ADA Amendments Act of 2008: Changes in the Meaning and Interpretation of the Section 504 Definition of Disability

The ADA Amendments Act was signed into law in September 2008 and became effective on January 1, 2009. Congress enacted the ADA Amendments Act in order to ensure that the definition of disability is broadly construed and applied without extensive analysis, in response to Supreme Court decisions that had too narrowly interpreted the ADA's definition of a disability. The ADA Amendments Act not only amended the meaning and interpretation of the definition of disability applicable to the ADA, it also amended the Rehabilitation Act of 1973 to require similar changes to the meaning and interpretation of the definition of disability at 29 U.S.C. 705(20)(B) applicable to section 504. In the NPRM, NASA proposed to amend its section 504 regulations to include specific provisions implementing these revised requirements.[2] In the interest of uniform application of the definition of disability across both the ADA and section 504, NASA has decided that rather than spelling out the meaning and interpretation of the definition of disability in its own regulations, it is adopting the Department of Justice's current definition of disability at 28 CFR part 35, and once that definition is revised to reflect the requirements of the ADA Amendments Act, that revised definition will automatically apply to these regulations. Due to the changes that the ADA Amendments Act made to the application of the definition of disability, participants in recipients' programs, services, and activities who, in the past decade, may not have been determined to have a disability under section 504 and title II may now be found to have a disability under those laws. Section 504 and the ADA define disability as (1) a physical or mental impairment that substantially limits a major life activity; (2) a record of such impairment; or (3) being regarded as having such an impairment (29 U.S.C. 705(9)(B); 42 U.S.C. 12102(1)). The ADA Amendments Act does not alter these three basic elements of the definition of disability in the ADA and section 504, but it significantly changes how the term ''disability'' is to be interpreted and adds important rules of construction to inform that interpretation. Specifically, Congress directed that the definition of disability shall be construed broadly and that the determination of whether an individual has a disability should not demand extensive analysis (42 U.S.C. 12102).

[2] DOJ, which has coordinating authority for Section 504 under Executive Order 12250, has reviewed and approved these proposed changes to NASA's Section 504 regulations.

Definition of Auxiliary Aids and Services

Although NASA's original section 504 federally assisted and federally conducted regulations referenced the provision of auxiliary aids,[3] they did not include a definition of the term. The final rule includes a definition for auxiliary aids and services which is consistent with the definition used in the ADA title II regulation at 28 CFR 35.104. The definition of auxiliary aids and services includes Video Remote Interpreting (VRI) as an example of an auxiliary aid or service. NASA notes that 28 CFR 35.160(d) and 36.303(f) of the ADA title II and title III regulations set forth specific performance standards for the use of VRI.

Employment

NASA's rule also revises subpart 1251.2—Employment Practices (federally assisted programs) and § 1251.540—Employment (federally conducted programs) to conform to the 1992 Amendments (Pub. L. 102–569, sec. 506), which amended title V of the Rehabilitation Act to make the same employment standards set forth in title I of the ADA apply to employment discrimination under section 504. As such, the proposed rule deletes the existing requirements related to discriminatory employment practices and references the standards applied under Title I of the ADA (42 U.S.C. 12111 *et seq.*), the EEOC's ADA title I regulation at 29 CFR part 1630, as amended, and, to the extent such sections relate to employment, the provisions of sections 501 through 504 and 510 of the ADA (42 U.S.C. 12201–12204 and 12210).

In this final rule, NASA is clarifying its role in the processing and coordination of complaints alleging employment discrimination by its recipients. Title I of the ADA (title I) prohibits discrimination against individuals with disabilities employed in a business that has fifteen or more employees. Title I is enforced by the EEOC, which is the designated Federal agency for the processing and adjudication of all complaints filed under title I. Many of the Agency's recipients may fall under both the jurisdiction of title I and section 504. NASA has authority to receive complaints of employment discrimination by recipients under section 504 and has developed

[3] Although the current regulation references ''auxiliary aids,'' the term has always been understood to mean ''auxiliary aids and services,'' and the revised regulation references them correctly.

procedures to identify when NASA has jurisdiction to process such complaints or when they must be referred to the EEOC or DOJ for processing. In order to avoid duplication of investigative and enforcement efforts, NASA will process and coordinate any complaints filed under this Part in accordance with the EEOC procedures set forth in 29 CFR part 1640 and DOJ procedures set forth at 28 CFR part 37 (Procedures for Coordinating the Investigation of Complaints or Charges of Employment Discrimination Based on Disability Subject to the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973).

In the final rule, NASA also clarifies its role in the processing and adjudication of section 504 complaints in its federally conducted programs.

Provision of Auxiliary Aids and Services

NASA's original section 504 federally assisted regulation at § 1251.103(b)(3) provides that ''[r]ecipients shall take appropriate steps to ensure that no handicapped individual is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination in any program or activity receiving Federal financial assistance because of the absence of auxiliary aids for individuals with impaired sensory, manual, or speaking skills.''

The final rule clarifies this existing obligation to provide auxiliary aids and services by using affirmative language explaining this obligation. Similar language is already included in NASA's federally conducted regulation at § 1251.560 (Communications).

Notice of Recipient Obligations To Comply With Section 504

NASA's existing section 504 regulation at § 1251.107(a) requires a recipient that employs 15 or more persons to take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with hearing and vision disabilities, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of disability in violation of section 504 and this part. The notification shall state, where appropriate, that the recipient does not discriminate in admission, access to, treatment, or employment in, its programs or activities. The notification shall also include an identification of the responsible employee designated to coordinate the recipient's efforts to comply with section 504 pursuant to § 1251.106(a). The regulation requires a recipient to make the initial notification required by this paragraph within 90 days of the effective date of this part. This regulation also delineates a choice of methods of initial and continuing notification ''that may include the posting of notices, publication in newspapers and magazines, placement of notices in recipient's publication, and distribution of memoranda or other written communications.'' NASA recognizes that the methods by which a recipient communicates with interested persons have changed significantly since this regulation was promulgated and this regulation, as currently written, does not reflect the current and future state of information dissemination. With the advent of the broad application of the Internet and the World Wide Web, as well as electronic publishing, electronic mail (email), text messaging, and social media platforms, NASA has determined that the regulation does not adequately include electronic methods of communication. Furthermore, NASA's grant recipients currently rely on their Web sites, email, text messaging, and social media to communicate with and provide information to the beneficiaries of their programs, services, and activities. Many of the publications that previously were available in print, such as pamphlets, brochures, maps, course catalogs, policies, and procedures, are now posted on recipients' Web sites and can be printed or downloaded by an interested person viewing the Web site. In revising the regulation to include electronic communications, NASA is also providing its grant recipients the ability to provide this information in a more cost-effective and expeditious manner than by relying on printed media. Information or programs provided to the public on recipients' Web sites should be provided in accessible formats in order to ensure equal access by individuals with communication disabilities to the recipients' programs, services, and activities.

Accessibility Standards for New Construction and Alterations

NASA's existing section 504 regulation at § 1251.302(c) requires that, if construction of a recipient's facility commenced after the effective date of the regulation (January 18, 1991), the facility must be designed and constructed so that it is readily accessible to and usable by persons with disabilities. This regulatory provision also requires that facility alterations commenced after January 18, 1991, that affect or may affect the facility's usability, must be accomplished so that, to the maximum extent feasible, the altered portion of the facility is readily accessible and usable by persons with disabilities.

For facilities subject to the new construction and alterations requirements, the NASA regulation at § 1251.302(c) has always incorporated by reference an accessibility design standard, such that construction or alterations in conformance with that standard would be deemed in compliance with NASA's section 504 regulation. Under the original regulation, new construction or alterations made in conformance with the Uniform Federal Accessibility Standards (UFAS) are deemed to be in compliance with NASA's section 504 regulation, although a recipient may depart from UFAS when other methods provide equivalent or greater access to and usability of the facility.

The adoption of UFAS as an accessibility design standard in NASA's section 504 regulation occurred in 1991 as part of a joint rulemaking with other Federal agencies, led by DOJ pursuant to its coordinating authority for section 504 under Executive Order 12250. *(51 FR 26862 July 28, 1986, as amended and 55 FR 52138, 52140, December 19, 1990).* NASA and the other participating agencies adopted UFAS (effective January 18, 1991) to diminish the possibility that some recipients of Federal financial assistance would face conflicting enforcement standards either between section 504 and the Architectural Barriers Act of 1968, or among the section 504 regulations of different Federal agencies. *(55 FR 52136–37 (1990)).*

Accessibility Standards in the ADA Regulations Issued by DOJ

DOJ's 1991 title II ADA regulation incorporated by reference two sets of standards for new construction and alterations: UFAS and the 1991 ADA Standards for Accessible Design (1991 Standards), except that the elevator exemption contained at sections 4.1.3(5) and 4.1.6(1)(k) of the 1991 Standards did not apply. The 1991 title II ADA regulation also permitted departures from the particular requirements of either standard by the use of other methods when it was clearly evident that equivalent access to the facility or part of the facility was thereby provided. UFAS was included as an option for title II entities because it was deemed the accessibility standard under existing section 504 accessibility regulations. However, UFAS was not an accessibility option under the ADA for title III entities, even if they were also

subject to an agency section 504 regulation.

On September 15, 2010, DOJ published revised title II and title III ADA regulations that included the adoption of revised accessibility standards, the 2010 ADA Standards for Accessible Design (2010 Standards). *(75 FR 56164).* The 2010 Standards are based on the 2004 ADA Accessibility Guidelines, which were adopted by the U.S. Access Board in 2004 (36 CFR parts 1190 and 1191), but include additional scoping and technical requirements. The 2010 Standards, which now supersede the 1991 Standards, were adopted by DOJ through formal rulemaking and were subject to substantial scrutiny and deliberation, including consideration of costs and benefits. Compliance with the 2010 Standards is required for all new construction and alterations that commenced on or after March 15, 2012 for entities subject to both titles II and III of the ADA. *(75 FR 56164, 56182 (Sept. 15, 2010)).* As of March 15, 2012, UFAS was no longer an option for compliance with title II.

NASA's Revisions to Its Section 504 Federally Assisted Regulation To Adopt the 2010 Standards

In the preamble to the final title II regulation, DOJ stated that Federal agencies that extend Federal financial assistance should revise their section 504 regulations to adopt the 2010 Standards as section 504 standards for new construction and alterations *(75 FR 56164, 56213 Sep. 15, 2010).* DOJ also stated its intent to work with Federal agencies ''to revise their section 504 regulations in the near future to adopt the 2010 Standards as the appropriate accessibility standard for their recipients.''

As proposed in the NPRM, in coordination with DOJ, NASA is adopting the 2010 Standards as set forth in 28 CFR part 35, in lieu of UFAS, for new construction and alterations commencing on or after one year from the publication date of the final rule in the **Federal Register**. In the time period between publication of this rule and the compliance date for the 2010 Standards, the rule provides that recipients may choose to comply with either UFAS or the 2010 Standards. For the reasons discussed below, the final rule specifies that all buildings and facilities newly constructed or altered by recipients in compliance with the 2010 Standards shall comply with the scoping and technical requirements for a ''public building or facility'' in the 2010 Standards, regardless of whether the recipient is a public entity or private entity.

Under NASA's current section 504 federally assisted regulation, the same title II accessibility standards for new construction and alterations are applied to all recipients regardless of whether they are public or private entities with an obligation to comply with title II or title III of the ADA, respectively. That is, both private and public recipients are subject to the same requirements for the purposes of compliance with NASA's section 504 federally assisted regulation. The 2010 Standards impose several different requirements for buildings and facilities covered by title II as compared to buildings and facilities covered by title III. For example, Exception 1 of section 206.2.3 of the 2010 Standards exempts certain multistory buildings owned by private entities from the requirement to provide an elevator. This exemption does not apply to buildings owned by public entities. Similarly, the 2010 Standards specify TTY requirements for public buildings that are different than those required for private buildings. In order to maintain consistency in the requirements applicable to all its recipients, regardless of whether they are public or private entities, NASA is requiring all buildings and facilities covered by its section 504 federally assisted rule to comply with the scoping and technical requirements for a ''public building or facility,'' which are the requirements for buildings subject to title II of the ADA.

Compliance with the 2010 Standards is required one year from the publication date of the final rule in the **Federal Register**. In the period between the effective date of the final rule and the compliance date for new construction and alterations announced in the final rule, recipients shall be permitted to choose to use the 2010 Standards in lieu of UFAS.[4] However, regardless of which accessibility standard recipients choose to use during this time period, recipients must consistently rely on one accessibility standard and may not designate one accessibility standard for one part of a facility and the other for the remainder.

[4] This choice is in keeping with the DOJ March 2011 memorandum advising Federal agencies that until such time as they update their agency's regulation implementing the federally assisted provisions of section 504 of the Rehabilitation Act of 1973 (section 504), they may notify covered entities that they may use the 2010 Standards as an acceptable alternative to the UFAS. (*www.ada.gov/504_memo_standards.htm*).

Safe Harbor for Elements of an Existing Building or Facility in Compliance With UFAS

Under § 1251.301(b) of NASA's original section 504 federally assisted regulation, recipients that choose to make structural changes to their facilities in order to comply with the section 504 program accessibility requirements, must make those changes in compliance with the requirements of § 1251.302(c), which deems UFAS as the relevant accessibility standard. NASA's revision of § 1251.302 to adopt the 2010 Standards, raises the question of whether recipients will have to update elements in UFAS-compliant buildings or facilities that are not otherwise being altered, in order to comply with the 2010 Standards. When DOJ revised its title II ADA regulation to adopt the 2010 Standards, it included a ''safe harbor'' provision in the regulation that provided that elements in existing buildings that complied with the requirements in UFAS or the 1991 Standards did not have to be modified to comply with corresponding requirements in the 2010 Standards. In order to ensure consistency between the requirements for existing facilities in title II of the ADA and the corresponding program accessibility requirements in section 504, NASA has added a similar ''safe harbor'' provision in the final rule. This provision, which is directly modeled after the title II ''safe harbor,'' clarifies that for the purposes of complying with NASA's program accessibility requirements for existing facilities, elements that have not been altered in existing buildings or facilities on or after the date that is one year after the date of publication of this Final Rule in the **Federal Register** and that comply with the technical and scoping specifications for those elements in UFAS, Appendix A to 41 CFR part 101–19.6 (1999 ed.), 49 FR 31528, app. A (Aug. 7, 1984), are not required to be brought into compliance with the requirements set forth in the 2010 Standards. Without this provision, recipients that are subject to titles II or III of the ADA and NASA's section 504 rule would be held to different requirements; they would not be required by the ADA to modify already compliant elements based on UFAS (or the 1991 Standards) in existing facilities to comply with the 2010 Standards, but would be required to do so under NASA's section 504 rule. The safe harbor provision incorporated into NASA's final section 504 rule will avoid this anomalous result.

Notice of Location of Accessible Facilities

The current NASA section 504 regulation at § 1251.301(e) requires recipients to adopt and implement procedures to ensure that interested individuals, including individuals with vision or hearing disabilities, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by individuals with disabilities. Since the publication of the NPRM, NASA has determined that the current NASA section 504 federally assisted regulation does not include a provision that is contained in the section 504 regulations of other Federal agencies that requires recipients to provide signs at a primary entrance to each of its inaccessible facilities directing users to an accessible facility or to a location at which they can obtain information about accessible facilities. This provision also requires that the international symbol for accessibility be used at each accessible entrance to a facility. NASA is adding this provision to § 1251.301(e) in order to conform to section 504 regulatory standards across the Government.

Triggering event: The rule also adopts the approaches used in both title II at 28 CFR 35.151(c) and title III at 28 CFR 36.406(a) to determine the ''triggering event'' for applying the standards to new construction and alterations under section 504. For NASA recipients that are public entities who would otherwise comply with title II (*i.e.,* state and local governments and their agencies and organizations), the triggering event for application of the 2010 Standards under section 504 will be the commencement of physical construction or alterations. For private entities who would otherwise comply with title III (*i.e.,* privately owned and operated organizations), the triggering event for the application of the 2010 Standards under section 504 is the date of: (a) The last application for a building permit or permit extension certified to be complete by a state, county, or local government; (b) in those jurisdictions where the government does not certify completion of applications, the date when the last application for a building permit or permit extension is received by the State, county, or local government; or (c) if no permit is required, the start of physical construction or alterations. For both public and private entities, NASA has adopted the language found at 28 CFR 35.151(c)(4) in title II and 28 CFR 36.406(a)(4) in title III to make it clear that the date of ceremonial groundbreaking or the date a structure is razed to make it possible for construction of a facility to take place does not qualify as the commencement of physical construction.

Reasonable Accommodation (Non-Employment)

In *Southeastern Community College* v. *Davis,* 442 U.S. 397, 99 S. Ct. 2361 (1979), the Supreme Court held that a person is not protected by section 504 if, in order to meet reasonable eligibility standards, the person needs program or policy modifications that would fundamentally alter the nature of the provider's program or impose undue financial and administrative burdens. In *Davis,* the Court upheld the community college's denial of admission to a nursing program applicant with a hearing disability who had requested that the college provide a supervisor to aid her in communicating with patients, to dispense with certain required courses, and to train her to hold some, but not all, positions available to registered nurses. Although the Court also opined in *Davis* that there may be situations where a refusal to modify an existing program might be discriminatory, the Court analyzed the case in terms of the proper interpretation of the statutory term ''otherwise qualified.'' As a result, agency section 504 regulations [5] originally promulgated after *Davis* addressed the obligation to provide reasonable accommodations or reasonable modifications in the definition section for ''qualified handicapped person,'' rather than in the nondiscrimination section.[6]

Subsequently, in *Alexander* v. *Choate,* 469 U.S. 287, 105 S.Ct. 712 (1985), the Court clarified its *Davis* analysis. In *Alexander,* the Court described *Davis* as striking a balance between the need to provide qualified individuals with disabilities meaningful access to the benefit a grantee offers and the legitimate interests of Federal grantees in preserving the integrity of their programs. *See* 469 U.S. at 300–301. It further stated that, although its opinion in *Davis* ''addressed that portion of section 504 that requires that a handicapped individual be 'otherwise qualified' before the nondiscrimination principle of section 504 becomes relevant, . . . the question of who is 'otherwise qualified' and what actions constitute 'discrimination' under the section would seem to be two sides of a single coin; the ultimate question is the extent to which a grantee is required to make reasonable modifications [accommodations] in its programs for the needs of the handicapped.'' 469 U.S. at 300, note 19.

In keeping with these Supreme Court decisions, over the past decades Federal courts and Federal agencies have regularly acknowledged Federal agencies' affirmative obligation to provide qualified individuals with disabilities reasonable accommodations in programs, services, and activities. However, their section 504 regulations have lacked a specific provision implementing this requirement.

When the ADA was enacted, Congress stated the obligation to make reasonable changes in policies, practices, or procedures when necessary to avoid discrimination on the basis of disability as a positive requirement. *See* U.S.C. 12182(b)(2)(A)(ii). DOJ incorporated this requirement into its ADA regulations at 28 CFR 35.130(b)(7) and 28 CFR 36.302. Accordingly, we have added provisions to the section 504 rules at §§ 1251.111 (federally assisted programs) and 1251.581 (federally conducted programs) stating that a recipient or the Agency, respectively, must provide reasonable accommodations when necessary to avoid discrimination on the basis of disability, unless the recipient or the Agency can show that the accommodations would result in a fundamental alteration in the nature of its service, program, or activity or impose undue financial and administrative burdens.

NASA notes that title I of the ADA also uses the term ''reasonable accommodation'' to apply to changes in policies, practices and procedures with respect to employment, but the specific ADA title I regulatory requirements related to this term should not be applied to non-employment related requests for reasonable accommodations under section 504.

Qualified Individual With a Disability

NASA has revised § 1251.102, which adds paragraph (n) defining ''qualified individual with a disability.'' The definition for ''qualified individual with a disability'' in this final rule is also revised in order to update the references to employment to cite to the EEOC's

[5] See, *e.g.,* 14 CFR 1251.503 (NASA's section 504 federally conducted regulation.)

[6] With respect to any agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, the regulatory definition of a ''qualified handicapped person'' (revised to ''qualified individual with a disability'' in this part) is an individual who meets the essential eligibility requirements of the program and who can achieve the purpose of the program or activity without modifications in the program or activity that the agency can demonstrate would result in a fundamental alteration in its nature.

ADA title I regulation and to streamline the language.

Direct Threat

In *School Bd. of Nassau County, Fla.* v. *Arline,* 480 U.S. 273, 107 S.Ct. 1123 (1987), the Supreme Court directed that the determination of whether a person with a contagious disease is otherwise qualified must be made on an individualized basis, taking into account the: Nature of the risk (how the disease is transmitted); duration of the risk (how long the carrier is infectious); severity of the risk (what the potential harm is to third parties), and; probability the disease will be transmitted and will cause varying degrees of harm. The individualized inquiry must include appropriate findings of fact about these factors, based on reasonable medical judgments given the state of medical knowledge. Based on these findings, a determination must be made as to whether the individual's disability could be reasonably accommodated.[7] Congress incorporated this concept into the ADA calling it a ''direct threat.'' The ADA regulations for titles II and III include specific provisions addressing determinations of ''direct threat'' in §§ 35.104 and 36.104 (definitions) and §§ 35.139 and 36.208. Accordingly, we revised our section 504 regulation to include comparable language addressing direct threat consistent with *Arline* and the ADA title II regulation. *See* §§ 1251.110 (federally assisted programs) and 1251.580 (federally conducted programs).

Compliance Procedures

Federal agencies have the responsibility to ensure that their recipients comply with civil rights regulations that prohibit discrimination in programs, services, and activities that receive Federal financial assistance and generally have provisions in their regulations that provide the authority for agencies to ensure compliance and conduct enforcement activities. NASA's original section 504 regulation at § 1251.400 incorporates by reference several provisions in NASA's regulation implementing Title VI of the Civil Rights Act of 1964, at 14 CFR part 1250 that authorize NASA to conduct compliance activities to ensure that recipients do not discriminate on the basis of disability in their programs, services, and activities. These provisions require NASA to: Conduct periodic compliance reviews of recipient programs; receive, investigate and resolve complaints of discrimination on the basis of disability alleged by recipient beneficiaries;[8] conduct hearings to determine whether Federal financial assistance is to be suspended, revoked, or withheld due to a recipient's failure to comply with any provisions of section 504;[9] and they provide for judicial review of NASA's actions to enforce section 504.[10] However, the original section 504 regulation did not incorporate by reference three additional title VI regulatory provisions that are included in other Federal agency section 504 regulations that pertain to procedures for compliance and are critical to effective enforcement of section 504. In contrast, NASA's civil rights regulations that prohibit discrimination on the basis of sex (Title IX of the Education Amendments of 1972)[11] and age (Age Discrimination Act of 1975),[12] as well as title VI, do have these provisions.

NASA has amended its section 504 federally assisted regulation at § 1251.400 to incorporate by reference those title VI regulatory provisions, originally omitted from the existing regulation. Accordingly, NASA incorporated by reference into § 1251.400, NASA's title VI regulation at § 1250.105 (Compliance information), which: Requires NASA to seek the cooperation of recipients in obtaining compliance with this part; requires recipients and subrecipients to keep records and provide reports to NASA upon request to determine compliance with this part; requires recipients to permit NASA to have access to records and sources of information to determine compliance with this part; and requires recipients to make available information regarding provisions of this part and their applicability to the program for which the recipient receives Federal financial assistance in a manner deemed appropriate by NASA to apprise interested persons of the rights and protections afforded to them by this part. NASA also incorporated by reference into § 1251.400, NASA's title VI regulation at § 1250.107 (Procedures for effecting compliance), which delineates the process by which NASA will effectuate compliance with this part through the termination, suspension, or refusal to grant or continue Federal financial assistance if a recipient's noncompliance with this part cannot be remedied through informal means. Lastly, NASA incorporated by reference into § 1251.400, NASA's title VI regulation at § 1250.109 (Decisions and notices) which delineates the process for rendering decisions and issuing findings in accordance with § 1250.107.

NASA's Revisions to Its Section 504 Regulation for Federally Conducted Programs

In addition to its revisions to its section 504 federally assisted regulation at part 1251, NASA also revised its section 504 regulation at § 1251.5 that prohibits discrimination on the basis of disability in programs, services, and activities conducted by NASA. In 1978, Congress extended application of section 504 to programs and activities conducted by Federal Executive agencies and the United States Postal Service. Pursuant to Executive Order 12250, the Department of Justice developed a prototype regulation to implement the 1978 amendment for federally conducted programs and activities. More than 80 Federal agencies, including NASA, issued regulations previously based on that prototype, prohibiting discrimination based on disability in the programs and activities they conduct. Despite the large number of regulations implementing section 504 for federally assisted and federally conducted programs and activities, there is very little variation in their substantive requirements, or even in their language. The regulatory revisions in this rulemaking impose similar requirements for NASA's federally conducted and NASA's federally assisted regulations, with the exception of the applicable accessibility standards for new and altered facilities.[13]

Consistent with its revision to the definition of disability in § 1251.102(g), NASA has revised the definition of ''disability'' at § 1251.503(e) to incorporate by reference the definition of disability in the Department of Justice's title II ADA regulation at 28 CFR part 35. NASA also revised the definition of ''direct threat'' and added definitions of ''drug abuse'' and ''illegal use of drugs'' to § 1251.503 to conform

[7] While *Arline* arose in the context of allegations that an individual with a ''contagious disease,'' may pose a danger to the health and safety of others, the individualized inquiry and the specific analysis required by *Arline* and this regulation apply to any allegations that a person with a disability poses a ''direct threat'' to the health or safety to others.

[8] 14 CFR 1250.106.

[9] 14 CFR 1250.108.

[10] 14 CFR 1250.110.

[11] 14 CFR 1253.605.

[12] 14 CFR subpart 1252.2.

[13] Facilities designed, built, or altered with Federal dollars or leased by Federal agencies are subject to the Architectural Barriers Act. The General Services Administration (GSA) is responsible for prescribing the accessibility standards for all of these facilities (other than residential structures and Department of Defense and U.S. Postal Service facilities). Thus, this rule references the updated ABA Accessibility Standards adopted by GSA in 2007. See 41 CFR part 102–76 subpart C.

to the corresponding regulatory provisions in the federally assisted rule. NASA added a new provision incorporating statutory requirements addressing the application of section 504 to persons who use illegal drugs, and regulatory standards for direct threat, employment, and reasonable accommodation in the federally conducted programs regulation to conform with the companion regulatory standards in the federally assisted regulation for direct threat found at § 1251.110, reasonable accommodation found at § 1251.111, illegal use of drugs found at § 1251.113, and employment found at § 1251.2. NASA also has conformed the language in § 1251.550(a), which addresses the limitations on the obligation to provide program accessibility in historic preservation programs conducted by the Agency, to the language used in the corresponding provision in the Department of Justice's title II ADA regulation at 28 CFR 35.150 (a)(2), by removing the phrase ''substantial impairment of historical features'' of historical properties and replacing it with ''threaten or destroy the historic significance'' of these properties. NASA has also deleted the definition of ''substantial impairment'' at § 1251.503 because the term is no longer used with respect to program accessibility in existing facilities and thus, the definition is no longer necessary. Last, NASA revised its regulation at § 1251.551 to update the reference to the GSA standards applicable to new construction, alterations and leases of Federal buildings subject to the Architectural Barriers Act, which is no longer found at the GSA Federal Management Regulation 41 CFR 101–19.600 to 101–19.607, but is now found at 41 CFR part 102–76, subpart C.

IV. Regulatory Analysis

Executive Order 12866 and Executive Order 13563

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

Regulatory Flexibility Act

NASA certifies that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act Statement

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

Unfunded Mandates Reform Act of 1995

Section 4(2) of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1503(2), excludes from coverage under that Act any proposed or final Federal regulation that ''establishes or enforces any statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability.'' Accordingly, NASA's rulemaking is not subject to the provisions of the Unfunded Mandates Reform Act.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (as amended), 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 14 CFR Part 1251

Administrative practice and procedure, Civil rights, Equal employment opportunity, Federal buildings and facilities, and Individuals with disabilities.

For the reasons stated in the preamble, the National Aeronautics and Space Administration amends 14 CFR part 1251 as follows:

PART 1251—NONDISCRIMINATION ON BASIS OF DISABILITY

■ 1. The authority citation for part 1251 is revised to read as follows:

Authority: Sec. 504 (29 U.S.C. 794)

■ 2. Revise the heading of part 1251 to read as set forth above.

■ 3. In part 1251, wherever they appear, remove the words in the ''Remove'' column and add in their place the words in the ''Add in its place'' column in the following table:

Remove	Add in Its place
handicap	disability.
handicaps	disabilities.
handicapped person	individual with a disability
handicapped persons	individuals with disabilities.
handicapped individual	individual with a disability.
handicapped individuals	individuals with disabilities.
individuals with handicaps.	individuals with disabilities.
qualified handicapped individual.	qualified individual with a disability.
qualified handicapped individuals.	qualified individuals with disabilities.
qualified individuals with handicaps.	qualified individuals with disabilities.
qualified handicapped applicants or employees.	qualified applicants or employees with disabilities.
nonhandicapped persons	individuals without disabilities.

Subpart 1251.1—General Provisions

■ 4. Revise § 1251.100 to read as follows:

§ 1251.100 Purpose and broad coverage.

(a) *Purpose.* This part effectuates section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of disability in any program or activity receiving Federal financial assistance.

(b) *Broad scope of coverage.* Consistent with the Americans with Disabilities Act Amendments Act of 2008's purpose (ADA Amendments Act) of reinstating a broad scope of protection under the ADA and section 504, the definition of ''disability'' applicable to this part shall be construed broadly in favor of expansive coverage to the maximum extent permitted by the terms of this part. The primary object of attention in cases brought under this part should be whether entities covered under section 504 have complied with their obligations and whether discrimination has occurred, not whether the individual meets the definition of disability. The question of whether an individual meets the definition of disability under this part should not demand extensive analysis.

■ 5. Revise § 1251.102 to read as follows:

§ 1251.102 Definitions

As used in this part, the term:

(a) *2004 ADAAG* means the Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities requirements set forth in

appendices B and D to 36 CFR part 1191 (2009).

(b) *2010 Standards* means the 2010 ADA Standards for Accessible Design, which consist of the 2004 ADAAG and the requirements contained in 28 CFR 35.151.

(c) *Applicant for assistance* means one who submits an application, request, or plan required to be approved either by a NASA official or by a recipient, as a condition to becoming a recipient.

(d) *Associate Administrator* means the Associate Administrator for Diversity and Equal Opportunity Programs for NASA.

(e) *Auxiliary aids and services* means services or devices that enable persons with sensory, manual, or speech disabilities to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the recipient. Auxiliary aids and services include:

(1) Qualified interpreters onsite or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;

(2) Qualified readers; taped texts; audio recordings; Brailled materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;

(3) Acquisition or modification of equipment or devices; and

(4) Other similar services and actions.

(f) *Direct threat* means a significant risk to the health or safety of others that cannot be eliminated by a change to policies, practices or procedures, or by the provision of auxiliary aids or services as provided in § 1251.110 of this part.

(g) *Disability* means the definition given that term in the Department of Justice's regulation implementing title II of the ADA at 28 CFR part 35.

(h) *Drug* means a controlled substance as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

(i) *Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(j) *Federal financial assistance* means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

(k) *Illegal use of drugs* means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). The term *illegal use of drugs* does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(l) *Individual with a disability* means any individual who has a disability as defined in 28 CFR part 35. The term ''individual with a disability'' does not include an individual who is currently engaging in the illegal use of drugs, when the recipient acts on the basis of such use.

(m) *Program or activity* means all of the operations of any entity described in paragraphs (m)(1) through (4) of this section, any part of which is extended Federal financial assistance:

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (m)(1), (2), or (3) of this section.

(n) *Qualified individual with a disability* means:

(1) With respect to any aid, benefit, or service, provided under a program or activity subject to this part, an individual with a disability who, with or without reasonable accommodations in rules policies, or procedures, the removal of architectural, communication, or transportation barriers, or the provision auxiliary aids or services, meets the essential eligibility requirements for participation in, or receipt from, that aid, benefit, or service, and

(2) With respect to employment, the definition given that term in the Equal Employment Opportunity Commission's regulation at 29 CFR part 1630, implementing Title I of the Americans with Disabilities Act of 1990, which regulation is made applicable to this part by § 1251.2.

(o) *Recipient* means any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(p) *Section 504* means section 504 of the Act.

(q) *The Act* means the Rehabilitation Act of 1973, Pub. L. 93–112, as amended, 29 U.S.C. 794 *et seq.*

§ 1251.104 [Amended]

■ 6. In § 1251.104, in paragraphs (a) and (c)(3), remove the word ''Assistant'' and add in its place the word ''Associate''.

§ 1251.105 [Amended]

■ 7. In paragraphs (a)(1) through (3) and (c)(2) introductory text, remove the word ''Assistant'' wherever it appears and add in its place the word ''Associate''.

■ 8. Amend § 1251.107 by revising paragraph (a) to read as follows:

§ 1251.107 Notice.

(a) A recipient that employs 15 or more persons shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with vision or hearing disabilities, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of disability in violation of section 504 and this part. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its programs or activities. The notification shall also include an identification of the responsible employee designated pursuant to § 1251.106(a). A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this part. Methods of initial and continuing notification may include the posting of notices, transmission via electronic mail or text message, publication on the recipient's internet Web site, or in newspapers and magazines, placement of notices in recipient's publication, and distribution of memoranda or other written communications.

* * * * *

§ 1251.108 [Amended]

■ 9. Amend § 1251.108 by removing the word ''Assistant'' wherever it appears and adding in its place the word ''Associate''.

■ 10. Add § 1251.110 to subpart 1251.1 to read as follows:

§ 1251.110 Direct threat.

(a) This part does not require a recipient to permit an individual to participate in or benefit from the services, programs, or activities of that recipient when that individual poses a direct threat to the health or safety of others.

(b) In determining whether an individual poses a direct threat to the health or safety of others, a recipient must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: The nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable accommodations in policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

■ 11. Add § 1251.111 to subpart 1251.1 to read as follows:

§ 1251.111 Reasonable accommodation.

A recipient shall make reasonable accommodations in policies, practices, or procedures when such accommodations are necessary to avoid discrimination on the basis of disability, unless the recipient can demonstrate that making the accommodations would fundamentally alter the nature of the service, program, or activity or result in an undue financial and administrative burden.

■ 12. Add § 1251.112 to subpart 1251.1 to read as follows:

§ 1251.112 Communications.

(a) A recipient shall take appropriate steps to ensure that communications with applicants, participants, beneficiaries, members of the public, and companions with disabilities, are as effective as communications with others.

(b)(1) A recipient shall furnish appropriate auxiliary aids or services where necessary to afford qualified individuals with disabilities, including applicants, participants, beneficiaries, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a program or activity of the recipient.

(i) In determining what type of auxiliary aid or service is necessary, the recipient shall give primary consideration to the requests of the individual with a disability.

(ii) The recipient need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the recipient communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TTY's) or equally effective telecommunication systems shall be used to communicate with persons who are deaf or hard of hearing or have speech impairments.

(c) This section does not require the recipient to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where the recipient believes that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the recipient has the burden of proving that compliance with § 1251.112 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the chief executive officer of the recipient or his or her designee after considering all of the recipient's resources available for use in the funding and operation of the conducted program or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the recipient shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits and services of the program or activity.

■ 13. Add § 1251.113 to subpart 1251.1 to read as follows:

§ 1251.113 Illegal Use of Drugs

(a) *General.* (1) Except as provided in paragraph (b) of this section, this part does not prohibit discrimination against an individual based on that individual's current illegal use of drugs.

(2) A recipient shall not discriminate on the basis of illegal use of drugs against an individual who is not engaging in current illegal use of drugs and who—

(i) Has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully;

(ii) Is participating in a supervised rehabilitation program; or

(iii) Is erroneously regarded as engaging in such use.

(b) *Health and drug rehabilitation services.* (1) A recipient shall not deny health services, or services provided in connection with drug rehabilitation, to an individual on the basis of that individual's current illegal use of drugs, if the individual is otherwise entitled to such services.

(2) A drug rehabilitation or treatment program may deny participation to individuals who engage in illegal use of drugs while they are in the program.

(c) *Drug testing.* (1) This part does not prohibit a recipient from adopting or administering reasonable policies or

procedures, including but not limited to drug testing, designed to ensure that an individual who formerly engaged in the illegal use of drugs is not now engaging in current illegal use of drugs.

(2) Nothing in this paragraph (c) shall be construed to encourage, prohibit, restrict, or authorize the conduct of testing for the illegal use of drugs.

■ 14. Revise § 1251.200 to read as follows:

§ 1251.200 Discrimination prohibited.

(a) *General.* No qualified individual shall, on the basis of disability, be subjected to discrimination in employment under any program or activity to which this part applies.

(b) *Employment discrimination standards.* The standards used to determine whether paragraph (a) of this section has been violated shall be the standards applied under Title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 *et seq.*) and, as such sections relate to employment, the provisions of sections 501 through 504 and 510 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as amended by the ADA Amendments Act of 2008 (Pub. L. 110–325), as such standards are implemented in the Equal Employment Opportunity Commission's regulation at 29 CFR part 1630. The procedures to be used to determine whether paragraph (a) of this section has been violated shall be the procedures set forth in § 1251.400 of this part.

§ 1251.202 [Amended]

■ 15. Amend § 1251.202 by removing the word ''Assistant'' in paragraph (a)(2) and adding in its place the word ''Associate''.

■ 16. Amend 1251.301 by redesignating paragraph (e) as paragraph (f) and revising it and adding a new paragraph (e) to read as follows:

§ 1251.301 Existing facilities.

* * * * *

(e) *Safe harbor.* For the purposes of complying with this section, elements that have not been altered in existing facilities on or after January 23, 2017, and that comply with the corresponding technical and scoping specifications for those elements in the Uniform Federal Accessibility Standards (UFAS), Appendix A to 41 CFR part 101–19.6, 49 FR 31528, app. A (Aug. 7, 1984), are not required to be modified to be brought into compliance with the requirements set forth in the 2010 Standards.

(f) *Notice of location of accessible facilities*—(1) *General.* The recipient shall adopt and implement procedures to ensure that interested individuals, including individuals with vision or hearing disabilities, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by individuals with disabilities.

(2) *Signs at primary entrances.* The recipient shall provide signs at a primary entrance to each of its inaccessible facilities, directing users to an accessible facility or a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each accessible entrance to a facility.

■ 17. Amend § 1251.302 as follows:

■ a. Revise paragraphs (a) and (c)(1); and

■ b. Redesignate paragraphs (c)(2) and (3) as paragraphs (c)(5) and (6) and add new paragraphs (c)(2) and (3).

The revisions and additions read as follows:

§ 1251.302 New construction and alterations.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities.

* * * * *

(c) *Accessibility standards and compliance dates*—(1) *Applicable accessibility standards.* (i) New construction and alterations undertaken prior to the compliance dates specified in paragraph (c)(2) of this section must comply with either UFAS or the 2010 Standards.

(ii) New construction and alterations on or after the compliance dates specified in paragraph (c)(2) of this section must comply with the 2010 Standards.

(iii) New construction and alterations of buildings or facilities undertaken in compliance with the 2010 Standards shall comply with the requirements for a ''public building or facility'' as defined in the 2010 Standards regardless of whether the recipient is a public or private entity.

(iv) Departures from particular requirements of either standard by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

(2) *Compliance dates*—(i) *New Construction and alterations by recipients that are private entities.* (A) New construction and alterations in which the last application for a building permit or permit extension for such construction or alterations is certified to be complete by a state, county, or local government (or, in those jurisdictions where the government does not certify completion of applications, if the date when the last application for a building permit or permit extension is received by the state, county, or local government) is prior to January 23, 2017, or if no permit is required, if the start of physical construction or alterations occurs prior to January 23, 2017, then such new construction and alterations must comply with either the Uniform Federal Accessibility Standards or the 2010 Standards.

(B) New construction and alterations in which the last application for a building permit or permit extension for such construction or alterations is certified to be complete by a state, county, or local government (or, in those jurisdictions where the government does not certify completion of applications, if the date when the last application for a building permit or permit extension is received by the state, county, or local government) is on or after January 23, 2017, or if no permit is required, if the start of physical construction or alterations occurs on or after January 23, 2017, then such new construction and alterations shall comply with the 2010 Standards.

(ii) New construction and alterations by recipients that are public entities. (A) If physical construction or alterations commence prior to January 23, 2017, then such new construction and alterations must comply with either UFAS or the 2010 Standards.

(C) If physical construction or alterations commence on or after January 23, 2017, then such new construction and alterations shall comply with the 2010 Standards.

(3) For the purposes of this section, ceremonial groundbreaking or razing of structures prior to site preparation will not be considered to commence or start physical construction or alterations.

TABLE OF APPLICABLE STANDARDS FOR COMPLYING WITH 14 CFR 1251.302(C)

Compliance dates for new construction and alterations	Applicable standards for complying with 14 CFR 1251.302(c)
Prior to January 23, 2017	UFAS or the scoping and technical requirements for a ''public building or facility'' in the 2010 Standards.
On or after January 23, 2017	Scoping and technical requirements for a ''public building or facility'' in the 2010 Standards.

* * * * *

■ 18. Section 1251.400 is revised to read as follows:

§ 1251.400 Compliance Procedures.

(a) The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) are hereby adopted and apply to this section 504 regulation. These procedures are found at §§ 1250.105 through 1250.110 of this chapter.

(b) The Agency shall ensure that complaints alleging violations of section 504 with respect to employment are processed according to the procedures established by the EEOC in 29 CFR part 1640 and the United States DOJ at 28 CFR part 37.

Subpart 1251.5—Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the National Aeronautics and Space Administration

■ 19. Section 1251.503 is revised to read as follows:

§ 1251.503 Definitions.

As used in this part, the term:

(a) *Assistant Attorney General* means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

(b) *Auxiliary aids and services* means services or devices that enable persons with sensory, manual, or speech disabilities to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. Auxiliary aids and services include:

(1) Qualified interpreters onsite or through Video Remote Interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;

(2) Qualified readers; taped texts; audio recordings; Brailled materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;

(3) Acquisition or modification of equipment or devices; and

(4) Other similar services and actions.

(c) *Complete complaint* means a written statement that contains the complainant's name and address and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

(d) *Direct threat* means a significant risk to the health or safety of others that cannot be eliminated by a change to policies, practices or procedures, or by the provision of auxiliary aids or services as provided in § 1251.110 of this part.

(e) *Disability* means the definition given that term in the Department of Justice's regulation implementing title II of the ADA at 28 CFR part 35.

(f) *Drug* means a controlled substance as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

(g) *Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

(h) *Historic preservation programs* means programs conducted by the agency that have preservation of historic properties as a primary purpose.

(i) *Historic properties* means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under a statute of the appropriate state or local government body.

(j) *Illegal use of drugs* means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). The term ''illegal use of drugs'' does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(k) *Individual with a disability* means any person who meets the definition of ''disability'' under 28 CFR part 35.

(l) *Qualified individual* with a disability means any person who meets the definition of ''qualified individual with a disability'' under § 1251.102(i) of this part.

(m) *Section 504* means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794)), as amended.

■ 20. Revise § 1251.540 to read as follows:

§ 1251.540 Employment.

(a) *General.* No qualified individual shall, on the basis of disability, be subjected to discrimination in employment under any program or activity to which this part applies.

(b) *Employment discrimination standards.* The standards used to determine whether paragraph (a) of this section has been violated shall be the standards applied under Title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12,111 *et seq.*) and, as such sections relate to employment, the provisions of sections 501 through 504 and 510 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as amended by the ADA Amendments Act of 2008 (Pub. L. 110–325), as such standards are implemented in the Equal Employment Opportunity Commission's regulation at 29 CFR part 1630, as amended.

■ 21. In § 1251.550, revise paragraph (a)(2) to read as follows:

§ 1251.550 Program accessibility: Existing facilities.

(a) * * *

(2) In the case of historic preservation programs, require the Agency to take any action that would threaten or destroy the historic significance of historic properties.

* * * * *

■ 22. Revise § 1251.551 to read as follows:

§ 1251.551 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by individuals with disabilities. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151–4157), as established in 41 CFR part 102–76, subpart C, apply to buildings covered by this section.

■ 23. In § 1251.570, revise paragraphs (b) and (c) to read as follows:

§ 1251.570 Compliance procedures.

* * * * *

(b) The Agency shall process complaints alleging violations of section 504 of the Rehabilitation Act with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1640 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) The Associate Administrator for Diversity and Equal Opportunity shall be responsible for coordinating implementation of this section. Complaints may be sent to the Office of Diversity and Equal Opportunity, NASA Headquarters, 300 E Street SW., Washington, DC 20546.

* * * * *

■ 24. Add § 1251.580 to subpart 1251.5 to read as follows:

§ 1251.580 Direct threat.

(a) This part does not require the Agency to permit an individual to participate in or benefit from the services, programs, or activities of that recipient when that individual poses a direct threat to the health or safety of others.

(b) In determining whether an individual poses a direct threat to the health or safety of others, the Agency must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: The nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable accommodations in policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

■ 25. Add § 1251.581 to subpart 1251.5 to read as follows:

§ 1251.581 Reasonable accommodation.

The Agency shall make reasonable accommodations in policies, practices, or procedures when such accommodations are necessary to avoid discrimination on the basis of disability, unless the Agency can demonstrate that making the accommodations would fundamentally alter the nature of the service, program, or activity or result in an undue financial and administrative burden.

■ 26. Add § 1251.582 to subpart 1251.5 to read as follows:

§ 1251.582 Illegal use of drugs

(a) *General.* (1) Except as provided in paragraph (b) of this section, this part does not prohibit discrimination against an individual based on that individual's current illegal use of drugs.

(2) The Agency shall not discriminate on the basis of illegal use of drugs against an individual who is not engaging in current illegal use of drugs and who—

(i) Has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully;

(ii) Is participating in a supervised rehabilitation program; or

(iii) Is erroneously regarded as engaging in such use.

(b) *Health and drug rehabilitation services.* (1) The Agency shall not deny health services, or services provided in connection with drug rehabilitation, to an individual on the basis of that individual's current illegal use of drugs, if the individual is otherwise entitled to such services.

(2) A drug rehabilitation or treatment program may deny participation to individuals who engage in illegal use of drugs while they are in the program.

(c) *Drug testing.* (1) This part does not prohibit the Agency from adopting or administering reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual who formerly engaged in the illegal use of drugs is not now engaging in current illegal use of drugs.

(2) Nothing in this paragraph (c) shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

Cheryl E. Parker,

NASA Federal Register Liaison Officer.

[FR Doc. 2016–00610 Filed 1–21–16; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1 and 117

[Docket No. FDA–2011–N–0920]

RIN 0910–AG36

Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA or we) is amending a final rule that published in the **Federal Register** of September 17, 2015. That final rule amended our regulation for current good manufacturing practice in manufacturing, packing, or holding human food to modernize it, and to add requirements for domestic and foreign facilities that are required to register under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to establish and implement hazard analysis and risk-based preventive controls for human food. That final rule also revised certain definitions in our current regulation for registration of food facilities to clarify the scope of the exemption from registration requirements provided by the FD&C Act for ''farms.'' The final rule published with some editorial and inadvertent errors. This document corrects those errors.

DATES: Effective January 22, 2016.

FOR FURTHER INFORMATION CONTACT: Jenny Scott, Center for Food Safety and Applied Nutrition (HFS–300), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–2166.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Thursday, September 17, 2015 (80 FR 55908), FDA published the final rule ''Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food'' with some editorial and inadvertent errors. This

action is being taken to correct inadvertent errors by making the following correcting amendments.

List of Subjects

21 CFR Part 1

Cosmetics, Drugs, Exports, Food labeling, Imports, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 117

Food packaging, Foods.

PART 1—GENERAL ENFORCEMENT REGULATIONS

■ 1. The authority citation for 21 CFR part 1 continues to read as follows:

Authority: 15 U.S.C. 1333, 1453, 1454, 1455, 4402; 19 U.S.C. 1490, 1491; 21 U.S.C. 321, 331, 332, 333, 334, 335a, 343, 350c, 350d, 352, 355, 360b, 360ccc, 360ccc–1, 360ccc–2, 362, 371, 374, 381, 382, 387, 387a, 387c, 393; 42 U.S.C. 216, 241, 243, 262, 264.

■ 2. Amend § 1.227 to revise the definitions of ''harvesting'' and ''packing'' to read as follows:

§ 1.227 What definitions apply to this subpart?

* * * * *

Harvesting applies to farms and farm mixed-type facilities and means activities that are traditionally performed on farms for the purpose of removing raw agricultural commodities from the place they were grown or raised and preparing them for use as food. Harvesting is limited to activities performed on raw agricultural commodities, or on processed foods created by drying/dehydrating a raw agricultural commodity without additional manufacturing/processing, on a farm. Harvesting does not include activities that transform a raw agricultural commodity into a processed food as defined in section 201(gg) of the Federal Food, Drug, and Cosmetic Act. Examples of harvesting include cutting (or otherwise separating) the edible portion of the raw agricultural commodity from the crop plant and removing or trimming part of the raw agricultural commodity (*e.g.,* foliage, husks, roots or stems). Examples of harvesting also include cooling, field coring, filtering, gathering, hulling, shelling, sifting, threshing, trimming of outer leaves of, and washing raw agricultural commodities grown on a farm.

* * * * *

Packing means placing food into a container other than packaging the food and also includes re-packing and activities performed incidental to packing or re-packing a food (*e.g.,* activities performed for the safe or effective packing or re-packing of that food (such as sorting, culling, grading, and weighing or conveying incidental to packing or re-packing)), but does not include activities that transform a raw agricultural commodity, as defined in section 201(r) of the Federal Food, Drug, and Cosmetic Act, into a processed food as defined in section 201(gg) of the Federal Food, Drug, and Cosmetic Act.

* * * * *

■ 3. Amend § 1.328 to revise the definition of ''harvesting'' to read as follows:

§ 1.328 What definitions apply to this subpart?

* * * * *

Harvesting applies to farms and farm mixed-type facilities and means activities that are traditionally performed on farms for the purpose of removing raw agricultural commodities from the place they were grown or raised and preparing them for use as food. Harvesting is limited to activities performed on raw agricultural commodities, or on processed foods created by drying/dehydrating a raw agricultural commodity without additional manufacturing/processing, on a farm. Harvesting does not include activities that transform a raw agricultural commodity into a processed food as defined in section 201(gg) of the Federal Food, Drug, and Cosmetic Act. Examples of harvesting include cutting (or otherwise separating) the edible portion of the raw agricultural commodity from the crop plant and removing or trimming part of the raw agricultural commodity (*e.g.,* foliage, husks, roots, or stems). Examples of harvesting also include cooling, field coring, filtering, gathering, hulling, shelling, sifting, threshing, trimming of outer leaves of, and washing raw agricultural commodities grown on a farm.

* * * * *

PART 117—CURRENT GOOD MANUFACTURING PRACTICE, HAZARD ANALYSIS, AND RISK-BASED PREVENTIVE CONTROLS FOR HUMAN FOOD

■ 4. The authority citation for 21 CFR part 117 continues to read as follows:

Authority: 21 U.S.C. 331, 342, 343, 350d note, 350g, 350g note, 371, 374; 42 U.S.C. 243, 264, 271.

■ 5. In § 117.1, revise paragraph (b) to read as follows:

§ 117.1 Applicability and status.

* * * * *

(b) The operation of a facility that manufactures, processes, packs, or holds food for sale in the United States if the owner, operator, or agent in charge of such facility is required to comply with, and is not in compliance with, section 418 of the Federal Food, Drug, and Cosmetic Act or subpart C, D, E, F, or G of this part is a prohibited act under section 301(uu) of the Federal Food, Drug, and Cosmetic Act.

* * * * *

■ 6. Amend § 117.3 to:

■ a. Revise the definitions of ''audit'', ''harvesting'', and ''packing'';

■ b. Revise the introductory text of paragraph (1) of the definition of ''qualified end-user''; and

■ c. Revise the definition of ''small business''.

The revisions read as follows:

§ 117.3 Definitions.

* * * * *

Audit means the systematic, independent, and documented examination (through observation, investigation, records review, discussions with employees of the audited entity, and, as appropriate, sampling and laboratory analysis) to assess an audited entity's food safety processes and procedures.

* * * * *

Harvesting applies to farms and farm mixed-type facilities and means activities that are traditionally performed on farms for the purpose of removing raw agricultural commodities from the place they were grown or raised and preparing them for use as food. Harvesting is limited to activities performed on raw agricultural commodities, or on processed foods created by drying/dehydrating a raw agricultural commodity without additional manufacturing/processing, on a farm. Harvesting does not include activities that transform a raw agricultural commodity into a processed food as defined in section 201(gg) of the Federal Food, Drug, and Cosmetic Act. Examples of harvesting include cutting (or otherwise separating) the edible portion of the raw agricultural commodity from the crop plant and removing or trimming part of the raw agricultural commodity (*e.g.,* foliage, husks, roots or stems). Examples of harvesting also include cooling, field coring, filtering, gathering, hulling, shelling, sifting, threshing, trimming of outer leaves of, and washing raw agricultural commodities grown on a farm.

* * * * *

Packing means placing food into a container other than packaging the food

and also includes re-packing and activities performed incidental to packing or re-packing a food (*e.g.,* activities performed for the safe or effective packing or re-packing of that food (such as sorting, culling, grading, and weighing or conveying incidental to packing or re-packing)), but does not include activities that transform a raw agricultural commodity into a processed food as defined in section 201(gg) of the Federal Food, Drug, and Cosmetic Act.

* * * * *

Qualified end-user * * *

(1) Is located:

* * * * *

Small business means, for purposes of this part, a business (including any subsidiaries and affiliates) employing fewer than 500 full-time equivalent employees.

* * * * *

■ 7. In § 117.5, revise the first sentence of paragraph (a), and revise paragraph (h)(3)(v) to read as follows:

§ 117.5 Exemptions.

(a) Except as provided by subpart E of this part, subparts C and G of this part do not apply to a qualified facility.

* * *

* * * * *

(h) * * *

(3) * * *

(v) Extracting (including by pressing, by distilling, and by solvent extraction) dried/dehydrated herb and spice products (*e.g.,* dried mint), fresh herbs (*e.g.,* fresh mint), fruits and vegetables (*e.g.,* olives, avocados), grains (*e.g.,* oilseeds), and other herb and spice products (*e.g.,* chopped fresh mint, chopped dried mint);

* * * * *

■ 8. In § 117.136, revise paragraphs (a)(2) introductory text, (a)(5), and (b)(5) to read as follows:

§ 117.136 Circumstances in which the owner, operator, or agent in charge of a manufacturing/processing facility is not required to implement a preventive control.

(a) * * *

(2) You rely on your customer who is subject to the requirements for hazard analysis and risk-based preventive controls in this subpart to ensure that the identified hazard will be significantly minimized or prevented and you:

* * * * *

(5) You have established, documented, and implemented a system that ensures control, at a subsequent distribution step, of the hazards in the food you distribute and you document the implementation of that system.

(b) * * *

(5) Your system, in accordance with paragraph (a)(5) of this section, that ensures control, at a subsequent distribution step, of the hazards in the food you distribute.

■ 9. In § 117.145, revise paragraph (a) to read as follows:

§ 117.145 Monitoring.

* * * * *

(a) *Written procedures.* You must establish and implement written procedures, including the frequency with which they are to be performed, for monitoring the preventive control; and

* * * * *

■ 10. In § 117.201, revise paragraphs (b)(2)(i)(B) and (b)(2)(ii) to read as follows:

§ 117.201 Modified requirements that apply to a qualified facility.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(B) Write to the U.S. Food and Drug Administration (HFS–681), 5100 Paint Branch Pkwy., College Park, MD 20740; or

* * * * *

(ii) Send a paper Form FDA 3942a to the U.S. Food and Drug Administration (HFS–681), 5100 Paint Branch Pkwy., College Park, MD 20740. We recommend that you submit a paper copy only if your facility does not have reasonable access to the Internet.

* * * * *

■ 11. In § 117.257, revise paragraph (e) to read as follows:

§ 117.257 Contents of an order to withdraw a qualified facility exemption.

* * * * *

(e) A statement that a facility may request that FDA reinstate an exemption that was withdrawn by following the procedures in § 117.287;

* * * * *

■ 12. In § 117.264, revise paragraph (a)(1) to read as follows:

§ 117.264 Procedure for submitting an appeal.

(a) * * *

(1) Submit the appeal in writing to the FDA District Director in whose district the facility is located (or, in the case of a foreign facility, the Director of the Office of Compliance in the Center for Food Safety and Applied Nutrition), at the mailing address, email address, or facsimile number identified in the order within 15 calendar days of the date of receipt of confirmation of the order; and

* * * * *

Dated: January 14, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–01091 Filed 1–21–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 507

[Docket No. FDA–2011–N–0922]

RIN 0910–AG10

Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Food for Animals; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule, technical amendment.

SUMMARY: The Food and Drug Administration (FDA or we) is amending a final rule that published in the **Federal Register** of September 17, 2015. That final rule established requirements for domestic and foreign facilities required to register under the Federal Food, Drug, and Cosmetic Act for current good manufacturing practice, hazard analysis, and risk-based preventive controls for food for animals. The final rule published with some editorial and inadvertent errors. This document corrects those errors.

DATES: Effective January 22, 2016.

FOR FURTHER INFORMATION CONTACT: Jeanette Murphy, Center for Veterinary Medicine (HFV–200), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–6246, email: *jenny.murphy@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Thursday, September 17, 2015 (80 FR 56170), FDA published the final rule ''Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Food for Animals'' with some editorial and inadvertent errors. This action is being taken to correct those errors by making the following correcting amendments.

List of Subjects in 21 CFR Part 507

Animal foods, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

Accordingly, FDA is amending 21 CFR part 507 with the following technical amendments:

PART 507—CURRENT GOOD MANUFACTURING PRACTICE, HAZARD ANALYSIS, AND RISK-BASED PREVENTIVE CONTROLS FOR FOOD FOR ANIMALS

■ 1. The authority citation for 21 CFR part 507 continues to read as follows:

Authority: 21 U.S.C. 331, 342, 343, 350d note, 350g, 350g note, 371, 374; 42 U.S.C. 243, 264, 271.

■ 2. In § 507.3, revise the definitions of ''audit'', ''harvesting'', ''hazard requiring a preventive control'', and ''small business'' to read as follows:

§ 507.3 Definitions.

* * * * *

Audit means the systematic, independent, and documented examination (through observation, investigation, records review, discussions with employees of the audited entity, and, as appropriate, sampling and laboratory analysis) to assess an audited entity's food safety processes and procedures.

* * * * *

Harvesting applies to farms and farm mixed-type facilities and means activities that are traditionally performed on farms for the purpose of removing raw agricultural commodities from the place they were grown or raised and preparing them for use as animal food. Harvesting is limited to activities performed on raw agricultural commodities, or on processed foods created by drying/dehydrating a raw agricultural commodity without additional manufacturing/processing, on a farm. Harvesting does not include activities that transform a raw agricultural commodity into a processed food as defined in section 201(gg) of the Federal Food, Drug, and Cosmetic Act. Examples of harvesting include cutting (or otherwise separating) the edible portion of the raw agricultural commodity from the crop plant and removing or trimming part of the raw agricultural commodity (*e.g.,* foliage, husks, roots, or stems). Examples of harvesting also include cooling, field coring, filtering, gathering, hulling, shelling, sifting, threshing, trimming of outer leaves of, and washing raw agricultural commodities grown on a farm.

* * * * *

Hazard requiring a preventive control means a known or reasonably foreseeable hazard for which a person knowledgeable about the safe manufacturing, processing, packing, or holding of animal food would, based on the outcome of a hazard analysis (which includes an assessment of the severity of the illness or injury to humans or animals if the hazard were to occur and the probability that the hazard will occur in the absence of preventive controls), establish one or more preventive controls to significantly minimize or prevent the hazard in an animal food and components to manage those controls (such as monitoring, corrections or corrective actions, verification, and records) as appropriate to the animal food, the facility, and the nature of the preventive control and its role in the facility's food safety system.

* * * * *

Small business means, for purposes of this part, a business (including any subsidiaries and affiliates) employing fewer than 500 full-time equivalent employees.

* * * * *

■ 3. In § 507.5, revise paragraph (e)(5) to read as follows:

§ 507.5 Exemptions.

* * * * *

(e) * * *

(5) Molasses (*e.g.,* processed sugar cane, sugar beets, and citrus);

* * * * *

■ 4. In § 507.7, revise paragraphs (b)(2)(i)(B) and (b)(2)(ii) to read as follows:

§ 507.7 Requirements that apply to a qualified facility.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(B) Write to the U.S. Food and Drug Administration (HFS–681), 5100 Paint Branch Pkwy., College Park, MD 20740; or

* * * * *

(ii) Send a paper Form FDA 3942b to the U.S. Food and Drug Administration (HFS–681), 5100 Paint Branch Pkwy., College Park, MD 20740. We recommend that you submit a paper copy only if your facility does not have reasonable access to the Internet.

* * * * *

■ 5. In § 507.19, revise paragraph (b)(2) to read as follows:

§ 507.19 Sanitation.

* * * * *

(b) * * *

(2) In wet processing of animal food, when cleaning and sanitizing are necessary to protect against the introduction of undesirable microorganisms into animal food, all animal food-contact surfaces must be cleaned and sanitized before use and after any interruption during which the animal food-contact surfaces may have become contaminated.

* * * * *

■ 6. In § 507.27, revise paragraph (b) to read as follows:

§ 507.27 Holding and distribution.

* * * * *

(b) The labeling for the animal food ready for distribution must contain, when applicable, information and instructions for safely using the animal food for the intended animal species.

* * * * *

■ 7. In § 507.33, revise paragraph (c)(1) to read as follows:

507.33 Hazard analysis.

* * * * *

(c)(1) The hazard analysis must include an evaluation of the hazards identified in paragraph (b) of this section to assess the severity of the illness or injury to humans or animals if the hazard were to occur and the probability that the hazard will occur in the absence of preventive controls.

* * * * *

■ 8. In § 507.36, revise paragraphs (a)(2) introductory text and (3) introductory text and paragraphs (a)(5) and (b)(5) to read as follows:

§ 507.36 Circumstances in which the owner, operator, or agent in charge of a manufacturing/processing facility is not required to implement a preventive control.

(a) * * *

(2) You rely on your customer who is subject to the requirements for hazard analysis and risk-based preventive controls in this subpart to ensure that the identified hazard will be significantly minimized or prevented; and you:

* * * * *

(3) You rely on your customer who is not subject to the requirements for hazard analysis and risk-based preventive controls in this subpart to provide assurance it is manufacturing, processing, or preparing the animal food in accordance with applicable animal food safety requirements and you:

* * * * *

(5) You have established, documented, and implemented a system that ensures control, at a subsequent distribution step, of the hazards in the animal food you distribute and you document the implementation of that system.

* * * * *

(b) * * *

(5) Your system, in accordance with paragraph (a)(5) of this section, that ensures control, at a subsequent

distribution step, of the hazards in the animal food you distribute.

* * * * *

■ 9. In § 507.47, revise paragraphs (b)(1)(i)(A) and (b)(1)(i)(B)(*1*) to read as follows:

§ 507.47 Validation.

* * * * *

(b) * * *

(1) * * *

(i)(A) Prior to implementation of the food safety plan; or

(B) * * *

(*1*) Within 90 calendar days after production of the applicable animal food first begins; or

* * * * *

■ 10. In § 507.50, revise paragraph (c)(1) to read as follows:

§ 507.50 Reanalysis.

* * * * *

(c) * * *

(1) Before any change in activities (including any change in preventive control) at the facility is operative; or

* * * * *

■ 11. In § 507.51, revise paragraph (a)(4)(iii) to read as follows:

§ 507.51 Modified requirements that apply to a facility solely engaged in the storage of unexposed packaged animal food.

(a) * * *

(4) * * *

(iii) Reviewing records of monitoring and corrective actions taken to correct a problem with the control of temperature within 7-working days after the records are created or within a reasonable timeframe, provided that the preventive controls qualified individual prepares (or oversees the preparation of) a written justification for a timeframe that exceeds 7-working days; and

* * * * *

■ 12. In § 507.65, revise paragraph (e) to read as follows:

§ 507.65 Contents of an order to withdraw a qualified facility exemption.

* * * * *

(e) A statement that a facility may request that FDA reinstate an exemption that was withdrawn by following the procedures in § 507.85;

* * * * *

■ 13. In § 507.69, revise paragraph (a)(1) to read as follows:

§ 507.69 Procedure for submitting an appeal.

(a) * * *

(1) Submit the appeal in writing to the FDA District Director in whose district the facility is located (or, in the case of a foreign facility, the Director of the Division of Compliance in the Center for Veterinary Medicine), at the mailing address, email address, or facsimile number identified in the order within 15 calendar days of the date of receipt of confirmation of the order; and

* * * * *

Dated: January 15, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–01290 Filed 1–21–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy (DoN) is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (DAJAG) (Admiralty and Maritime Law) has determined that USS *MONTGOMERY* (LCS 8) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

DATES: This rule is effective January 22, 2016 and is applicable beginning December 15, 2015.

FOR FURTHER INFORMATION CONTACT: Commander Theron R. Korsak, JAGC, U.S. Navy, Admiralty Attorney, (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave. SE., Suite 3000, Washington Navy Yard, DC 20374–5066, telephone number: 202–685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the DoN amends 32 CFR part 706.

This amendment provides notice that the DAJAG (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS *MONTGOMERY* (LCS 8) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I paragraph 2(a)(i), pertaining to the location of the forward masthead light at a height not less than 12 meters above the hull; Annex I, paragraph 2(f)(i), pertaining to the placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, paragraph 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and the horizontal distance between the forward and after masthead light; Annex I, paragraph 3(c), pertaining to the task light's horizontal distance from the fore and aft centerline of the vessel in the athwartship direction. The DAJAG (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

For the reasons set forth in the preamble, the DoN amends part 706 of title 32 of the Code of Federal Regulations as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

■ 2. Section 706.2 is amended by:

■ a. In Table One, adding, in alpha numerical order, by vessel number, an entry for USS *MONTGOMERY* (LCS 8);

■ b. In Table Four, under paragraph 15, adding, in alpha numerical order, by vessel number, an entry for USS *MONTGOMERY* (LCS 8);

■ c. In Table Four, under paragraph 16, adding, in alpha numerical order, by vessel number, an entry for USS *MONTGOMERY* (LCS 8); and

■ d. In Table Five, adding, in alpha numerical order, by vessel number, an entry for USS *MONTGOMERY* (LCS 8).

§ 706.2 Certifications of the Secretary of the Navy Under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE ONE

Vessel	Number	Distance in meters of forward masthead light below minimum required height § 2(a)(i) Annex I
* * * * *	*	*
USS *MONTGOMERY*	LCS 8	4.91
* * * * *	*	*

* * * * *

15. * * *

TABLE FOUR

Vessel	Number	Horizontal distances from the fore and aft centerline of the vessel in the athwartship direction
* * * * *	*	*
USS *MONTGOMERY*	LCS 8	1.31 meters.

16. * * *

Vessel	Number	Obstruction angle relative ship's headings
* * * * *	*	*
USS *MONTGOMERY*	LCS 8	71° thru 73°. 76° thru 78°. 287° thru 289°.
* * * * *	*	*

* * * * *

TABLE FIVE

Vessel	Number	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than 1/2 ship's length aft of forward masthead light. Annex I, sec. 3(a)	Percentage horizontal separation attained
* *	*	*	*	*	*
USS *MONTGOMERY*	LCS 8		X	X	17.9
* *	*	*	*	*	*

APPROVED: December 15, 2015.

A.B. Fischer,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Admiralty and Maritime Law).

Dated: January 14, 2016.

N.A. Hagerty-Ford,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2016–01229 Filed 1–21–16; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

RIN 0596–AD25

Stewardship End Result Contracting Projects

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: The United States Department of Agriculture (Department) is issuing this rule to carry out Stewardship End Result Contracting Projects. This authority originated on a limited pilot basis and then was expanded through a succession of subsequent amendments and continued into Fiscal Year 2014. The enactment of section 8205 of the Agricultural Act of 2014 (2014 Act) establishes permanent authority to conduct Stewardship End Result Contracting projects by adding a new section 604 to the Healthy Forests Restoration Act of 2003 (HFRA). Accordingly, this final rule sets forth the regulations implementing this permanent authority. These regulations generally follow the Forest Service policy and processes that have been in place for some time. The regulations revise existing Forest Service policy to provide greater uniformity in the administration of the various mechanisms used by the Forest Service to implement stewardship projects.

DATES: This rule is effective January 22, 2016.

FOR FURTHER INFORMATION CONTACT: David Lawrence, at 202–205–1269 or *delawrence01@fs.fed.us.*

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

SUPPLEMENTARY INFORMATION:

1. Background

Beginning in 1998 with the enactment of section 347 of the Omnibus Consolidated Appropriations Act, 1999 (Pub. L. 105–277), the Forest Service has been authorized to enter into stewardship projects since 1999 (16 U.S.C. 2104 note); however, this authority was not permanent. The 2014 Act makes the authority permanent through an amendment to HFRA. With limited exceptions, the permanent authority is identical to the temporary authority. Section 604(b) of HFRA provides that the Forest Service, ''via agreement or contract as appropriate, may enter into stewardship contracting projects with private persons or other public or private entities to perform services to achieve land management goals for the national forests and the public lands that meet local and rural community needs.'' Section 604(d)(1) provides that a source for performance of a stewardship agreement or contract must be selected on a best value basis. Section 604(d)(4) further provides that the Forest Service can apply the value of timber or other forest products removed under the project as an offset against the value of the services received by the Forest Service. In accordance with section 604(e), the Forest Service can collect funds received under a stewardship project if doing so is a secondary objective of the project.

Pursuant to section 604 of HFRA, the land management goals of a stewardship project may include any of the following:

1. Road and trail maintenance or obliteration to restore or maintain water quality;
2. Soil productivity, habitat for wildlife and fisheries, or other resource values;
3. Setting of prescribed fires to improve the composition, structure, condition, and health of stands or to improve wildlife habitat;
4. Removing vegetation or other activities to promote healthy forest stands, reduce fire hazards, or achieve other land management objectives;
5. Watershed restoration and maintenance;
6. Restoration and maintenance of wildlife and fish; and
7. Control of noxious and exotic weeds and reestablishing native plant species.

The Forest Service has utilized several types of contracts to implement the stewardship end result contracting authority. Generally, a contract that resulted in the Forest Service's receipt of service work in an amount greater than the value of the timber or forest product removed by a contractor utilized a contract that resembled a procurement of service contract. A contract that resulted in the Forest Service's receipt of service work in an amount less than the value of the timber or forest product removed by a contractor utilized a contract that resembled a timber sale contract.

Recognizing the unique nature of the use of timber and forest products as consideration for the services received under stewardship contracts and agreements, section 604(d)(2) provides that the Secretary may consider a stewardship contract to be a contract for the sale of property under terms prescribed by the Secretary without regard to any other provision of law. Accordingly, section 223.301 of this rule continues the use of the different types of contracts based on the value of the products removed and services received. In order to ensure consistency in the operation of these projects to the extent that is practicable, sections 223.303 and 223.304 provide for the use of existing regulatory provisions. Section 223.303 sets forth the rules for contracts that are principally the acquisition of a service and rely upon the Federal Acquisition Regulations (FAR) set forth in Title 48 of the Code of Federal Regulations. Section 223.304 sets forth the rules for contracts that are principally sales of property contracts and generally rely upon existing Forest Service Timber Sale regulations set forth in 36 CFR part 223, subparts A & B, except as provided in section 223.304(a).

The regulations in 2 CFR 200, as adopted and supplemented by the USDA in 2 CFR 400, 416 and 422 set forth the general rules that are applicable to all grants and cooperative agreements made by the Department of Agriculture. Because the Forest Service's use of agreements entered into under this part are not financial assistance for the benefit of the recipient but instead are entered into for the benefit of the Forest Service, the assistance regulations in 2 CFR 200, as adopted and supplemented by the USDA in 2 CFR 400, are not applicable to such agreements.

While this final rule generally sets forth the manner in which the Forest Service has implemented stewardship projects since 1999, this final rule also sets forth with greater clarity the process for selecting the appropriate mechanism to implement a stewardship end result project. Section 604(d) of HFRA requires that a source for performance of a stewardship agreement or contract be selected on a best-value basis. A stewardship agreement or contract may also be entered into notwithstanding subsections (d) and (g) of section 14 of the National Forest Management Act of

1976 (16 U.S.C. 472a). The timber included in all stewardship contracts and agreements is appraised according to standard Forest Service appraisal methods, as described in Forest Service Manual 2420.

With the enactment of section 8205 of the 2014 Act, and the corresponding HFRA amendments, the Forest Service's authority to enter into Stewardship End Result Contracting Projects is now permanently authorized. Since the primary purpose of this rule is to set forth contracting procedures that were used to implement the prior statutory provisions that were not of a permanent nature, it has been determined that this rule should become effective upon publication.

2. Regulatory Certifications

Environmental Impact

This final rule would revise Part 223 to set forth the regulations used in the conduct of Stewardship End Result Contracting Projects. The Forest Service has determined that this final rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

Notice and Comment/Delayed Effective Date

We are issuing this final rule without prior notice and opportunity for comment. The Administrative Procedures Act (APA) exempts rules ''relating to agency management or personnel or to public property, loans, grants, benefits, or contracts'' from the statutory requirement for prior notice and opportunity for comment, as well as the statutory requirement for 30 days to pass before the action can be effective.

Regulatory Impact

This final rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. The Office of Management and Budget (OMB) has determined that this is not a significant rule. This rule would not have an annual effect of $100 million or more on the economy, nor would it adversely affect productivity, competition, jobs, the environment, public health and safety, or State or local governments. This final rule would not interfere with an action taken or planned by another agency, nor raise new legal or policy issues. Finally, this final rule would not alter the budgetary impact of entitlement, grant, user fee, or loan programs or the rights and obligations of beneficiaries of such programs. Accordingly, this final rule is not subject to Office of Management and Budget (OMB) review under Executive Order (E.O.) 12866.

Regulatory Flexibility Act

The Forest Service has considered this final rule in light of the Regulatory Flexibility Act (5 U.S.C. 602 *et. seq.*) and has determined that this rule would not have a significant economic impact on a substantial number of small entities as defined by the Act. This final rule would not have any effect on small entities, as it would simply set forth existing Forest Service process for the conduct of Stewardship End Result Contracting Projects which have generally been in place for more than 10 years. This rule would not impose record-keeping requirements on small entities; it would not affect their competitive position in relation to large entities; and it would not affect their cash flow, liquidity, or ability to remain in the market.

No Takings Implications

The Forest Service has analyzed this final rule in accordance with the principles and criteria contained in E.O. 12630 and determined that the rule would not pose the risk of taking private property.

Civil Justice Reform Act

The Forest Service has reviewed this final rule under E.O. 12988, Civil Justice Reform. Under this rule, (1) all State and local laws and regulations that conflict with this rule or that impede its full implementation would be preempted; (2) no retroactive effect would be given to this final rule; and (3) it would require administrative proceedings before parties may file suit in court challenging its provisions.

Federalism and Consultation and Coordination With Indian Tribal Governments

The Forest Service has considered this final rule under the requirements of E.O. 13132 on federalism and has determined that this rule conforms with the federalism principles in the E.O.; would not impose any compliance costs on the States; and would not have any substantial direct effects on the States, the relationship between the Federal Government and the States, or the distribution of power and responsibilities among the various levels of government. Moreover, this final rule does not have tribal implications as defined by E.O. 13175, Consultation and Coordination with Indian Tribal Governments, and therefore advance consultation with tribes is not required.

Energy Effects

The Forest Service has reviewed this final rule under E.O. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'', and has determined that this rule would not constitute a significant energy action as defined in the E.O.

Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Forest Service has assessed the effects of this final rule on State, local, and tribal governments and the private sector. This rule would not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Controlling Paperwork Burdens on the Public

This final rule does not contain any record-keeping or reporting requirements or other information collection requirements as defined in 5 CFR 1320 that are not already required by law or not already approved for use. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et. seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

List of Subjects in 36 CFR Part 223

Administrative practice and procedure, Exports, Forests and forest products, Government contracts, National forests, Reporting and recordkeeping requirements.

Therefore, for the reasons stated in the preamble, the Forest Service amends 36 CFR part 223 as follows:

PART 223—SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER, SPECIAL FOREST PRODUCTS, AND FOREST BOTANICAL PRODUCTS

■ 1. The authority citation for part 223 is revised to read as follows:

Authority: 16 U.S.C. 618, 620–620j, 472a, and 6591c.

■ 2. Subpart I is added to read as follows:

Subpart I—Stewardship End Result Contracting Projects

Sec.

223.300 Applicability.
223.301 Determination of type of contract or agreement.
223.302 Award of contracts and agreements.
223.303 Procurement of service contacts.

223.304 Sale of property contracts.
223.305 Agreements.

§ 223.300 Applicability.

(a) This part sets forth the regulations applicable to the implementation of section 604 of the Healthy Forest Restoration Act of 2003, ''Stewardship End Result Contracting Projects'' 16 U.S.C. 6591c. This section provides for the use of contracts and agreements to achieve land management goals for the national forests and the public lands that meet local and rural community needs. In the fulfillment of these activities, the Forest Service may apply the value of timber or other forest products removed from the project site as an offset against the cost of services received under such contracts or agreements.

(b)(1) *Procurement of service contracts.* If the Forest Service makes a determination as provided under section 223.301(b)(1) of this subpart that a stewardship contract is a contract for the procurement of services, the Forest Service will utilize the contracting procedures set forth in the Federal Acquisition Regulations, Title 48 of the Code of Federal Regulations including the regulations issued by the Department of Agriculture set forth in Chapter 4 of Title 48 as well as requirements included in § 223.303.

(2) *Sale of property contracts.* If the Forest Service makes a determination under § 223.301(b)(2) of this subpart that a stewardship contract is to be a contract for the sale of property, the regulations set forth in subparts A and B of this part are generally applicable, except as provided in § 223.304.

(3) *Agreements.* Agreements entered into under this subpart are not subject to grant regulations found in 2 CFR part 200 as adopted and supplemented by the USDA in 2 CFR parts 400, 416, and 422.

(4) *Other provisions.* Additional terms and conditions for contracts and agreements may be added to a contract or agreement entered into under this subpart, in accordance with applicable law and to the extent determined to be necessary by the Forest Service.

(c) *Parties to contracts and agreements.* The Forest Service may enter into contracts and agreements under this part with private persons, private entities and public entities.

§ 223.301 Determination of type of contract or agreement.

(a) *Use of a contract or agreement.* When the Forest Service initiates a project under this subpart, a determination will be made whether to use a contract or an agreement to implement the project.

(b) *Type of contract.* If the Forest Service determines that a contract will be utilized:

(1) *Procurement of service contracts.* When the value of timber or other forest products removed through the contract will be less than the total value of the service work items received by the Forest Service, the activity shall be considered a procurement of a service and a contract, for a period not to exceed 10 years, will be utilized as provided in § 223.303 or

(2) *Sale of property contracts.* When the value of timber or other forest products removed through the contract is equal to or exceeds the total value of the service work items received by the Forest Service, the activity shall be considered a sale of property and a contract, for a period not to exceed 10 years, will be utilized as provided in § 223.304.

(c) *Best interest of the government determination.* The Forest Service official who makes a determination under paragraph (b) of this section shall document in the contract file the basis for the determination that:

(1) It is in the best interest of the government that a sale of property contract is more suitable for a contract that would otherwise be subject to paragraph (b)(1) of this section; or

(2) It is in the best interest of the government that a procurement of service contract is more suitable for a contract that would otherwise be subject to paragraph (b)(2) of this section.

§ 223.302 Award of contracts and agreements.

Section 604(d) of HFRA requires that a source for performance of a stewardship agreement or contract be selected on a best-value basis. A stewardship agreement or contract may also be entered into notwithstanding subsections (d) and (g) of section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a).

§ 223.303 Procurement of service contacts.

All contracts determined under § 223.301(b)(1) to be a contract for receipt of a service shall:

(a) Be administered under the Federal Acquisition Regulations, Title 48 of the Code of Federal Regulations including the regulations issued by the Department of Agriculture set forth in Chapter 4 of Title 48; and

(b) Provide for a fire liability provision. All contracts under this section shall contain a fire liability provision that is in substantially the same form as the fire liability provision contained in integrated resource timber contracts, as described in Forest Service contract numbered 2400–13, part H, section 4.

(c) Utilize the following provisions of subparts A and B of this part:

(1) Section 223.1 Authority to sell timber.

(2) Section 223.3 Sale of seized material.

(3) Section 223.14 Where timber may be cut.

(4) Section 223.30 Consistency with plans, environmental standards, and other management requirements.

(5) Section 223.34 Advance payment.

(6) Section 223.36 Volume determination.

(7) Section 223.37 Revegetation of temporary roads.

(8) Section 223.38 Standards for road design and construction.

(9) Section 223.40 Cancellation for environmental protection or inconsistency with plans.

(10) Section 223.48 Restrictions on export and substitution of unprocessed timber.

(11) Section 223.60 Determining fair market value.

(12) Section 223.61 Establishing minimum stumpage rates.

(13) Section 223.87 Requirements of bidders concerning exports.

(14) Section 223.113 Modification of contracts to prevent environmental damage or to conform to forest plans.

(d) Products may be valued on a per acre basis.

(e) Such other provisions as are necessary to carry out the provisions of section 604 of the Healthy Forest Restoration Act of 2003 (16 U.S.C. 6591c).

§ 223.304 Sale of property contracts.

All contracts determined under § 223.301(b) to be a contract for a sale of property shall:

(a) Utilize the provisions of subparts A and B of this part, except that the following provisions will not be applicable:

(1) Section 223.4 Exchange of trees or portions of trees.

(2) Section 223.31 Duration of contracts.

(3) Section 223.42 Transfer of effective purchaser credits.

(4) Section 223.43 Limit on amounts of transferred purchaser credits.

(5) Section 223.44 Collection rights on contracts involved in transfer of purchaser credit.

(6) Section 223.44 Collection rights on contracts involved in transfer of purchaser credit.

(7) Section 223.45 Definitions applicable to transfer of purchaser credit.

(8) Section 223.49 Downpayments. Paragraph (d).

(9) Section 223.62 Timber purchaser road construction credit.

(10) Section 223.65 Appraisal of timber for land exchange; right-of-way, or other authorized use.

(11) Section 223.80 When advertisement is required.

(12) Section 223.82 Contents of advertisement.

(13) Section 223.83 Contents of prospectus.

(14) Section 223.84 Small business bid form provisions on sales with specified road construction.

(15) Section 223.88 Bidding methods.

(16) Section 223.100 Award to highest bidder.

(17) Section 223.102 Procedure when sale is not awarded to highest bidder.

(18) Section 223.103 Award of small business set aside sales.

(19) Section 223.118 Appeal process for small business timber sale set-aside program share recomputation decisions.

(b) Include the following additional provisions:

(1) If determined by the Forest Service to be necessary to protect the interests of the United States, a performance and payment bond, as described on February 7, 2014, in section 28–103–2 and 28–103–3 of Part 48 of the Code of Federal Regulations, in an amount sufficient to protect the investment in receipts by the United States generated by the contractor from the estimated value of the forest products to be removed under the contract;

(2) Provide for a fire liability provision.

(3) Redetermination of stumpage rates and deposits: The cost of service work included in stewardship contracts will be evaluated along with stumpage values at the time of a rate determination in accordance with normal rate determination procedures.

(4) Products may be valued on a per acre basis.

(5) Such other provisions as are necessary to carry out the provisions of section 604 of the Healthy Forest Restoration Act of 2003 (16 U.S.C. 6591c).

§ 223.305 Agreements.

The Forest Service may enter into an agreement under this subpart in lieu of a contract.

(a) The regulations governing Federal financial assistance relationships are not applicable to such agreements.

(b) All agreements under this section shall contain a fire liability provision that is in substantially the same form as the fire liability provision contained in integrated resource timber contracts, as described in Forest Service contract numbered 2400–13, part H, section 4.

Dated: January 14, 2016.

Robert Bonnie,

Under Secretary, NRE, U.S. Department of Agriculture.

[FR Doc. 2016–01215 Filed 1–21–16; 8:45 am]

BILLING CODE 3411–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2015–0647; FRL–9941–21–Region 6]

Approval and Promulgation of Implementation Plans; Arkansas; Crittenden County Base Year Emission Inventory

Correction

In rule document 2016–00559 beginning on page 1884 in the issue of Thursday, January 14, 2016, make the following correction:

On page 1885, in the first column, in the 14th line, ''March 14, 2016'' should read ''February 16, 2016''.

[FR Doc. C1–2016–00559 Filed 1–21–16; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2015–0373; FRL–9941–17]

Propanoic acid, 2-methyl-, monoester With 2,2,4-trimethyl-1,3-pentanediol; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol when used as an inert ingredient (solvent, co-solvent) in pesticide formulations applied to growing crops or raw agricultural commodities under the EPA's regulations. Dow AgroSciences submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol.

DATES: This regulation is effective January 22, 2016. Objections and requests for hearings must be received on or before March 22, 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–2015–0373, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-*

idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2015–0373 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 22, 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–2015–0373, by one of the following methods:

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

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Petition for Exemption

In the **Federal Register** of August 26, 2015 (80 FR 51759) (FRL–9931–74), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–10786) by Dow AgroSciences, 9330 Zionville Rd., Indianapolis, IN 46268. The petition requested that 40 CFR 180.910 be amended by establishing an exemption from the requirement of a tolerance for residues of propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol (CAS Reg. No. 25265–77–4) when used as an inert ingredient as a solvent or co-solvent in pesticide formulations applied to growing crops or raw agricultural commodities after harvest. That document referenced a summary of the petition prepared by Dow AgroSciences, the petitioner, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

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

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

Propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol has low acute toxicity with oral lethal dose $(LD)_{50}$ values >3,200 milligram/kilogram (mg/kg), dermal LD_{50} values >14,000

mg/kg, and inhalation lethal concentration $(LC)_{50}$ values >3.55 mg/liter (L) in rats, rabbits, and guinea pigs. In a 15-day oral gavage study in rats, the NOAEL was >1,000 mg/kg/day. In a combined repeat dose toxicity and developmental and reproductive toxicity screening test in rats, no reproductive or developmental toxicity was observed at doses up to 1,000 mg/kg body weight (bw)/day, the highest dose tested.

No chronic toxicity studies were available; however, the lack of systemic toxicity in two shorter repeat dose studies at the limit dose of 1,000 mg/kg bw/day indicates that chronic toxicity is not a concern.

Propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol was negative genotoxicity in the Ames assay and in vivo micronucleus assay.

No cancer study is available for propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol, however based on the lack of genotoxicity, no adverse effects seen in subchronic toxicity studies, and structure-activity relationship models (QSAR) modeling that did not indicate any triggers for carcinogenicity, propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol is not expected to be carcinogenic.

Propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol is a mixture of the 1-substituted (−65%) and the 3-substituted (−35%) monoisobutyrate isomers of 2,2,4-trimethyl-l,3-pentanediol. The half-life of the 1-substituted isomer in human and rat blood is between 15 to 22 minutes. No specific information is available on toxicity of propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol metabolites. However, propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol is rapidly metabolized in rat blood, and toxicity of parent propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol in rats was not observed at doses up to 1,000 mg/kg/day, so metabolite toxicity is anticipated to be low.

B. Toxicological Points of Departure/Levels of Concern

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

Since there is no indication of toxicity at the limit dose, a toxicological endpoint of concern for risk assessment purposes was not identified. Since no endpoint of concern was identified for the acute and chronic dietary exposure assessment and short and intermediate dermal and inhalation exposure, a quantitative risk assessment for propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol is not necessary.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol in food as follows:

Dietary exposure can occur from eating foods containing residues of propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol. Because no hazard endpoint of concern was identified for the acute and chronic dietary assessment (food and drinking water), a quantitative dietary exposure risk assessment was not conducted.

2. *Dietary exposure from drinking water.* Propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol residues may be found in drinking water. However, since an endpoint of concern was not identified for the dietary assessment (food and drinking water), a quantitative dietary exposure risk assessment was not conducted.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

Propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol is used as an inert ingredient in pesticide products that could result in short- and intermediate-term residential exposure. However, based on the lack of toxicity, a quantitative exposure assessment from residential exposures was not performed.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol to share a common mechanism of toxicity with any other substances, and propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

Based on an assessment of propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol, EPA has concluded that there are no toxicological endpoints of concern for the U.S. population, including infants and children, and has determined that a qualitative assessment is appropriate. As part of its qualitative assessment, the Agency did not use safety factors for assessing risk, and no additional safety factor is needed for assessing risk to infants and children.

E. Aggregate Risks and Determination of Safety

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

Based on the lack of any toxicological endpoints of concern, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol residues.

V. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.910 for propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol (CAS Reg. No. 25265–77–4) when used as an inert ingredient (solvent or co-solvent) in pesticide formulations applied to growing crops or raw agricultural commodities after harvest.

VII. Statutory and Executive Order Reviews

This action establishes 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 established 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).

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: January 12, 2016.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.910, add alphabetically the entry ''Propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol'' to the table to read as follows:

§ 180.910 Inert ingredients used pre- and post-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * * * *	*	*
Propanoic acid, 2-methyl-, monoester with 2,2,4-trimethyl-1,3-pentanediol (CAS Reg. No. 25265–77–4)	.....	Solvent, co-solvent.
* * * * *	*	*

[FR Doc. 2016–01154 Filed 1–21–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 412

[CMS–1659–N]

RIN 0938–ZB26

Medicare Program; Explanation of FY 2004 Outlier Fixed-Loss Threshold as Required by Court Rulings

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Clarification.

SUMMARY: In accordance with court rulings in cases that challenge the federal fiscal year (FY) 2004 outlier fixed-loss threshold rulemaking, this document provides further explanation of certain methodological choices made in the FY 2004 fixed-loss threshold determination.

DATES: January 22, 2016.

FOR FURTHER INFORMATION CONTACT: Ing-Jye Cheng, 410–786–2260 or Don Thompson, 410–786–6504.

SUPPLEMENTARY INFORMATION:

I. Background

On May 19, 2015, the Court of Appeals for the District of Columbia (DC) Circuit issued a decision in *District Hospital Partners, L.P.* v. *Burwell,* 786 F.3d 46 (DC Cir 2015) (*District Hospital Partners*), holding that the FY 2004 outlier fixed-loss threshold was inadequately explained in the FY 2004 Inpatient Prospective Payment Systems (IPPS) final rule. The court of appeals instructed the district court to remand to the Secretary of Health and Human Services (the Secretary) for further explanation of the Secretary's handling of data pertaining to 123 hospitals that the Secretary had described in a proposed rule updating the outlier regulations (the outlier proposed rule) as hospitals likely to have manipulated their charges to maximize their outlier payments. The court of appeals specified—

> On remand, the Secretary should explain why she corrected for only 50 turbo-charging hospitals in the 2004 rulemaking rather than for the 123 she had identified in the NPRM. She should also explain what additional measures (if any) were taken to account for the distorting effect that turbo-charging hospitals had on the dataset for the 2004 rulemaking. And if she decides that it is appropriate to recalculate the 2004 outlier threshold, she should also decide what effect (if any) the recalculation has on the 2005 and 2006 outlier and fixed loss thresholds.

District Hospital Partners, 786 F.3d at 60. The District Court for the District of Columbia, in turn, issued a remand order to the Secretary. (*See District Hospital Partners, L.P.* v. *Burwell,* No. 11-cv-116 (ECF 129) (August 13, 2015).)

On September 2, 2015, the District Court for the District of Columbia issued an opinion and order in a separate case, *Banner Health* v. *Burwell,* No. 10&cv–1638 (ECF 149 and 150) (*Banner Health*), remanding the fixed loss outlier threshold from the FY 2004 IPPS final rule for additional explanation consistent with the *District Hospital Partners* case. The court stated that the agency should ''explain further why it did not exclude the 123 identified turbo-charging hospitals from the charge inflation calculation for FY 2004—or . . . recalculate the fixed loss threshold if necessary.'' (*Banner Health Memorandum Opinion* (ECF 150) at p.107 and p.120.) We are issuing this document to provide the additional explanation required by these decisions.

II. Provisions of the Notice

A. The Rulemaking at Issue

The Medicare statute requires that outlier payments be calculated based on charges, adjusted to cost (see 42 U.S.C. 1395ww(d)(5)(A)(ii)). To compute an outlier payment, we use hospital-specific cost-to-charge ratios (CCRs), calculated from historical cost and charge data, to reduce the charge on the claim to a cost estimate. The estimated costs of the case are then compared to the Diagnosis Related Group (DRG) payment plus the fixed loss outlier threshold to determine if an outlier payment is appropriate and, if so, the amount of any such payment. Thus, CCRs play a significant role in determining the outlier payment for a case.

In the March 5, 2003, **Federal Register** (68 FR 10420), we issued a proposed rule (the outlier proposed rule) that would update the outlier regulations due to improper manipulation of charges by hospitals, also known as ''turbocharging.'' On June 9, 2003, we issued a subsequent final rule (68 FR 34494) that finalized changes to the outlier policy (the outlier final rule). In the FY 2004 IPPS final rule, which appeared in the August 1, 2003, **Federal Register** (68 FR 45346) (the FY 2004 IPPS final rule), we applied the policies finalized in the outlier final rule in the calculation of the FY 2004 fixed loss outlier threshold.

In the outlier proposed rule, we proposed multiple policy changes that affected outlier payments. These policies were finalized in the outlier final rule. The changes were intended to respond to turbocharging, a practice in which hospitals would repeatedly increase their charges at rates exceeding the rates of increase in their costs. Turbocharging would lead to outlier payments greater than warranted by a hospital's actual costs because the historical CCR used to generate cost estimates would not capture the true present relationship between the hospital's costs and its charges.

Three specific changes made in the outlier final rule are relevant to our present discussion. The first important change made in the outlier final rule was to alter our policy regarding when to apply statewide average CCRs. Prior to the outlier final rule, when a hospital's CCR dipped below a pre-determined CCR floor (set in the annual IPPS final rule), it would be assigned a statewide average CCR in place of the hospital's computed CCR. We noted that if a hospital repeatedly increased its charges at a faster rate than its costs increased, its CCR could fall below the floor, which would lead to the application of a higher statewide average CCR, and would significantly increase outlier payments. Therefore, in order to mitigate gaming of the application of the statewide average CCR, we finalized a policy that would no longer substitute statewide average CCRs if a hospital's actual CCR dipped below the floor. Hospitals would be assigned their actual CCRs no matter how low their CCR dipped.

The second key change to the outlier policy was to require use of CCRs from tentative settled Medicare cost reports when available. Previously, a hospital's outlier payments would be calculated based on a CCR drawn from its most recent final settled cost report, that is, its most recent cost report that had undergone complete review. We observed that if a hospital had significantly increased its charges since the period covered by its most recent final settled cost report, the hospital could receive inordinately high outlier payments because the CCR used to calculate its payments would not reflect its recent charge increases. Therefore, we modified the outlier policy to require use of more up-to-date CCR data drawn from a tentative settled cost report, when available. The tentative settlement is a cursory review of the cost report that takes place within 60 days of the acceptance of a cost report by CMS. We explained that we expected use of this more up-to-date data would reduce the time lag between a hospital's CCR and its current billed charges by a year or more. In our discussion of this policy change in the March 2003 outlier

proposed rule, we described an analysis of the Medicare Provider Analysis and Review (MedPAR) file data from FY 1999 to FY 2001 in which we identified 123 hospitals whose percentage of outlier payments relative to total DRG payments increased by at least 5 percentage points over that period, and whose case-mix (the average DRG relative weight value for a hospital's Medicare cases) adjusted charges increased at a rate at or above the 95th percentile rate of charge increase for all hospitals (46.63 percent) over the same period. We noted at that time that the recent dramatic increases in charges for those hospitals were not reflected in their current CCRs (based on final settled cost reports).

The third key change made in the outlier final rule was to make outlier payments subject to adjustments when hospitals' cost reports are settled. We explained that outlier payments would be processed throughout the year using operating and capital CCRs based on the best information available at that time, but at the time a cost report was settled, outlier payments could be reconciled using updated CCRs that are computed from more recent cost report and charge data. We instructed our contractors to put a hospital through outlier reconciliation if it: 1) has a 10-percentage point change in its CCR from the time the claim was paid compared to the CCR at final cost report settlement; and 2) receives total outlier payments exceeding $500,000 during the cost reporting period.

Some of the provisions of the outlier final rule became effective for discharges occurring on or after August 8, 2003. The remaining provisions became effective for discharges occurring on or after October 1, 2003.

After these changes were finalized in the June 2003 outlier final rule, we then set the fixed loss outlier threshold for FY 2004 in the FY 2004 IPPS final rule (68 FR 45476 through 45478). When we calculated the fixed-loss threshold for FY 2004, we simulated payments by applying FY 2004 rates and policies to cases from the FY 2002 MedPAR file. The FY 2004 policies applied in the payment simulations included the policy changes that had been finalized in the June 2003 outlier final rule: 1) we attempted to approximate the use of tentative settled cost report data by calculating updated cost-to-charge ratios for each hospital from recent cost reporting data; and 2) we used a hospital's computed CCR even if it was very low, rather than substituting a statewide average CCR. We noted that it was difficult to project which hospitals would be subject to reconciliation of their outlier payments using then-available data. Nevertheless, we stated that our analysis at that time had identified approximately 50 hospitals that we thought would be subject to reconciliation. For those approximately 50 hospitals, we employed cost-to-charge ratios estimated from recent data using the hospital's rate of increase in charges per case based on FY 2002 charges, compared to costs (inflated to FY 2004 using actual market basket increases).

B. Further Explanation of the FY 2004 Determination in Response to the Courts' Orders

The court rulings discussed previously stated that we should explain why, in simulating FY 2004 payments to calculate the FY 2004 fixed loss outlier threshold, we made additional adjustments to the cost-to-charge ratios for approximately 50 hospitals, given that the March 2003 outlier proposed rule had discussed 123 hospitals that appeared to have benefited from vulnerabilities in the outlier payment rules. The reason is that the adjustments made to approximately 50 hospitals were intended to account for changes that might be made to hospitals' cost-to-charge ratios through reconciliation when their cost reports were settled. Those particular adjustments were not intended to account for possible disparities between hospitals' historical cost-to-charge ratios and the ratios that would be used to calculate FY 2004 outlier payments at the time the hospitals' claims were processed. We had separately accounted for disparities of that kind by computing new cost-to-charge ratios for all hospitals, including the 123 hospitals previously identified as possible turbochargers.

As discussed previously, our June 2003 outlier final rule was motivated by our observation that, because of turbocharging, the cost-to-charge ratios used to calculate a hospital's outlier payments sometimes failed to reflect the actual relationship between the hospital's costs and its charges at the time the hospital submitted a claim for payment. The June 2003 outlier final rule included separate measures that were each designed to address a different component of this problem. We adopted the use of more up to date cost-to-charge ratio data from tentative settled cost reports to ensure that the cost-to-charge ratio used to make a hospital's payments would come as close as possible to reflecting the present relationship between the hospital's costs and its charges. However, we recognized that while using data from tentative settled cost reports would reduce the time lag between cost-to-charge ratio data and outlier payment claims, it would not eliminate the time lag altogether. Data from a tentative settled cost report still would not reflect recent charge increases that had occurred since the submission of the cost report. Therefore, we separately provided for reconciliation of outlier payments at the time a cost report was settled. Thus, if a hospital received unduly high outlier payments because it had significantly increased its charges since the time of its most recent tentative settled cost report, there would be some opportunity to readjust those payments at a later date based on even newer data.

To simulate FY 2004 payments for purposes of calibrating the FY 2004 fixed loss outlier threshold, we needed to apply the rules that would be in place in FY 2004, and so we needed to simulate application of the new rules that had been adopted as part of the June 2003 outlier final rule. To approximate the use of more recent data from tentative settled cost reports, we calculated cost-to-charge ratios from more recent data for all hospitals, including the 123 hospitals discussed in the March 2003 proposed rule. Our most immediate purpose in this measure was to ensure that our simulated FY 2004 payments would match up as closely as possible with how FY 2004 claims would actually be paid. But this measure also had the additional benefit of reducing any reason for concern that cost-to-charge ratios drawn from older historical data for the 123 hospitals would not reliably approximate the cost-to-charge ratios that would be used to pay FY 2004 claims for those 123 hospitals. The payment simulations employed cost-to-charge ratios calculated from very recent data for all hospitals, including the 123 hospitals, and did not employ cost-to-charge ratios drawn from older historical data.

The additional adjustments made to approximately 50 hospitals were intended to simulate the operation of the newly adopted rule permitting some outlier payments to be adjusted through reconciliation after they were paid. Reconciliation of outlier payments is a burdensome process, and we had indicated that reconciliation would not be performed for all hospitals, or even all hospitals suspected of turbocharging in the past. Rather, reconciliation generally would be performed only if a hospital met the criteria we had specified for reconciliation: A 10-percentage point change in the hospital's CCR from the time the claim was paid compared to the CCR at cost

report settlement; and receipt of total outlier payments exceeding $500,000 during the cost reporting period. We identified approximately 50 hospitals that we determined likely to meet these criteria in FY 2004, and we specially calculated cost-to-charge ratios for those hospitals as explained previously and in the FY 2004 IPPS final rule, so that our payment simulations would represent our best approximation of the final amount of outlier payments after reconciliation had been completed. We did not expect that all of the 123 hospitals discussed in the March 2003 proposed rule would be likely to meet the criteria for reconciliation, and so we did not make this same adjustment with respect to all of those 123 hospitals.

The court rulings also called for an explanation of other steps taken to account for any ''distorting effect'' associated with the 123 hospitals discussed in the March 2003 proposed rule. As we explained previously, our payment simulations employed cost-to-charge ratios calculated from recent data for all hospitals, including the 123 hospitals, and did not employ cost-to-charge ratios drawn from older historical data. That reduced any reason for concern that cost-to-charge ratios drawn from older historical data for the 123 hospitals would not reliably approximate the cost-to-charge ratios that would be used to pay FY 2004 claims for those 123 hospitals. We also anticipated that implementation of the June 2003 outlier final rule would curb the turbocharging practices that had caused rapid increases in charges in previous years; and therefore, we saw no reason to further adjust our payment simulations to account for future turbocharging by the 123 hospitals. Therefore, we did not apply any additional adjustments focused on the 123 hospitals that had been discussed in the March 2003 proposed rule, beyond the adjustments we have already discussed.

The court rulings also stated that we should explain further why we did not exclude the 123 identified turbo charging hospitals from the charge inflation calculation for FY 2004. We simply did not have strong reason to believe that excluding the 123 hospitals from the charge inflation calculation, or from other parts of the fixed loss outlier threshold calculation, would improve our projections.

When we simulate payments for purposes of calculating the fixed loss outlier threshold, we use MedPAR data from an earlier period to produce a simulated set of claims for the period for which we are calculating the fixed loss outlier threshold. For the FY 2004 final rule, we used cases from the FY 2002 MedPAR file to simulate FY 2004 cases. We applied a charge inflation factor to account for growth in hospital charges between the period covered by the MedPAR data and the period for which we are calculating the fixed loss outlier threshold. In this instance, the charge inflation factor was intended to account for growth in hospital charges over the 2-year period between FY 2002 and FY 2004. We estimated charge growth over this period based on actual charge growth over an earlier 2-year period, FY 2000 to FY 2002. More specifically, our estimate of charge inflation was based on the 2-year average annual rate of change in charges per case from FY 2000 to FY 2001 and from FY 2001 to FY 2002 (12.5978 percent annually, or 26.8 percent over 2 years).

Although we expected the June 2003 outlier final rule to curb turbocharging, which would affect the rate of charge growth after the rule became effective, we believed that past charge growth would still be a satisfactory basis for estimating more recent charge growth, for the 123 hospitals as well as for other hospitals. The outlier final rule was in effect for only part of the interval that our charge inflation estimate was intended to reflect. The outlier final rule went into effect only in part for the last 2 months of FY 2003, and went into effect in full only at the beginning of FY 2004.

We had no strong reason to expect that excluding the 123 hospitals from our charge inflation calculations, or from other parts of our simulations, would improve our simulations in a way that would bring outlier payments closer to our target of 5.1 percent of operating DRG payments. The 123 hospitals were not excluded from claiming outlier payments in FY 2004, so excluding them from our simulations would have introduced a different form of distortion into our simulations, by causing the simulations to disregard the impact of those hospitals. While excluding the 123 hospitals might produce a lower estimate of charge inflation, a lower estimate is not necessarily a better estimate. A charge inflation estimate that is too low could lead to a fixed loss outlier threshold that produces outlier payments farther from, instead of closer to, the target of 5.1 percent of operating DRG payments.

Finally, the court rulings state that if we decide to recalculate the FY 2004 fixed loss outlier threshold, we should also address any effect that recalculation has on the FY 2005 and FY 2006 outlier and fixed-loss thresholds. We are not recalculating the FY 2004 fixed-loss threshold. We also note that the fixed loss outlier thresholds are set based on new calculations each year without reference to the previous year's threshold; even if the FY 2004 threshold had been reset, there would be no reason to revisit the FY 2005 or FY 2006 calculation.

III. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: January 4, 2016.

Andrew M. Slavitt,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: January 15, 2016.

Sylvia M. Burwell,

Secretary, Department of Health and Human Services.

[FR Doc. 2016–01309 Filed 1–21–16; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[GN Docket No. 12–268, WT Docket Nos. 14–70, 05–211, RM–11395; FCC 15–80]

Updating Competitive Bidding Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) approved, on an emergency basis, a revision to an approved information collection to implement modified and new collection requirements on FCC Form 175, Application to Participate in an FCC Auction, contained in the *Part 1 Report and Order,* Updating Competitive Bidding Rules, FCC 15–80. This document is consistent with the *Part 1 Report and Order,* which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of the rules and requirements.

DATES: 47 CFR 1.2105(a)(2), 1.2105(a)(2)(iii)–(vi), (a)(2)(viii)–(x), (a)(2)(xii), 1.2105(c)(3), and 1.2112(b)(1)(iii)–(vi), published at 80 FR 56764 on September 18, 2015, and

revised FCC Form 175, are effective on January 22, 2016. OMB approved the information collection requirements in 47 CFR 1.2105(c)(3), 1.2110(b)(1), and 1.2112(b) on January 14, 2016.

FOR FURTHER INFORMATION CONTACT: Contact Cathy Williams, *Cathy.Williams@fcc.gov,* (202) 418–2918.

SUPPLEMENTARY INFORMATION: This document announces that, on January 14, 2016, OMB approved, on an emergency basis, a revision to an approved information collection to implement modified and new collection requirements on FCC Form 175, Application to Participate in an FCC Auction, and under 47 CFR 1.2105(a)(2), 1.2105(a)(2)(iii)–(vi), (a)(2)(viii)–(x), (a)(2)(xii), 1.2105(a)(3), 1.2105(c)(3), 1.2110(b)(1), 1.2112(b), and 1.2112(b)(1)(iii)–(vi), published at 80 FR 56764 on September 18, 2015. The OMB Control Number is 3060–0600. The Commission publishes this document as an announcement of the effective date of the rules and requirements. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW., Washington, DC 20554. Please include the OMB Control Number, 3060–0600, in your correspondence. The Commission will also accept your comments via the Internet if you send them to *PRA@fcc.gov.*

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).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received emergency approval from OMB on January 14, 2016 for the revised information collection requirements contained in the information collection 3060–0600, Application to Participate in an FCC Auction.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0600. The foregoing document is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0600.

OMB Approval Date: January 14, 2016.

OMB Expiration Date: July 31, 2016.

Title: Application to Participate in an FCC Auction.

Form No.: FCC Form 175.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 500 respondents; 500 responses.

Estimated Time per response: 90 minutes.

Frequency of Response: On-occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in sections 154(i) and 309(j)(5) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i), 309(j)(5), and sections 1.2105, 1.2110, 1.2112 of the Commission's rules, 47 CFR 1.2105, 1.2110, 1.2112.

Total Annual Burden: 750 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Information collected on FCC Form 175 is made available for public inspection. To the extent that a respondent seeks to have certain information collected on FCC Form 175 withheld from public inspection, the respondent may request confidential treatment of such information pursuant to section 0.459 of the Commission's rules, 47 CFR 0.459.

Needs and Uses: In the *Part 1 Report and Order,* the Commission updated many of its Part 1 competitive bidding rules. The updated Part 1 rules apply to applicants seeking to participate in future non-reverse auctions for Commission licenses and permits, including the forward auction component of the Commission's upcoming television broadcast incentive auction (BIA). The revised information collection on FCC Form 175 implements the modified and new collection requirements contained in sections 1.2105(a)(2), 1.2105(a)(2)(iii)–(vi), (a)(2)(viii)–(x), (a)(2)(xii), 1.2105(a)(3), 1.2105(c)(3), 1.2110(b)(1), 1.2112(b), and 1.2112(b)(1)(iii)–(vi) of the Commission's rules, as adopted in the *Part 1 Report and Order.* The information collected on the revised FCC Form 175 will be used by the Commission to determine if an applicant is legally, technically, and financially qualified to participate in a non-reverse Commission auction for Commission licenses and permits, including the forward component of the BIA. Commission staff will review the information collected on FCC Form 175 for a particular auction as part of the pre-auction process, prior to the auction being held. Staff will determine whether each applicant satisfies the Commission's requirements to participate in the auction and, if an applicant claims status as a particular type of auction participant, whether that applicant is eligible for the status claimed. This approach provides an appropriate screen to ensure serious participation and deter possible abuse of the bidding process without being unduly burdensome.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2016–01185 Filed 1–21–16; 8:45 am]

BILLING CODE 6712–01–P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 504 and 552

[GSAR–TA–01; Docket No. 2015–0016; Sequence No. 1]

General Services Administration Acquisition Regulation (GSAR); Technical Amendments; Corrections

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Correcting amendments.

SUMMARY: GSA published a technical amendment document, GSAR–TA–01, which was published in the **Federal Register** on Wednesday, January 13, 2016 at 81 FR 1531, to make editorial changes. That document inadvertently failed to update a subpart heading and a clause heading. This document corrects the final regulation by revising the subpart.

DATES: *Effective:* January 22, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Leah Price, Procurement Analyst, by phone at 703–605–2558, or email at *leah.price@gsa.gov* for clarification of content. For information pertaining to the status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite GSAR–TA–01; Technical Amendments; Corrections.

SUPPLEMENTARY INFORMATION: In order to update certain elements in 48 CFR parts 504 and 552, this document makes an editorial change to the GSAR.

List of Subjects in 48 CFR Parts 504 and 552

Government procurement.

Dated: January 19, 2016.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, GSA amends 48 CFR parts 504 and 552 as set forth below:

■ 1. The authority citation for 48 CFR parts 504 and 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

PART 504—ADMINISTRATIVE MATTERS

Subpart 504.11—System for Award Management

■ 2. Revise the heading of subpart 504.11 to read as set forth above.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 552.238–74 by revising the clause heading and date to read as follows:

552.238–74 Industrial Funding Fee and Sales Reporting.

* * * * *

Industrial Funding Fee and Sales Reporting (JAN *2016*)

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[FR Doc. 2016–01225 Filed 1–21–16; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 140819686–5999–02]

RIN 0648–BE38

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery and Golden Crab Fishery of the South Atlantic, and Dolphin and Wahoo Fishery of the Atlantic

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement management measures described in Amendment 34 to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region, Amendment 9 to the FMP for the Golden Crab Fishery of the South Atlantic Region, and Amendment 8 to the FMP for the Dolphin and Wahoo Fishery of the Atlantic; collectively referred to as the Generic Accountability Measures (AM) and Dolphin Allocation Amendment (Generic AM Amendment), as prepared and submitted by the South Atlantic Fishery Management Council (Council). This final rule revises the commercial and recreational AMs for numerous snapper-grouper species and golden crab. This final rule also revises commercial and recreational sector allocations for dolphin in the Atlantic. The actions are intended to make the AMs consistent for snapper-grouper species addressed in the final rule and for golden crab, and revise the allocations between the commercial and recreational sectors for dolphin.

DATES: This final rule is effective February 22, 2016.

ADDRESSES: Electronic copies of the Generic AM Amendment, which includes an environmental assessment, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sustainable_fisheries/s_atl/2014/am_dolphin_allocation/index.html.*

FOR FURTHER INFORMATION CONTACT: Mary Janine Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery in the South Atlantic is managed under the FMP for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP). The golden crab fishery in the South Atlantic is managed under the FMP for the Golden Crab Fishery of the South Atlantic Region (Golden Crab FMP). The dolphin and wahoo fishery in the Atlantic is managed under the FMP for the Dolphin and Wahoo Fishery of the Atlantic (Dolphin Wahoo FMP). The FMPs were prepared by the Council and implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On July 15, 2015, NMFS published a notice of availability for the Generic AM Amendment in the **Federal Register** and requested public comment (80 FR 41472). On September 29, 2015, NMFS published a proposed rule for the Generic AM Amendment in the **Federal Register** and requested public comment (80 FR 58448). On October 14, 2015, NMFS approved this amendment. The notice of availability, proposed rule, and the Generic AM Amendment set forth additional rationale for the actions contained in this final rule. A summary of the actions implemented by this final rule is provided below.

Management Measures Contained in This Final Rule

Modifications to Commercial and Recreational AMs for Snapper-Grouper Species and Golden Crab

This final rule revises the AMs for golden tilefish, snowy grouper, gag grouper (gag), red grouper, black grouper, scamp, the other shallow-water grouper complex (SASWG: Red hind, rock hind, yellowmouth grouper, yellowfin grouper, coney, and graysby), greater amberjack, the other jacks complex (lesser amberjack, almaco jack, and banded rudderfish), bar jack, yellowtail snapper, mutton snapper, the other snappers complex (cubera snapper, gray snapper, lane snapper, dog snapper, and mahogany snapper), gray triggerfish, wreckfish (recreational sector), Atlantic spadefish, hogfish, red porgy, the other porgies complex (jolthead porgy, knobbed porgy, whitebone porgy, scup, and saucereye porgy), and golden crab (commercial sector).

This final rule modifies the AMs for these species, including those identified in the species complexes, to make them consistent with the majority of the AMs already in place for other snapper-grouper species. Specifically, the final rule updates the recreational AMs to allow NMFS to close the applicable recreational sector when the recreational annual catch limit (ACL) is met or projected to be met, unless NMFS determines that no closure is necessary based on the best scientific information available. This final rule also modifies the AMs to trigger post-season ACL reductions in the commercial and recreational sectors in the year following any ACL overage under certain situations.

If the recreational sector exceeds its ACL, NMFS will monitor the recreational sector for a persistence in increased landings during the following fishing year. In the following fishing year, if the best scientific information available determines it necessary, NMFS will publish a notice in the **Federal**

Register to reduce the length of fishing season and the recreational ACL by the amount of the recreational ACL overage if the species, or one or more species in a species complex, is overfished and if the total ACL (commercial ACL and recreational ACL) was exceeded in the prior fishing year.

If the commercial sector exceeds its ACL, NMFS will publish a notice in the **Federal Register** to reduce the commercial ACL in the following fishing year by the amount of the commercial ACL overage if the species, or one or more species in a species complex, is overfished and if the total ACL (commercial ACL and recreational ACL) was exceeded in the prior fishing year.

Modifying the AMs in this manner creates regulatory consistency among the majority of federally managed snapper-grouper species and golden crab in the South Atlantic region.

Modifications to Commercial and Recreational Sector Allocations for Dolphin

This final rule revises the commercial sector allocation to be 10 percent of the dolphin stock ACL with the ACL set at 1,534,485 lb (696,031 kg), round weight, and the recreational sector allocation for dolphin to be 90 percent of the stock ACL with the ACL set at 13,810,361 lb (6,264,274 kg), round weight. This change in sector allocations constitutes an equivalent ACL increase for the commercial sector and an ACL decrease for the recreational sector of 377,484 lb (171,224 kg), round weight.

Other Changes to the Codified Text

In addition to the measures described in the Generic AM Amendment, this final rule clarifies the AM provisions in § 622.193 (the ACLs/AMs section of the regulations for South Atlantic snapper-grouper species) that will reduce a season length in the following recreational fishing year. These clarifications will aid law enforcement efforts. For those snapper-grouper species that have a post-season AM if a recreational ACL is exceeded, under certain conditions NMFS will reduce the season length (*i.e.,* implement a closure) for that species or species complex in the following fishing year by publishing an AM notification and closure date for the recreational sector for that species or species complex in the **Federal Register**. In this final rule, NMFS adds a closure provision to the regulations for these situations. Specifically, the provision states that when the closure becomes effective, the bag and possession limits for the applicable species or species complex in or from the U.S. exclusive economic zone (EEZ) in the South Atlantic will be reduced to zero.

In addition, this final rule removes and consolidates language in § 622.190(a)(6) for the red porgy commercial quota from past fishing years that is no longer applicable.

Finally, this final rule fixes an error in § 622.280 for Atlantic dolphin and wahoo. Atlantic dolphin and wahoo are managed off the Atlantic states (Maine through the east coast of Florida) via the Dolphin Wahoo FMP; however, in the AMs section of the codified text, the closure provisions currently apply in the South Atlantic EEZ only. This inadvertent error was implemented in the rulemaking for the Comprehensive ACL Amendment (77 FR 15916, March 16, 2011). This final rule changes ''South Atlantic EEZ'' to ''Atlantic EEZ'' in the AMs for dolphin and wahoo in paragraphs (a)(1)(i) and (b)(1)(i) of § 622.280, which is consistent with the FMP for management of these species from Maine through the east coast of Florida.

Comments and Responses

NMFS received comments from individuals, fishing associations, a marine resource conservation group, a seafood dealer, and a municipal chamber of commerce on the notice of availability and the proposed rule for the Generic AM Amendment, along with other issues. NMFS received comments that were beyond the scope of the notice of availability and proposed rule, and therefore, they have not been addressed in this final rule. The 19 unique comments that relate to one or more of the management actions in the Generic AM Amendment and the proposed rule are summarized and responded to below.

Comment 1: One commenter agreed that the commercial sector allocation for Atlantic dolphin (dolphin) should be increased, but suggested that the methods used to calculate the allocation changes need to be revisited. Another commenter suggested that the Council should select a different alternative that allocates 86 percent of the total ACL to the recreational sector and 14 percent to the commercial sector.

Response: The Council did choose a different method than they used previously to determine the sector allocations for dolphin in the Generic AM Amendment and final rule. In this amendment, the Council used more recent commercial and recreational landings from 2008 through 2012, which results in changing the allocation for the commercial sector from 7.54 percent to 10 percent and changing the allocation for the recreational sector from 92.46 percent to 90 percent. This revised allocation results in an increase in the commercial ACL from 1,157,001 lb (524,807 kg), round weight, to 1,534,485 lb (696,031 kg), round weight. The Council determined that the revised allocation reduces the potential for exceeding the commercial ACL, since the increase shows that the dolphin commercial ACL would not have been exceeded during the 2008 through 2014 fishing years. Additionally, as discussed below, the recreational sector has landed approximately 50 percent of their ACL during most of this time period. The Council determined that this change in allocation between the commercial and recreational sectors, and not the alternative that would allocate 14 percent of the total ACL to the commercial sector and 86 percent to the recreational sector, was the best management strategy to meet the objectives of the Generic AM Amendment and the Dolphin Wahoo FMP, while complying with the requirements of the Magnuson-Stevens Act and other applicable laws. If the Council decides that another allocation adjustment is required in the future, they may choose to consider allocation options in a future amendment.

Comment 2: A commenter opposed the shift in the allocation from the recreational sector to the commercial sector, because when other commercial fisheries close, there will be increased commercial effort directed toward dolphin resulting in an increase in commercial harvest, causing overfishing of the stock.

Response: NMFS disagrees that the Council should not change the commercial and recreational allocations for dolphin, or that this allocation shift will cause overfishing of dolphin. From 2008 through 2013, the latest complete 5-year data period available when the Council considered the actions in the amendment and in this final rule, the recreational sector landed approximately 50 percent of their ACL each year. In 2014, the recreational sector landed approximately 37 percent of their ACL, and 39 percent of the recreational ACL was landed through August 2015 (the latest data available as of December 7, 2015). However, the commercial sector met their ACL in both 2014 and 2015. The Council's decision to increase the commercial allocation for dolphin from 7.54 percent to 10 percent reduces the potential for the commercial sector to exceed its ACL. Sector-specific AMs are in place to limit harvest to the respective sector ACL, which will help to prevent overfishing of dolphin. Additionally,

based on their life history, dolphin is not as susceptible to overfishing because it is a short-lived species that is also highly productive.

Comment 3: A commenter opposed the amendment as inconsistent with National Standard 1 under the Magnuson-Stevens Act, because allocating more of the total ACL to the commercial sector would allow dolphin fishers to better achieve optimum yield (OY) for the stock.

Response: NMFS disagrees that the Generic AM Amendment is inconsistent with National Standard 1. National Standard 1 states that management and conservation measures shall prevent overfishing while achieving, on a continuing basis, the OY from a fishery. The Magnuson-Stevens Act defines ''optimum,'' with respect to the yield from a fishery, in part, as the amount of fish that will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities and taking into account the protection of marine ecosystems. The Council determined that the increase in allocation from 7.54 percent to 10 percent for the commercial sector helped best meet the definition of OY for the dolphin fishery, and is the best management strategy to meet the objectives of the Generic AM Amendment and the Dolphin Wahoo FMP.

Comment 4: A commenter opposed the amendment as inconsistent with National Standard 2 under the Magnuson-Stevens Act, because the sector allocations are based on flawed estimates of recreational landings derived from the Marine Recreational Fisheries Statistics Survey (MRFSS).

Response: NMFS disagrees. The recreational sector allocations and ACLs for dolphin and wahoo were established in the Comprehensive ACL Amendment (77 FR 15916, March 16, 2012), using data generated by MRFSS, which was the best scientific information available at that time. In 2013, following an independent review by the National Research Council and as directed by Congress within the Magnuson-Stevens Act, NMFS replaced MRFSS with the Marine Recreational Information Program (MRIP) to provide more accurate recreational catch estimates. MRIP is expected to reduce potential bias and increase the accuracy, timeliness, and spatial resolution of recreational catch and effort estimates. Amendment 5 to the Dolphin Wahoo FMP (79 FR 32878, June 9, 2014) revised the ACLs using recreational data from MRIP. The ACLs in the Generic AM Amendment utilize MRIP data, which is now the best scientific information available. Furthermore, the Council chose to revise the allocations for dolphin based on data from a more recent time period, and the sector allocations are not based on flawed estimates of recreational landings. NMFS has determined that the actions in this amendment are based upon the best scientific information available, in accordance with National Standard 2.

Comment 5: A commenter opposed the amendment as inconsistent with National Standard 3 under the Magnuson-Stevens Act, because the stock structure of dolphin indicates a great deal of mixing, with harvest by fishermen from many other nations.

Response: NMFS disagrees that the amendment is inconsistent with National Standard 3. National Standard 3 states that to the extent practicable, an individual stock of fish shall be managed as a unit throughout its range. Furthermore, fishery management plans should include conservation and management measures for that part of the management unit within U.S. waters, as per the National Standard 3 Guidelines. Although dolphin occur in tropical and subtropical waters worldwide, it is generally accepted that there is a single dolphin stock in the western central Atlantic, from Nova Scotia to Brazil and throughout the Gulf of Mexico and Caribbean Sea. Samples of dolphin harvested throughout this area indicate no substantial genetic differences, and tagging information shows that dolphin move within this range. While dolphin may be genetically similar in the Gulf of Mexico, Caribbean, and South Atlantic, the Dolphin Wahoo FMP only addresses dolphin that occur in the Atlantic, as per the National Standard 3 Guidelines that allow for the dolphin management unit to be defined by a geographic area. Accordingly, the original Dolphin Wahoo FMP specified one management unit in the Atlantic ranging from New England to the U.S. South Atlantic for comprehensive management and protection.

Comment 6: A commenter opposed the amendment as inconsistent with National Standard 4 under the Magnuson-Stevens Act, because U.S. fishermen in the Gulf of Mexico are not restricted from access to dolphin. The commenter also questioned the use of J-style hooks instead of circle hooks on pelagic longline gear that harvests dolphin, and suggested restricting dolphin permits for those fishers using pelagic longline gear. The commenter also asked whether fishermen with commercial permits for dolphin and wahoo who use pelagic longline gear have to file logbook reports and carry observers, and whether they may retain highly migratory species (HMS).

Response: NMFS disagrees that the Generic AM Amendment is inconsistent with National Standard 4. National Standard 4 states, in part, that conservation and management measures in a fishery management plan shall not discriminate between residents of different states. The actions in the Generic AM Amendment are applicable to all residents of each of the states affected by the Dolphin Wahoo FMP. Dolphin in the Gulf of Mexico are not subject to management through the Dolphin Wahoo FMP.

Fishermen with Federal commercial vessel permits for dolphin and wahoo may not retain HMS species without the relevant Federal HMS permit. Fishing for dolphin with J-hooks is allowed under the Dolphin Wahoo FMP, and the use of circle hooks was not considered in the Generic AM Amendment, although the Council could consider measures in a future amendment to require the use of circle hooks. At this time, fishermen with Federal commercial vessel permits for dolphin and wahoo are not required to carry observers under the Dolphin Wahoo FMP, but they are required to complete logbooks for retained and discarded catch and report that information to NMFS. Additionally, at this time, the Council has not chosen to further restrict the number of commercial vessel permit holders who may fish for dolphin using pelagic longline gear.

Comment 7: A commenter opposed the amendment as inconsistent with National Standard 5 under the Magnuson-Stevens Act, because it will not promote efficiency to set a commercial limit that is unnecessarily low for dolphin.

Response: NMFS disagrees that the amendment is inconsistent with National Standard 5. National Standard 5 states that conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose. The Council considered efficiency in its decision to increase the commercial allocation for dolphin from 7.54 percent to 10 percent of the total ACL, and the commercial ACL from 1,157,001 lb (524,807 kg), round weight, to 1,534,485 lb (696,031 kg), round weight. The Council determined that the revised allocation and commercial ACL was more efficient in that it is expected to reduce the potential for the commercial sector to exceed its ACL.

Comment 8: A commenter opposed the amendment as inconsistent with

National Standard 6 under the Magnuson-Stevens Act, because the sector reallocations are based on a short recent time frame that does not adequately take into account the cyclical nature of highly migratory species fisheries.

Response: NMFS disagrees that the amendment is inconsistent with National Standard 6. The Magnuson-Stevens Act does not define dolphin as a highly migratory species. National Standard 6 states that conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches. The Council did consider the variation in dolphin catches over a long time period (from 1999 through 2012) when choosing their preferred alternative for an allocation formula. In this amendment, the Council chose to use more recent commercial and recreational landings data from 2008 through 2012, rather than the landings data from 1999 through 2008 that the Council previously used. This change in the allocation formula results in changing the allocation for the commercial sector from 7.54 percent to 10 percent and changing the allocation for the recreational sector from 92.46 percent to 90 percent. The Council determined that the revised allocation takes into account the variations in the fishery, and reduces the potential for the commercial sector to exceed its ACL while meeting the objectives of the FMP.

Comment 9: A commenter opposed the amendment as inconsistent with National Standard 7 under the Magnuson-Stevens Act, because dolphin should be managed under the Highly Migratory Species Division of NMFS, which would minimize costs, allow participants better opportunity to participate in the management process, avoid duplication by several interested Councils, and most importantly, lead the way for truly effective international management for these highly migratory fish harvested by many international fishermen.

Response: NMFS disagrees that the amendment is inconsistent with National Standard 7. The Magnuson-Stevens Act's definition of ''highly migratory species'' explicitly lists which species are to be included, and Congress did not include dolphin in the definition (16 U.S.C. 1802(21)). In 2004, the Council, in cooperation with the Mid-Atlantic and New England Councils, and with the approval of the Secretary of Commerce, developed the Dolphin Wahoo FMP for the Atlantic and manage those species under this FMP.

Comment 10: A commenter opposed the amendment as inconsistent with National Standard 8 under the Magnuson-Stevens Act, because the sector reallocation measure for dolphin is likely to have significant adverse impacts on commercial fishermen and the communities that rely on them, and the healthy condition of dolphin does not warrant this action at this time.

Response: NMFS disagrees that the amendment is likely to have significant adverse impacts on commercial fishermen and communities, and has determined that the amendment is consistent with National Standard 8. The preferred alternative in the Generic AM Amendment is expected to have positive economic and social impacts for commercial fishermen and the communities that rely on them, as it will increase the commercial allocation from 7.54 percent to 10 percent of the total ACL and increase in the commercial ACL from 1,157,001 lb (524,807 kg), round weight, to 1,534,485 lb (696,031 kg), round weight.

Comment 11: A commenter opposed the amendment as inconsistent with National Standard 9 under the Magnuson-Stevens Act, because the sector reallocation for dolphin should contain allocation for commercial fishermen at a level that is highly unlikely to lead to the regulatory discarding of dolphin.

Response: NMFS disagrees. National Standard 9 states, in part, that management measures shall minimize bycatch to the extent practicable. The increase in commercial allocation from 7.54 percent to 10 percent of the total ACL and increase in the commercial ACL from 1,157,001 lb (524,807 kg), round weight, to 1,534,485 lb (696,031 kg), round weight, is expected to decrease the chance that a commercial closure will occur. With a longer commercial fishing season, fewer regulatory discards would be expected. The Council determined that the revised allocation will reduce the potential for the commercial sector to exceed its ACL, since this increase shows that the dolphin commercial ACL would not have been exceeded during the 2008 through 2014 fishing years.

Comment 12: A commenter opposed the amendment as inconsistent with National Standard 10 under the Magnuson-Stevens Act, because commercial fishermen will be forced to discard perfectly saleable fish if the fishery closes and will have to fish longer trips when the fishery is open to attempt to make up those losses.

Response: NMFS disagrees. National Standard 10 is intended to promote the safety of human life at sea to the maximum extent practicable, and that is what this amendment does. The Generic AM Amendment will increase the sector allocation and ACL for the commercial sector, so that the chance that a commercial closure will occur and that fishermen will have to make up for the lost opportunity to harvest dolphin by taking longer trips will be reduced.

Comment 13: One commenter asked why the recreational sector ACL is larger than the commercial ACL.

Response: The recreational ACL is larger than the commercial ACL because the allocations in the Dolphin Wahoo FMP are based on historical landings by commercial and recreational fishermen, and the recreational landings have historically greatly exceeded the commercial landings. In 2012, the Council established sector allocations for Atlantic dolphin through the final rule to implement the Comprehensive ACL Amendment (77 FR 15916, March 16, 2012). At that time, the Council determined the allocation for the sectors to be 7.54 percent for the commercial sector and 92.46 percent for the recreational sector, based on a methodology that used 50 percent of proportional commercial to recreational landings from 1999 through 2008 and 50 percent of proportional commercial to recreational landings from 2006 through 2008. In the Generic AM Amendment, the Council changed the sector allocations of the total dolphin ACL to 10 percent commercial and 90 percent recreational based on a revised methodology that used the more recent commercial and recreational landings data from 2008 through 2012.

Comment 14: A commenter asked about the methods used to gather dolphin recreational catch data, since recreational fishers do not use trip tickets or logbooks like the commercial sector.

Response: Recreational landings for dolphin in the Atlantic are collected through MRIP and the Southeast Region Headboat Survey (SRHS). With respect to dolphin, MRIP covers coastal Atlantic states from Maine to Florida. MRIP provides estimated landings and discards for six 2-month periods (waves) each year. The survey provides estimates for three recreational fishing modes: Shore-based fishing, private and rental boat fishing, and for-hire charter and guide fishing. Catch data are collected through dockside angler intercept surveys of completed recreational fishing trips, and effort data are collected using telephone surveys. The SRHS estimates landings and discards for headboats in the U.S. South Atlantic and Gulf of Mexico from required electronic logbooks. Landings

data from MRIP and SRHS are compared to the respective recreational ACL. If the ACL has been met or exceeded, an AM is triggered, such as an in-season closure. If landings for either MRIP or SRHS are incomplete, projections of landings based on information from previous years are used to predict when the recreational ACL is expected to be met. Additional information of both commercial and recreational landings for dolphin can be found on the NMFS Southeast Regional ACL monitoring Web page at: *http://sero.nmfs.noaa.gov/sustainable_fisheries/acl_monitoring/index.html.*

Comment 15: One commenter stated that the revised reallocation will reduce both large dolphin and the numbers of fish preferred by recreational fishermen, and that the correct age class and stock size of dolphin should be managed to a goal of maximum economic yield, rather than maximum sustainable yield.

Response: The Magnuson-Stevens Act establishes maximum sustainable yield as the basis for fishery management, not maximum economic yield. Harvest by either the commercial or recreational sector could affect the age class distribution as well as the stock size. This reallocation will allow the commercial sector to harvest a small portion of a relatively large amount of fish left unharvested by the recreational sector, and sector-specific ACLs and AMs have been established to control the adverse biological impacts of the harvests on the dolphin stock and maintain stock size at a sustainable level. Thus, it is expected that the reallocation being implemented through this final rule will have no negative effects on the health of the dolphin stock.

Comment 16: A commenter stated that the proposed allocation shows a lack of fairness and transparency in the Council process, and that NMFS and the Council should follow their own scientific guidance when revising allocations.

Response: The Magnuson-Stevens Act requires fishery management councils to make their management decisions through a very public process. The Council has an open decision-making process, and the public is afforded ample opportunity to comment and participate on topics being considered. This process includes review and advice from the Council's Scientific and Statistical Committee (SSC) and advisory panels. Each meeting in which the Council, the SSC, or the Council's advisory panels discussed the Generic AM Amendment was noticed in the **Federal Register** and also publicized by the Council, and each meeting was open to the public and had public comment periods available. The Council also held public scoping meetings and public hearings on the actions contained in this amendment. The notice of availability for the Generic AM Amendment had a 60-day public comment period (80 FR 41472, July 15, 2015). The public also had a 30-day opportunity to comment on the proposed rule (80 FR 58448, September 29, 2015). Additionally, NMFS has determined that the actions in this amendment are based upon the best scientific information available.

Comment 17: A commenter opposed the amendment because the reallocation would continue an unfair scenario facing the recreational sector, in which AMs are imposed if the recreational ACL is exceeded, and yet the allowable recreational catch is reallocated if the recreational quota is not achieved.

Response: NMFS disagrees. The reallocation for the commercial sector from 7.54 percent to 10 percent and for the recreational sector from 92.46 percent to 90 percent of the total dolphin ACL does not represent an unfair scenario facing the recreational sector. The Council determined that the revised allocation reduces the potential for exceeding the commercial ACL, since the increase shows that the dolphin commercial ACL would not have been exceeded during the 2008 through 2014 fishing years. Additionally, the recreational sector has landed approximately 50 percent of their ACL during most of this time period.

Comment 18: A commenter opposed the amendment, stating that the economic analysis is not based on best scientific information available, because it ignores any value that recreational fishers might hold for the value of taking a dolphin trip without any harvest and the economic value recreational fishers hold for more robust stocks and larger fish. The commenter was concerned that the change in allocation and higher commercial harvest will result in reduced economic benefits to recreational fishers and the public.

Response: NMFS disagrees. The Generic AM Amendment, including its economic analysis, is based on the best scientific information available, and it includes available information on recreational economic values for dolphin, such as values per fish kept, with higher values attached to larger fish; values per dolphin fish, per trip, and values per dolphin fish caught and released.

Studies that consider the economic efficiency of allocating dolphin between the commercial and recreational sectors are not currently available. The absence of such studies precludes the determination of the economic efficiency gains and losses to the commercial or recreational sector, and net gains or losses to the public as a whole, from each of the allocation alternatives within the Generic AM Amendment. The economic analysis notes that, with the recreational sector's harvest being well below its allocation, decreasing the recreational allocation by 2.46 percentage points (with an equivalent increase to the commercial allocation) would have no adverse economic impacts on the recreational sector.

Comment 19: A commenter opposed the amendment, stating that commercial trip limits should be adopted to prevent the development of a directed commercial dolphin fishery, especially the longline segment, which would happen if the allocation shifts sufficiently to the commercial sector. A directed commercial dolphin fishery raises the possibility of localized depletion of dolphin, thereby affecting recreational fishing success.

Response: There is currently a trip limit of 200 lb (91 kg) of dolphin and wahoo, combined, for a vessel that does not have a Federal commercial vessel permit for dolphin and wahoo but has a Federal commercial vessel permit in any other fishery, provided that all fishing on and landings from that trip are north of 39° North latitude (50 CFR 622.278(a)(2)). The Council did not consider any other commercial trip limits in the Generic AM Amendment, but they are developing an amendment to consider commercial trip limits specifically for dolphin (Dolphin Wahoo Regulatory Amendment 1). A review of dolphin and wahoo Federal commercial permits from 2008 through 2012 shows that Federal commercial permit holders predominantly used hook-and-line gear and trolling gear to harvest dolphin, and not longline gear.

Because the commercial ACL is increasing, there is a chance the small portion of the fishery that uses longlines may increase or those that already use that gear type may increase their fishing effort. Since longline gear have the potential to catch a large number of dolphin at one time, an increase in longline effort could result in temporary localized depletion. However, NMFS does not expect localized depletion of dolphin since only a small subset of Federal dolphin wahoo commercial permit holders (11 vessels) use pelagic longlines to harvest dolphin and, given the small increase in the commercial allocation being implemented in this amendment, it is unlikely that longlining effort for dolphin would

substantially increase or significantly expand.

Both the commercial and recreational sectors for dolphin are limited to their respective ACLs and the AMs that are in place. The current system of AMs is designed to prevent the ACLs from being exceeded, and to correct for any ACL overages if they occur.

Classification

The Regional Administrator, Southeast Region, NMFS has determined that this final rule is consistent with the Generic AM Amendment, the FMPs, the Magnuson-Stevens Act, and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Magnuson-Stevens Act provides the statutory basis for this rule.

In compliance with section 604 of the RFA, NMFS prepared a Final Regulatory Flexibility Analysis (FRFA) for this final rule. The FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA), a summary of the significant economic issues raised by public comment, NMFS' responses to those comments, and a summary of the analyses completed to support the action. The FRFA follows.

A statement of the need for, and objectives of, the rule. The actions are intended to make the AMs consistent for snapper-grouper species addressed in the final rule and for golden crab, and revise the allocations between the commercial and recreational sectors for dolphin.

A statement of significant issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis. No public comments specific to the IRFA were received, and therefore, no public comments are addressed in this FRFA. Certain comments with general socio-economic implications are addressed in the comments and responses section. No changes in the final rule were made in response to public comments.

Response to comments filed by the Chief Counsel for the Advocacy of the Small Business Administration to the Initial Regulatory Flexibility Analysis. No comments were received from the Chief Counsel for the Advocacy of the Small Business Administration to the Initial Regulatory Flexibility Analysis and, thus, no changes to the rule were made in response to such comments.

A description of affected small entities. NMFS expects this final rule to directly affect federally permitted commercial fishermen harvesting snapper-grouper species or golden crab in the South Atlantic.

NMFS also expects this final rule to directly affect federally permitted commercial fishermen harvesting dolphin in the South Atlantic and off states north of North Carolina (northeastern states).

Charter vessels and headboats (for-hire vessels) sell fishing services, which include the harvest of any species considered in this final rule, to recreational anglers. These vessels provide a platform for the opportunity to fish and not a guarantee to catch or harvest any species, though expectations of successful fishing, however defined, likely factor into the decision to purchase these services. Any change in demand for these fishing services and associated economic affects as a result of regulatory changes will be a consequence of behavioral change by anglers, secondary to any direct effect on anglers and, therefore, an indirect effect of the regulatory action. Because the effects on for-hire vessels will be indirect, they fall outside the scope of the RFA. Recreational anglers, who may be directly affected by the changes in this final rule, are not small entities under the RFA.

To serve as a benchmark for determining whether a business entity is a small entity, the Small Business Administration (SBA) established size criteria for all major industry sectors in the U.S., including fish harvesters and for-hire operations. A business involved in fish harvesting is classified as a small business if independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of $20.5 million (NAICS code 114111, finfish fishing) for all of its affiliated operations worldwide.

The snapper-grouper fishery is a multi-species fishery and vessels generally land many species on the same trips. Vessels in the dolphin fishery also catch other species jointly with dolphin. The golden crab fishery is more specialized than either the snapper-grouper or dolphin fishery, and there is a comparatively lower proportion of bycatch; as a result, the target species, golden crab, dominates the total catch during a trip.

Because of the possibility that some vessels land only species not affected by this final rule, the following provides a description of vessels and their revenues by focusing on the key species (black grouper, mutton snapper, yellowtail snapper, greater amberjack, red porgy, gag, golden tilefish, red grouper, snowy grouper, wreckfish, golden crab, and dolphin) addressed in this final rule. These species provide higher landings and revenues than the other affected species, such that focusing on them should provide enough information to determine if certain small entities (*i.e.,* vessels) meet the SBA threshold for small entities. Hogfish, a recently assessed species, is not included as a key species for this analysis as it is being addressed by the Council in Amendment 37 to the Snapper-Grouper FMP. However, revenue approximations for vessels landing hogfish are noted below. The number of vessels and revenues (2013 dollars) are annual averages for the period 2009 through 2013, unless otherwise noted. Data for the years 2009 through 2013 were the latest complete 5-year data available when the Council considered the actions in this rule.

Approximately 188 vessels landing at least 1 lb (0.45 kg) of black grouper generated approximately $54,000 in revenues from black grouper and other species; 266 vessels landing at least 1 lb (0.45 kg) of mutton snapper had revenues of approximately $51,000 from mutton snapper and other species; 252 vessels landing at least 1 lb (0.45 kg) yellowtail snapper had revenues of approximately $38,000 from yellowtail snapper and other species; 295 vessels landing at least 1 lb (0.45 kg) of greater amberjack had revenues of approximately $53,000 from greater amberjack and other species; 191 vessels landing at least 1 lb (0.45 kg) of red porgy had revenues of approximately $60,000 from red porgy and other species; 273 vessels landing at least 1 lb (0.45 kg) of gag had revenues of approximately $49,000 from gag and other species; 63 vessels landing at least 1 lb (0.45 kg) of golden tilefish had revenues of approximately $68,000 from golden tilefish and other species; 278 vessels landing at least 1 lb (0.45 kg) of red grouper had revenues of approximately $50,000 from red grouper and other species; 138 vessels landing at least 1 lb (0.45 kg) of snowy grouper had revenues of approximately $78,000 from snowy grouper and other species; and 488 vessels landing at least 1 lb (0.45 kg) of dolphin had revenues of approximately $64,000 from dolphin and other species. Revenues for vessels landing at least 1 lb (0.45 kg) of wreckfish or golden crab can be approximated based on total revenues from landings of those species and the number of permits. As of August 6, 2015, there were 5 Federal wreckfish commercial permits and 11 Federal golden crab commercial permits. For fishing years 2009/2010 through 2013/2014, annual revenues from wreckfish landings averaged $752,881, implying average annual revenue per wreckfish

vessel of approximately $188,000. From 2009 through 2013, annual revenues from golden crab landings averaged $1,419,843, implying average annual revenue per golden crab vessel of approximately $142,000. Most of the unassessed snapper-grouper species (almaco jack, banded rudderfish, lesser amberjack, gray snapper, lane snapper, cubera snapper, dog snapper, mahogany snapper, white grunt, sailors choice, tomtate, margate, red hind, rock hind, yellowmouth grouper, yellowfin grouper, coney, graysby, jolthead porgy, knobbed porgy, saucereye porgy, scup, whitebone porgy, Atlantic spadefish, bar jack, scamp, and gray triggerfish), and hogfish had lower dockside revenues than many of the key species. In fact, the highest dockside values of an unassessed species (scamp) were much lower than those of at least one assessed species (yellowtail snapper). Therefore, NMFS expects that revenues of vessels landing at least one lb (0.45 kg) of an unassessed species or hogfish will fall within the range of vessel revenues described above.

Some vessels, other than those in the golden crab fishery, may have caught and landed a combination of the 12 key species, hogfish, and unassessed snapper-grouper species, and revenues therefrom are included in the foregoing estimates.

Vessels that caught and landed any of the species addressed in this final rule may also operate in other fisheries, the revenues of which are not known due to lack of information and are not reflected in these totals.

Based on the revenue information provided above, all commercial vessels expected to be affected by this final rule are assumed to be small entities.

Because all entities expected to be affected by this final rule are assumed to be small entities, NMFS has determined that this rule will affect a substantial number of small entities. However, the issue of disproportionate effects on small versus large entities does not arise in the present case.

Designating a species to be overfished presupposes a stock assessment has been completed, implying that the ACL payback action, *i.e.,* a reduction in the following year's catch limit or quota by the amount of an ACL overage, in this final rule will not apply to any unassessed snapper-grouper species. Therefore, the harvest of unassessed snapper-grouper species and associated economic benefits will remain unaffected by this final rule. NMFS notes that a stock assessment underway for gray triggerfish, an unassessed species, is expected to be completed in 2016. Of the assessed snapper-grouper species subject to the AM action in this final rule, only red porgy and snowy grouper are considered overfished. The recent stock assessment for hogfish defined three separate stocks, one of which is considered overfished and undergoing overfishing (SEDAR 37 2014). Amendment 37 to the Snapper-Grouper FMP, currently under development by the Council, will address issues specifically related to hogfish. Since 2009, the commercial sector exceeded its ACL for red porgy in 2011 and 2013 by less than 3 percent each year. On the other hand, recreational landings of red porgy have been well below the sector's ACL. Recreational landings of red porgy were 51 percent in 2012 and 48 percent in 2013 of the red porgy recreational ACL. Based on past and recent landings history, it is unlikely that the total red porgy ACL (sum of commercial and recreational sector ACLs) will be reached in the near future, so the payback action in this final rule will not be expected to affect harvesters of red porgy in the short term. The case with snowy grouper is slightly different from the other overfished snapper-grouper species. The snowy grouper commercial ACL was exceeded by less than 10 percent in 2012, 2013, and 2014, while the recreational ACL was exceeded by more than 200 percent in 2012 and 2013. For the 2014 fishing season, recreational harvest of snowy grouper was closed on June 7, 2014, because NMFS projected the recreational ACL would be met.

Based on landings history, it is likely that the payback action for snowy grouper in this final rule will adversely affect the profits of commercial vessels. The amount of payback for any ACL overages and resulting profit loss to the commercial vessels cannot be estimated due to lack of information. However, current Federal regulations enable NMFS to implement a snowy grouper in-season closure for the commercial sector and in-season monitoring and possible closure for the recreational sector if the respective sector's ACL is reached or projected to be reached. In addition, this final rule will implement an in-season closure for the snowy grouper recreational sector once the recreational ACL is reached or is projected to be reached.

These current measures and this final rule are expected to limit the amount of any ACL overage, meaning that the resulting loss in profits to commercial vessels due to the ACL payback provision should be small.

The commercial and recreational sector re-allocation of the ACL for dolphin will increase the ACL share of the commercial sector at the expense of the recreational sector. In theory, this would tend to increase the revenues or profits of commercial vessels and potentially reduce the revenues or profits of for-hire vessels. In practice, commercial vessels are not expected to experience any profit changes in the near-term based on historical landings for the sector from 2009 through 2013. Relative to the new sector allocations, based on applying the new allocation ratios to the current total ACL, commercial landings of dolphin (based on 2009–2013 commercial landings) are projected to range from 33 percent to 80 percent of the commercial ACL. In the years 2009 through 2013, the highest commercial landings occurred in 2009 and the lowest in 2013. However, commercial fishing for dolphin closed this fishing year on June 30, 2015, when the commercial sector reached its ACL. If future commercial landings of dolphin were equal to or greater than they were in 2015, the new allocation ratio may be expected to increase the revenues, and possibly profits, of commercial vessels. As noted earlier, for-hire vessels will only be affected indirectly by this final rule.

Projected reporting, recordkeeping and other compliance requirements. This rule would not impose any new reporting, recordkeeping, or other compliance requirements.

Minimizing impact on small entities and significant alternatives considered. Four alternatives, including the preferred alternative (as described in the preamble), were considered for the AMs of reducing the following year's commercial ACL by the amount of the commercial overage. The first alternative, the no-action alternative, would not impose an ACL payback provision for gag, golden tilefish, snowy grouper, wreckfish, and golden crab while retaining the ACL payback provision for the other species addressed in this action. This alternative would not address the need to create a consistent regulatory environment while preventing unnecessary negative socio-economic impacts, and ensure overfishing does not occur in accordance with the provisions set forth in the Magnuson-Stevens Act. The second alternative would require an ACL payback for ACL overages only if the species is overfished, and the third alternative would require a payback only if the combined total of commercial and recreational ACLs is exceeded. These two alternatives are more restrictive than the preferred alternative and, therefore, would be expected to have potentially larger adverse short-term

economic effects on commercial entities than the preferred alternative.

Because the commercial and recreational sector re-allocation of the ACL for dolphin is not expected to result in any negative effects on any directly affected entities, the issue of significant alternatives to reduce any significant negative effects is not relevant.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as small entity compliance guides. As part of the rulemaking process, NMFS prepared a fishery bulletin, which also serves as a small entity compliance guide. The fishery bulletin will be sent to all interested parties.

List of Subjects in 50 CFR Part 622

Accountability measure, Annual catch limit, Dolphin, Fisheries, Fishing, Golden crab, Snapper-grouper, South Atlantic.

Dated: January 15, 2016.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.190, revise paragraph (a)(6) to read as follows:

§ 622.190 Quotas.

* * * * *

(a) * * *

(6) *Red porgy*—157,692 lb (71,528 kg), gutted weight; 164,000 lb (74,389 kg), round weight.

* * * * *

■ 3. In § 622.193, revise paragraphs (a) through (d), (g), (i), (j) through (r), and (t) through (x) to read as follows:

§ 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

(a) *Golden tilefish*—(1) *Commercial sector*—(i) *Hook-and-line component.* If commercial landings for golden tilefish, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.190(a)(2)(ii), the AA will file a notification with the Office of the Federal Register to close the hook-and-line component of the commercial sector for the remainder of the fishing year. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(ii) *Longline component.* If commercial landings for golden tilefish, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.190(a)(2)(iii), the AA will file a notification with the Office of the Federal Register to close the longline component of the commercial sector for the remainder of the fishing year. After the commercial ACL for the longline component is reached or projected to be reached, golden tilefish may not be fished for or possessed by a vessel with a golden tilefish longline endorsement. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(iii) If commercial landings for golden tilefish, as estimated by the SRD, exceed the commercial ACL (including both the hook-and-line and longline component ACLs) specified in § 622.190(a)(2)(i), and the combined commercial and recreational ACL of 558,036 lb (253,121 kg), gutted weight, 625,000 lb (283,495 kg), round weight, is exceeded during the same fishing year, and golden tilefish are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for golden tilefish, as estimated by the SRD, reach or are projected to reach the recreational ACL of 3,019 fish, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for golden tilefish in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for golden tilefish, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 558,036 lb (253,121 kg), gutted weight, 625,000 lb (285,495 kg), round weight, is exceeded during the same fishing year. The AA will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for golden tilefish in or from the South Atlantic EEZ are zero.

(b) *Snowy grouper*—(1) *Commercial sector.* (i) If commercial landings for snowy grouper, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.190(a)(1), the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(ii) If commercial landings for snowy grouper, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL specified in § 622.193(b)(1)(iii) is exceeded, and snowy grouper are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(iii) The combined commercial and recreational ACL for snowy grouper is 139,098 lb (63,094 kg), gutted weight, 164,136 lb (74,451 kg), round weight, for 2015; 151,518 lb (68,727 kg), gutted weight, 178,791 lb (81,098 kg), round weight, for 2016; 163,109 lb (73,985 kg), gutted weight, 192,469 lb (87,302 kg), round weight, for 2017; 173,873 lb (78,867 kg), gutted weight, 205,170 lb (93,064 kg), round weight, for 2018; 185,464 lb (84,125 kg), gutted weight, 218,848 lb (99,268 kg), round weight, for 2019 and subsequent years.

(2) *Recreational sector.* (i) If recreational landings for snowy grouper, as estimated by the SRD, reach or are projected to reach the recreational ACL, the AA will file a notification with the Office of the Federal Register to close

the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such notification, the bag and possession limits for snowy grouper in or from the South Atlantic EEZ are zero. The recreational ACL for snowy grouper is 4,152 fish for 2015; 4,483 fish for 2016; 4,819 fish for 2017, 4,983 fish for 2018; 5,315 fish for 2019 and subsequent fishing years.

(ii) If recreational landings for snowy grouper, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if snowy grouper are overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL specified in § 622.193(b)(1)(iii) is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for snowy grouper in or from the South Atlantic EEZ are zero.

(c) *Gag*—(1) *Commercial sector.* (i) If commercial landings for gag, as estimated by the SRD, reach or are projected to reach the commercial quota specified in § 622.190(a)(7), the AA will file a notification with the Office of the Federal Register to close the commercial sector for gag for the remainder of the fishing year. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(ii) If the commercial landings for gag, as estimated by the SRD, exceed the commercial ACL specified in § 622.193(c)(1)(iii), and the combined commercial and recreational ACL specified in § 622.193(c)(1)(iv), is exceeded during the same fishing year, and gag are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(iii) The commercial ACL for gag is 322,677 lb (146,364 kg), gutted weight, 380,759 lb (172,709 kg), round weight, for 2015; 325,100 lb (147,463 kg), gutted weight, 383,618 lb (174,006 kg), round weight, for 2016; 345,449 lb (197,516 kg), gutted weight, 407,630 lb (184,898 kg), round weight, for 2017; 362,406 lb (164,385 kg), gutted weight, 427,639 lb (193,974 kg), round weight, for 2018; and 374,519 lb (169,879 kg), gutted weight, 441,932 lb (200,457 kg), round weight, for 2019 and subsequent fishing years.

(iv) The combined commercial and recreational ACL for gag is 632,700 lb (286,988 kg), gutted weight, 746,586 lb (338,646 kg), round weight, for 2015; 637,451 lb (289,143 kg), gutted weight, 752,192 lb (341,189 kg), round weight, for 2016; 677,351 lb (307,241 kg), gutted weight, 799,274 lb (362,545 kg), round weight, for 2017; 710,600 lb (322,323 kg), gutted weight, 838,508 lb (380,341 kg), round weight, for 2018; and 734,351 lb (333,096 kg), gutted weight, 866,534 lb (393,053 kg), round weight, for 2019 and subsequent fishing years.

(2) *Recreational sector.* (i) If recreational landings for gag, as estimated by the SRD, reach or are projected to reach the recreational ACL, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such notification, the bag and possession limits for gag in or from the South Atlantic EEZ are zero. The recreational ACL for gag is 310,023 lb (148,025 kg), gutted weight, 365,827 (165,936 kg), round weight, for 2015; 312,351 lb (149,137 kg), gutted weight, 368,574 lb (175,981 kg), round weight, for 2016; 331,902 lb (158,472 kg), gutted weight, 391,644 lb (186,997 kg), round weight, for 2017; 348,194 lb (166,251 kg), gutted weight, 410,869 lb (196,176 kg), round weight, for 2018; and 359,832 lb (171,807 kg), gutted weight, 424,602 lb (202,733 kg), round weight, for 2019 and subsequent fishing years.

(ii) If recreational landings for gag, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL specified in § 622.193(c)(1)(iv) is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for gag in or from the South Atlantic EEZ are zero.

(d) *Red grouper*—(1) *Commercial sector.* (i) If commercial landings for red grouper, as estimated by the SRD, reach or are projected to reach the commercial ACL of 343,200 lb (155,673 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of red grouper is prohibited and harvest or possession of red grouper in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If the commercial landings for red grouper, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 780,000 lb (353,802 kg), round weight, is exceeded during the same fishing year, and the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL in the following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for red grouper, as estimated by the SRD, are projected to reach the recreational ACL of 436,800 lb (198,129 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for red grouper in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for red grouper, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 780,000 lb (353,802 kg), round weight, is exceeded during the same fishing year. The AA will use the best scientific information available to determine if reducing the length of the recreational season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for red grouper in or from the South Atlantic EEZ are zero.

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(g) *Black grouper*—(1) *Commercial sector.* (i) If commercial landings for black grouper, as estimated by the SRD, reach or are projected to reach the commercial ACL of 96,844 lb (43,928 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of black grouper is prohibited and harvest or possession of black grouper in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for black grouper, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 262,594 lb (119,111 kg), round weight, is exceeded during the same fishing year, and the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for black grouper, as estimated by the SRD, reach or are projected to reach the recreational ACL of 165,750 lb (75,183 kg), round weight, and the AA determines that a closure is necessary by using the best scientific information available, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for black grouper in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for black grouper, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if black grouper are overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 262,594 lb (119,111 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for black grouper in or from the South Atlantic EEZ are zero.

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(i) *Scamp*—(1) *Commercial sector.* (i) If commercial landings for scamp, as estimated by the SRD, reach or are projected to reach the commercial ACL of 219,375 lb (99,507 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of scamp is prohibited and harvest or possession of scamp in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for scamp, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 335,744 lb (152,291 kg), round weight, is exceeded, and scamp are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for scamp, as estimated by the SRD, reach or are projected to reach the recreational ACL of 116,369 lb (52,784 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for scamp in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for scamp, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if scamp are overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 335,744 lb (152,291 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for scamp in or from the South Atlantic EEZ are zero.

(j) *Other SASWG combined (including red hind, rock hind, yellowmouth grouper, yellowfin grouper, coney, and graysby)*—(1) *Commercial sector.* (i) If commercial landings for other SASWG combined, as estimated by the SRD, reach or are projected to reach the commercial ACL of 55,542 lb (25,193 kg), round weight, the AA will file a notification with the Office of the

Federal Register to close the commercial sector for this complex for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of red hind, rock hind, yellowmouth grouper, yellowfin grouper, coney, and graysby is prohibited, and harvest or possession of any of these species in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for other SASWG combined, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 104,190 lb (47,260 kg), round weight, is exceeded, and at least one of the species in other SASWG combined is overfished based on the most recent status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for other SASWG combined, as estimated by the SRD, reach or are projected to reach the recreational ACL of 48,648 lb (22,066 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if any stock in other SASWG combined is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for any species in the other SASWG combined in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for other SASWG combined, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if at least one of the species in other SASWG combined is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 104,190 lb (47,260 kg) is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for any species in the other SASWG combined in or from the South Atlantic EEZ are zero.

(k) *Greater amberjack*—(1) *Commercial sector.* (i) If commercial landings for greater amberjack, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.190(a)(3), the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(ii) If commercial landings for greater amberjack, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 1,968,001 lb (892,670 kg), round weight, is exceeded during the same fishing year, and the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL in the following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for greater amberjack, as estimated by the SRD, reach or are projected to reach the recreational ACL of 1,167,837 lb (529,722 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for greater amberjack in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for greater amberjack, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 1,968,001 lb (892,670 kg), round weight, is exceeded during the same fishing year. The AA will use the best scientific information available to determine if reducing the length of the recreational season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for greater amberjack in or from the South Atlantic EEZ are zero.

(l) *Other jacks complex (including lesser amberjack, almaco jack, and banded rudderfish, combined)*—(1) *Commercial sector.* (i) If commercial landings for the other jacks complex, as estimated by the SRD, reach or are projected to reach the commercial ACL of 189,422 lb (85,920 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the other jacks complex for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of lesser amberjack, almaco jack, and banded rudderfish is prohibited, and harvest or possession of any of these species in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for the other jacks complex, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 457,221 lb (207,392 kg), round weight, is exceeded, and at least one of the species in the other jacks complex is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for the other jacks complex, as estimated by the SRD, reach or are projected to reach the recreational ACL of 267,799 lb (121,472 kg), round weight, the AA will file a notification with the Office of the Federal Register

to close the recreational sector for the remainder of the fishing year regardless if any stock in the other jacks complex is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for any species in the other jacks complex in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for the other jacks complex, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if at least one of the species in the other jacks complex is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 457,221 lb (207,392 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for any species in the other jacks complex in or from the South Atlantic EEZ are zero.

(m) *Bar jack*—(1) *Commercial sector.* (i) If commercial landings for bar jack, as estimated by the SRD, reach or are projected to reach the commercial ACL of 13,228 lb (6,000 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of bar jack is prohibited and harvest or possession of bar jack in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for bar jack, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 62,249 lb (28,236 kg), round weight, is exceeded, and bar jack are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for bar jack, as estimated by the SRD, reach or are projected to reach the recreational ACL of 49,021 lb (22,236 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for bar jack in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for bar jack, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if bar jack are overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 62,249 lb (28,236 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for bar jack in or from the South Atlantic EEZ are zero.

(n) *Yellowtail snapper*—(1) *Commercial sector.* (i) If commercial landings for yellowtail snapper, as estimated by the SRD, reach or are projected to reach the commercial ACL of 1,596,510 lb (724,165 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of yellowtail snapper is prohibited and harvest or possession of yellowtail snapper in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for yellowtail snapper, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 3,037,500 lb (1,377,787 kg), round weight, is exceeded during the same fishing year, and yellowtail snapper are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for yellowtail snapper, as estimated by the SRD, reach or are projected to reach the recreational ACL of 1,440,990 lb (653,622 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for yellowtail snapper in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for yellowtail snapper, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 3,037,500 lb (1,377,787 kg), round weight, is exceeded during the same fishing year. The AA will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for yellowtail snapper in or from the South Atlantic EEZ are zero.

(o) *Mutton snapper*—(1) *Commercial sector.* (i) If commercial landings for mutton snapper, as estimated by the SRD, reach or are projected to reach the commercial ACL of 157,743 lb (71,551 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of mutton snapper is prohibited and harvest or possession of mutton snapper in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for mutton snapper, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 926,600 lb (420,299 kg), round weight, is exceeded during the same fishing year, and the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL in the following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for mutton snapper, as estimated by the SRD, reach or are projected to reach the recreational ACL of 768,857 lb (348,748 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for mutton snapper in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for mutton snapper, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 926,600 lb (420,299 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for mutton snapper in or from the South Atlantic EEZ are zero.

(p) *Other snappers complex (including cubera snapper, gray snapper, lane snapper, dog snapper, and mahogany snapper)*—(1) *Commercial sector.* (i) If commercial landings for the other snappers complex, as estimated by the SRD, reach or are projected to reach the complex commercial ACL of 344,884 lb (156,437 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for this complex for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of cubera snapper, gray snapper, lane snapper, dog snapper, and mahogany snapper is prohibited, and harvest or possession of any of these species in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for the other snappers complex, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 1,517,716 lb (688,424 kg), round weight, is exceeded, and at least one of the species in the other snappers complex is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for the other snappers complex, as estimated by the SRD, reach or are projected to reach the recreational ACL of 1,172,832 lb (531,988 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if any stock in the other snappers complex is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for any species in the other snappers complex in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for the other snappers complex, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if at least one of the species in the other snappers complex is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and the combined commercial and recreational ACL of 1,517,716 lb (688,424 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for any species in the other snappers complex in or from the South Atlantic EEZ are zero.

(q) *Gray triggerfish*—(1) *Commercial sector.* (i) If commercial landings for gray triggerfish, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.190(a)(8)(i) or (ii), the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(ii) If commercial landings for gray triggerfish, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 716,999 lb (325,225 kg), round weight, is exceeded, and gray triggerfish are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for gray triggerfish, as estimated by the SRD, reach or are projected to reach the recreational ACL

of 404,675 lb (183,557 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for gray triggerfish in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for gray triggerfish, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if gray triggerfish are overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 716,999 lb (325,225 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for gray triggerfish in or from the South Atlantic EEZ are zero.

(r) *Wreckfish*—(1) *Commercial sector.* (i) The ITQ program for wreckfish in the South Atlantic serves as the accountability measures for commercial wreckfish. The commercial ACL for wreckfish is equal to the commercial quota specified in § 622.190(b). Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(ii) The combined commercial and recreational ACL for wreckfish is 433,000 lb (196,405 kg), round weight, for 2015; 423,700 lb (192,187 kg), round weight, for 2016; 414,200 lb (187,878 kg), round weight, for 2017; 406,300 lb (184,295 kg), round weight, for 2018; 396,800 lb (179,985 kg), round weight, for 2019; and 389,100 lb (176,493 kg), round weight, for 2020 and subsequent fishing years.

(2) *Recreational sector.* (i) If recreational landings for wreckfish, as estimated by the SRD, reach or are projected to reach the recreational ACL specified in § 622.193(r)(2)(iii), the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for wreckfish in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for wreckfish, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL specified in § 622.193(r)(1)(ii) is exceeded during the same fishing year. The AA will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for wreckfish in or from the South Atlantic EEZ are zero.

(iii) The recreational ACL for wreckfish is 21,650 lb (9,820 kg), round weight, for 2015; 21,185 lb (9,609 kg), round weight, for 2016; 20,710 lb (9,394 kg), round weight, for 2017; 20,315 lb (9,215 kg), round weight, for 2018; 19,840 lb (8,999 kg), round weight, for 2019; and 19,455 lb (8,825 kg), round weight, for 2020 and subsequent fishing years.

* * * * *

(t) *Atlantic spadefish*—(1) *Commercial sector.* (i) If commercial landings for Atlantic spadefish, as estimated by the SRD, reach or are projected to reach the commercial ACL of 150,552 lb (68,289 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of Atlantic spadefish is prohibited and harvest or possession of Atlantic spadefish in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for Atlantic spadefish, as estimated by the SRD, exceed the ACL, and the combined commercial and recreational ACL of 812,478 lb (368,534 kg), round weight, is exceeded, and Atlantic spadefish are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for Atlantic spadefish, as estimated by the SRD, reach or are projected to reach the recreational ACL of 661,926 lb (300,245 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for Atlantic spadefish in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for Atlantic spadefish, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if Atlantic spadefish are overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 812,478 lb (368,534 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for Atlantic spadefish in or from the South Atlantic EEZ are zero.

(u) *Hogfish*—(1) *Commercial sector.* (i) If commercial landings for hogfish, as estimated by the SRD, reach or are projected to reach the commercial ACL of 49,469 lb (22,439 kg), round weight, the AA will file a notification with the Office of the Federal Register to close

the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of hogfish is prohibited and harvest or possession of hogfish in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for hogfish, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 134,824 lb (61,155 kg), round weight, is exceeded, and hogfish are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for hogfish, as estimated by the SRD, reach or are projected to reach the recreational ACL of 85,355 lb (38,716 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for hogfish in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for hogfish, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if hogfish are overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 134,824 lb (61,155 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for hogfish in or from the South Atlantic EEZ are zero.

(v) *Red porgy*—(1) *Commercial sector.* (i) If commercial landings for red porgy, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.190(a)(6), the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(ii) If commercial landings for red porgy, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 315,384 lb (143,056 kg), gutted weight, 328,000 lb (148,778 kg), round weight, is exceeded during the same fishing year, and red porgy are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL in the following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for red porgy, as estimated by the SRD, reach or are projected to reach the recreational ACL of 157,692 lb (71,528 kg), gutted weight, 164,000 lb (74,389 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for red porgy in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for red porgy, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 315,384 lb (143,056 kg), gutted weight, 328,000 lb (148,778 kg), round weight, is exceeded during the same fishing year. The AA will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for red porgy in or from the South Atlantic EEZ are zero.

(w) *Other porgies complex (including jolthead porgy, knobbed porgy, whitebone porgy, scup, and saucereye porgy)*—(1) *Commercial sector.* (i) If commercial landings for the other porgies complex, as estimated by the SRD, reach or are projected to reach the commercial ACL of 36,348 lb (16,487 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the other porgies complex for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of jolthead porgy, knobbed porgy, whitebone porgy, scup, and saucereye porgy is prohibited, and harvest or possession of any of these species in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for the other porgies complex, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 143,262 lb (64,983 kg), round weight, is exceeded, and at least one of the species in the complex is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for the other porgies complex, as estimated by the SRD, reach or are projected to reach the recreational ACL of 106,914 lb (48,495 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if any stock in the other porgies complex is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for any

species in the other porgies complex in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for the other porgies complex, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if one of the species in the complex is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 143,262 lb (64,983 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for any species in the other porgies complex in or from the South Atlantic EEZ are zero.

(x) *Grunts complex (including white grunt, sailor's choice, tomtate, and margate)*—(1) *Commercial sector.* (i) If commercial landings for the grunts complex, as estimated by the SRD, reach or are projected to reach the commercial ACL of 217,903 lb (98,839 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for this complex for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of white grunt, sailor's choice, tomtate, and margate is prohibited, and harvest or possession of these species in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for the grunts complex, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 836,025 lb (379,215 kg), round weight, and at least one of the species in the complex is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) If recreational landings for the grunts complex, as estimated by the SRD, reach or are projected to reach the recreational ACL of 618,122 lb (280,375 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if any stock in the grunts complex is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for any species in the grunts complex in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for the grunts complex, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if at least one of the species in the grunts complex is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 836,025 lb (379,215 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for any species in the grunts complex in or from the South Atlantic EEZ are zero.

* * * * *

■ 4. In § 622.251, revise paragraph (a) to read as follows:

§ 622.251 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

(a) *Commercial sector.* (1) If commercial landings for golden crab, as estimated by the SRD, reach or are projected to reach the ACL of 2 million lb (907,185 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the golden crab fishery for the remainder of the fishing year. On and after the effective date of such a notification, all harvest, possession, sale, or purchase of golden crab in or from the South Atlantic EEZ is prohibited.

(2) If commercial landings for golden crab, as estimated by the SRD, exceed the ACL, and the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the ACL in the following fishing year by the amount of the ACL overage in the prior fishing year.

* * * * *

■ 5. In § 622.280, revise paragraphs (a)(1)(i) and (a)(2)(i) and the last two sentences in paragraph (b)(1)(i) to read as follows:

§ 622.280 Annual catch limits (ACLs) and accountability measures (AMs).

(a) * * *

(1) * * *

(i) If commercial landings for Atlantic dolphin, as estimated by the SRD, reach or are projected to reach the commercial ACL of 1,534,485 lb (696,031 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of Atlantic dolphin is prohibited and harvest or possession of Atlantic dolphin in or from the Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for Atlantic dolphin and wahoo has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

* * * * *

(2) * * *

(i) If recreational landings for Atlantic dolphin, as estimated by the SRD, exceed the recreational ACL of 13,810,361 lb (6,264,274 kg), round weight, then during the following fishing year recreational landings will be monitored for a persistence in increased landings.

* * * * *

(b) * * *

(1) * * *

(i) * * * On and after the effective date of such a notification, all sale or purchase of Atlantic wahoo is prohibited and harvest or possession of Atlantic wahoo in or from the Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for Atlantic dolphin and wahoo has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

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[FR Doc. 2016–01258 Filed 1–21–16; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 14
Friday, January 22, 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 HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2016–0001]

Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security/ALL–030 Use of the Terrorist Screening Database System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Homeland Security is giving concurrent notice of an updated and reissued system of records pursuant to the Privacy Act of 1974 for the ''Department of Homeland Security/ALL–030 Use of the Terrorist Screening Database System of Records'' and this proposed rulemaking. In this proposed rulemaking, the Department proposes to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: Comments must be received on or before February 22, 2016.

ADDRESSES: You may submit comments, identified by docket number DHS–2016–0001 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Karen L. Neuman, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions or privacy issues please contact: Karen L. Neuman, (202–343–1717), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) is giving notice of a proposed rule to accompany an updated system of records notice titled, ''DHS/ALL–030 Use of the Terrorist Screening Database (TSDB) System of Records.''

DHS maintains a synchronized copy of the Department of Justice (DOJ)/Federal Bureau of Investigation (FBI)-019 Terrorist Screening Records System of Records (August 22, 2007, 72 FR 47073) via a technological mechanism called DHS Watchlist Service (WLS) that disseminates the feed to authorized DHS components. The WLS supports an automated and centralized data transmission of TSDB data to DHS. The WLS replaced multiple data feeds from the FBI/TSC to DHS and its components, as documented by information sharing agreements. The WLS is a system to system secure connection with no direct user interface.

DHS is publishing this notice of proposed rulemaking to account for the expansion of the current system of records notice to clarify one category of individuals and add two new categories of individuals whose information is currently included in, or is contemplated for inclusion in, the TSDB. These categories of information have been included in the TSDB to in support of the White House's ''Strategy to Combat Transnational Organized Crime'' (July 19, 2011), and National Security Presidential Directive-59/Homeland Security Presidential Directive-24, ''Biometrics for Identification and Screening to Enhance National Security'' (June 5, 2008). These executive strategies are relevant to DHS's vetting and screening operations.

DHS is clarifying the category of individuals to explicitly include relatives, associates, or others closely connected with a known or suspected terrorist who are excludable from the United States based on these relationships by virtue of sec. 212(a)(3)(B) of the Immigration and Nationality Act, as amended, and do not otherwise satisfy the requirements for inclusion in the TSDB.

DHS is adding two new categories of individuals to include: (1) Individuals who were officially detained during military operations, but not as enemy prisoners of war, and who have been identified as possibly posing a threat to national security, and who do not otherwise satisfy the requirements for inclusion in the TSDB (''military detainees''), consistent with E.O. 12333 (or successor order) and the DOJ/FBI–019; and (2) individuals who may pose a threat to national security because they are (a) known or suspected to be or have been engaged in conduct constituting, in aid of, or related to transnational organized crime, thereby posing a possible threat to national security, and (b) do not otherwise satisfy the requirements for inclusion in the TSDB (''transnational organized crime actors''), consistent with E.O. 12333 (or successor order) (''national security threats'') and in support of the White House's ''Strategy to Combat Transnational Organized Crime'' (July 19, 2011), and National Security Presidential Directive-59/Homeland Security Presidential Directive-24, ''Biometrics for Identification and Screening to Enhance National Security'' (June 5, 2008).

DHS is also publishing this notice of proposed rulemaking to account for the expansion of the current system of records to clarify and expand the categories of records maintained by the Department. These categories of records are types of data elements included in the TSDB and are shared with DHS and have been deemed relevant to supporting DHS's vetting and screening operations.

1. Identifying biographic information, such as name, date of birth, place of birth, passport or driver's license information, and any other available identifying particulars used to compare the identity of an individual being screened with a subject in the TSDB;

2. Biometric information, such as photographs, fingerprints, or iris images, and associated biographic and contextual information;

3. References to, or information from, other government law enforcement and intelligence databases, or other relevant

databases that may contain terrorism and/or national security information, such as unique identification numbers used in other systems;

4. Information collected and compiled to maintain an audit trail of the activity of authorized users of WLS information systems; and

5. System-generated information, including metadata, archived records and record histories from WLS.

DHS is planning future enhancements to the WLS that will provide for a central mechanism to receive information from DHS components when they encounter a potential match to the TSDB and send this information to the FBI/TSC. DHS will update this SORN to reflect such enhancements to the WLS once that capability is implemented. All encounter-related information sharing from DHS to the FBI/TSC will be conducted pursuant to the programmatic system of records notices outlined above.

DHS previously published a Final Rule in the **Federal Register** to exempt this system of records from certain provisions of the Privacy Act at 75 FR 55335, Dec. 29, 2011. DHS is publishing a new notice of proposed rulemaking to cover the exemptions that will now be applied to these new categories of individuals covered within this system of records. The existing Final Rule for Privacy Act exemptions continues to apply until the new Final Rule is published. This updated system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

The Privacy Act allows government agencies to exempt certain records from the access and amendment provisions. If an agency claims an exemption, however, it must issue a Notice of Proposed Rulemaking to make clear to the public the reasons why a particular exemption is claimed.

DHS is claiming exemptions from certain requirements of the Privacy Act for DHS/ALL–030 Use of the Terrorist Screening Database System of Records. Some information in DHS/ALL–030 Use of the Terrorist Screening Database System of Records relates to official DHS national security and law enforcement activities. These exemptions are needed to protect information relating to DHS activities from disclosure to subjects or others related to these activities. Specifically, the exemptions are required to preclude subjects of these activities from frustrating these processes. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension. In appropriate circumstances, when compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and the overall law enforcement process, the applicable exemptions may be waived on a case-by-case basis.

A notice of system of records for DHS/ALL–030 Use of the Terrorist Screening Database System of Records is also published elsewhere in this issue of the **Federal Register.**

List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

For the reasons stated in the preamble, DHS proposes to amend Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

■ 1. The authority citation for part 5 is revised to read as follows:

Authority: 6 U.S.C. 101 *et seq.;* Pub. L. 107–296, 116 Stat. 2135; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

■ 2. In Appendix C to Part 5, revise paragraph 66 to read as follows:

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

66. The DHS/ALL–030 Use of the Terrorist Screening Database System of Records consists of electronic and paper records and will be used by DHS and its components. The DHS/ALL–030 Use of the Terrorist Screening Database System of Records is a repository of information held by DHS in connection with its several and varied missions and functions, including, the enforcement of civil and criminal laws; investigations, inquiries, and proceedings there under; and national security and intelligence activities. The DHS/ALL–030 Use of the Terrorist Screening Database System of Records contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, State, local, tribal, foreign, or international government agencies. The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(j)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f), and (g). Additionally, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(1) and (k)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f). When a record received from another system has been exempted in that source system under 5 U.S.C. 552a(j)(2), DHS will claim the same exemptions for those records that are claimed for the original primary systems of records from which they originated and claims any additional exemptions set forth here. Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced

occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of the investigation, thereby interfering with that investigation and related law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information could impede law enforcement by compromising the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(f) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because with the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with subsection (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS's ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal and could result in disclosure of investigative techniques, procedures, and evidence.

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

* * * * *

Dated: January 12, 2016.

Karen L. Neuman

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2016–01169 Filed 1–21–16; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM96–1–040]

Standards for Business Practices of Interstate Natural Gas Pipelines

AGENCY: Federal Energy Regulatory Commission. DOE.

ACTION: Proposed rule; request for comment on filing.

SUMMARY: Take notice that on January 11, 2016, the North American Energy Standards Board (NAESB) filed a report with the Commission stating it had approved a minor correction to Standard No. 1.3.22 (ii) of Version 3.0 of the NAESB Wholesale Gas Quadrant standards, which were incorporated by reference in the Commission's regulations by order issued by the Commission on October 16, 2015. Comments are invited on whether to incorporate this minor correction by reference in the Commission's regulations.

DATES: Comments are due on or before February 10, 2016.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- *Electronic Filing through http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Gary D. Cohen (legal issues), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–8321, Email: *gary.cohen@ferc.gov.*

SUPPLEMENTARY INFORMATION: Comments are requested on whether to incorporate by reference the following NAESB Wholesale Gas Quadrant Standard into § 284.12 of the Commission's regulations: Nominations Related Standards (Version 3.0, November 14, 2014, with minor corrections applied through June 29, 2015 and MC15021 effective November 25, 2015).

Office of Management and Budget Circular A–119 (section 11) (February 10, 1998) provides that federal agencies should publish a request for comment in a Notice of Proposed Rulemaking when the agency is seeking to issue or revise a regulation proposing to adopt a voluntary consensus standard or a government-unique standard. Standard 1.3.22 would be incorporated by reference.

The Office of the Federal Register requires agencies incorporating material by reference in final rules to discuss, in the preamble of the final rule, the ways that the materials it incorporates by reference are reasonably available to interested parties and how interested parties can obtain the materials.[1] The regulations also require agencies to summarize, in the preamble of the final rule, the material it incorporates by reference. Standard 1.3.22 (ii) establishes the scheduled quantity when no response is received for a request for confirmation. Our regulations provide that copies of the NAESB standards incorporated by reference may be obtained from the North American Energy Standards Board, 801 Travis Street, Suite 1675, Houston, TX 77002, Phone: (713) 356–0060. NAESB's Web site is at *http://www.naesb.org/.* Copies may be inspected at the Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street NE., Washington, DC 20426, Phone: (202) 502–8371, *http://www.ferc.gov.*

The procedures used by NAESB make its standards reasonably available to those affected by the Commission regulations, which is comprised of entities that have the means to acquire the information they need to effectively participate in Commission proceedings. Participants can join NAESB, for an annual membership cost of only $7,000, which entitles them to full participation in NAESB and enables them to obtain these standards at no additional cost.[2] Non-members who have purchased the standards may obtain the Minor Correction for free, non-members who have not purchased the standards may obtain the Standards Manual for standard 1.3.22 by email for $250 per Manual.[3] Nonmembers also may obtain the complete set of Standards Manuals, Booklets, and Contracts on CD for $2,000. NAESB also provides a free electronic read-only version of the standards for a three business day period or, in the case of a regulatory comment period, through the end of the

[1] 1 CFR 51.5. *See* Incorporation by Reference, 79 FR 66267 (Nov. 7, 2014).

[2] North American Energy Standards Board Membership Application, *https://www.naesb.org/pdf4/naesbapp.pdf.*

[3] NAESB Materials Order Form, *https://www.naesb.org//pdf/ordrform.pdf.*

comment period.[4] In addition, NAESB considers requests for waivers of the charges on a case-by-case basis depending on need.

Dated: January 15, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–01237 Filed 1–21–16; 8:45 am]

BILLING CODE 6717–01–P

[4] Procedures for non-members to evaluate work products before purchasing, *https://www.naesb.org/misc/NAESB_Nonmember_Evaluation.pdf.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. FDA–2014–N–1021]

RIN 0910–AH00

Food Labeling; Gluten-Free Labeling of Fermented or Hydrolyzed Foods; Reopening of the Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; reopening of the comment period.

SUMMARY: In the **Federal Register** of November 18, 2015 (80 FR 71990), the Food and Drug Administration (FDA) published a proposed rule entitled, ''Food Labeling; Gluten-Free Labeling of Fermented or Hydrolyzed Foods.'' Due to an inadvertent error, the publication contained conflicting dates for submission of comments under the Paperwork Reduction Act of 1995. This notice corrects that error.

DATES: Submit either electronic or written comments on information collection issues under the PRA by February 22, 2016.

ADDRESSES: Submit comments on information collection issues to the Office of Management and Budget in the following ways:

- Fax to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or email to *oira_submission@omb.eop.gov.* All comments should be identified with the title ''Recordkeeping Requirements for Gluten-Free Labeling of Fermented or Hydrolyzed Foods.''

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: On November 18, 2015 (80 FR 71990), the Food and Drug Administration (FDA) published a proposed rule entitled, ''Food Labeling; Gluten-Free Labeling of Fermented or Hydrolyzed Foods.'' In the **DATES** section of the proposed rule, we provided a 30-day period for submitting comments with respect to the information collection issues under the Paperwork Reduction Act of 1995 (PRA). However, in the PRA discussion for the proposed rule, an error was made that provided 60 days for PRA comments. To address this error, we have reopened the comment period for the information collection provisions of the proposed rule. Accordingly, comments regarding information collection issues may be received until February 22, 2016. The comment period for all other aspects of the proposed rule remains unchanged where comments may be submitted until February 16, 2016.

Dated: January 15, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–01177 Filed 1–21–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 882

[Docket No. FDA–2014–N–1209]

Neurological Devices; Reclassification of Cranial Electrotherapy Stimulator Intended To Treat Insomnia and/or Anxiety; Effective Date of Requirement for Premarket Approval for Cranial Electrotherapy Stimulator Intended To Treat Depression

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed order.

SUMMARY: The Food and Drug Administration (FDA) is issuing a proposed administrative order to reclassify the cranial electrotherapy stimulator (CES) devices intended to treat insomnia and/or anxiety, a preamendments class III device, into class II (special controls) and subject to premarket notification, and to require the filing of a premarket approval application (PMA) for CES devices intended to treat depression. FDA is proposing the reclassification of CES devices intended to treat insomnia and/or anxiety under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) based on new information pertaining to the device. This proposed action would implement certain statutory requirements. FDA is also clarifying the identification for CES devices in this proposed order by identifying CES as a prescription device that applies electrical current that is not intended to induce a seizure to a patient's head to treat psychiatric conditions. This clarification distinguishes CES from electroconvulsive therapy (ECT).

DATES: Submit either electronic or written comments on this proposed order by April 21, 2016. See sections IX and XVII of this document for, respectively, the proposed dates when the new requirements apply and the proposed effective date of a final order based on this proposed order.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2014–N–1209 for ''Neurological Devices; Reclassification of Cranial Electrotherapy Stimulator (CES) Intended to Treat Insomnia and/or Anxiety; Effective Date of Requirement for Premarket Approval for CES Intended to Treat Depression.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION''. The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Michael Ryan, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1615, Silver Spring, MD 20993, 301–796–6283, *michael.ryan@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background—Regulatory Authorities

The FD&C Act, as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Pub. L. 94–295), the Safe Medical Devices Act of 1990 (SMDA) (Pub. L. 101–629), Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115), the Medical Device User Fee and Modernization Act of 2002 (MDUFMA) (Pub. L. 107–250), the Medical Devices Technical Corrections Act (Pub. L. 108–214), the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85), and the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112–144), among other amendments, establishes a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three categories (classes) of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513(d) of the FD&C Act, devices that were in commercial distribution before the enactment of the 1976 amendments, May 28, 1976 (generally referred to as preamendments devices), are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976 (generally referred to as postamendments devices) are automatically classified by section 513(f) of the FD&C Act into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval unless, and until, the device is reclassified into class I or II or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

A preamendments device that has been classified into class III and devices found substantially equivalent by means of premarket notification (510(k)) procedures to such a preamendments device or to a device within that type (both the preamendments and substantially equivalent devices are referred to as preamendments class III devices) may be marketed without submission of a PMA until FDA issues a final order under section 515(b) of the FD&C Act (21 U.S.C. 360e(b)) requiring premarket approval.

Although under the FD&C Act the manufacturer of a preamendments class III device may respond to the call for PMAs by filing a PMA or a notice of completion of a product development protocol (PDP), in practice the option of filing a notice of completion of a PDP has not been used. For simplicity, although corresponding requirements for PDPs remain available to manufacturers in response to a final order under section 515(b) of the FD&C Act, this document will refer only to the requirement for the filing and receiving approval of a PMA.

On July 9, 2012, FDASIA was enacted. Sections 608(a) and (b) of FDASIA (126 Stat. 1056) amended sections 513(e) and 515(b) of the FD&C Act, changing the mechanism for, respectively, reclassifying a device and requiring premarket approval for a preamendments class III device from rulemaking to an administrative order.

A. Reclassification

FDA is publishing this document to propose the reclassification of CES devices to treat insomnia and/or anxiety from class III to class II.

Section 513(e) of the FD&C Act provides that FDA may, by administrative order, reclassify a device based upon ''new information.'' FDA can initiate a reclassification under section 513(e) of the FD&C Act or an interested person may petition FDA to reclassify a preamendments device. The term ''new information,'' as used in section 513(e) of the FD&C Act, includes information developed as a result of a reevaluation of the data before the Agency when the device was originally classified, as well as information not presented, not available, or not developed at that time. (See, *e.g., Holland-Rantos Co.* v. *United States Department of Health, Education, and Welfare,* 587 F.2d 1173, 1174 n.1 (D.C. Cir. 1978); *Upjohn* v. *Finch,* 422 F.2d 944 (6th Cir. 1970); *Bell* v. *Goddard,* 366 F.2d 177 (7th Cir. 1966).)

Reevaluation of the data previously before the Agency is an appropriate basis for subsequent regulatory action where the reevaluation is made in light of newly available regulatory authority (see *Bell,* 366 F.2d at 181; *Ethicon, Inc.* v. *FDA,* 762 F. Supp. 382, 388–391 (D.D.C. 1991)), or in light of changes in ''medical science.'' (*Upjohn,* 422 F.2d at 951). Whether data before the Agency are old or new data, the ''new information'' to support reclassification under section 513(e) must be ''valid scientific evidence,'' as defined in section 513(a)(3) of the FD&C Act and § 860.7(c)(2) (21 CFR 860.7(c)(2)). (See, *e.g., General Medical Co.* v. *FDA,* 770 F.2d 214 (D.C. Cir. 1985); *Contact Lens Mfrs. Ass'n* v. *FDA,* 766 F.2d 592 (D.C. Cir. 1985), *cert. denied,* 474 U.S. 1062 (1986).)

FDA relies upon ''valid scientific evidence'' in the classification process to determine the level of regulation for devices. To be considered in the reclassification process, the ''valid scientific evidence'' upon which the Agency relies must be publicly available. Publicly available information excludes trade secret and/or confidential commercial information, *e.g.,* the contents of a pending PMA. (See section 520(c) of the FD&C Act (21 U.S.C. 360j(c)).)

Section 513(e)(1) of the FD&C Act sets forth the process for issuing a final order for reclassifying a device. Specifically, prior to the issuance of a final order reclassifying a device, the following must occur: (1) Publication of a proposed order in the **Federal Register**; (2) a meeting of a device classification panel described in section 513(b) of the FD&C Act; and (3) consideration of comments to a public docket. To meet these requirements, FDA has held a meeting of a device classification panel described in section 513(b) of the FD&C Act with respect to CES devices and is publishing in the Federal Register this proposed order to reclassify CES devices intended to treat insomnia and/or anxiety.

FDAMA added section 510(m) to the FD&C Act. Section 510(m) of the FD&C Act provides that a class II device may be exempted from the premarket notification requirements under section 510(k) of the FD&C Act if the Agency determines that premarket notification is not necessary to provide reasonable assurance of safety and effectiveness of the device. FDA has determined that premarket notification is necessary to provide reasonable assurance of safety and effectiveness of CES devices intended for treating insomnia and/or anxiety and, therefore, this device type is not exempt from premarket notification requirements.

B. Requirement for Premarket Approval Application

FDA is proposing to require PMAs for CES devices intended to treat depression. Section 515(b)(1) of the FD&C Act sets forth the process for issuing a final order requiring PMAs. Specifically, prior to the issuance of a final order requiring premarket approval for a preamendments class III device, the following must occur: (1) Publication of a proposed order in the **Federal Register**; (2) a meeting of a device classification panel described in section 513(b) of the FD&C Act; and (3) consideration of comments from all affected stakeholders, including patients, payors, and providers. FDA has held a meeting of a device classification panel described in section 513(b) of the FD&C Act with respect to CES devices and is publishing in the **Federal Register** this proposed order calling for PMAs for CES devices intended to treat depression.

Section 515(b)(2) of the FD&C Act provides that a proposed order to require premarket approval shall contain: (1) The proposed order, (2) proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved PMA or a declared completed PDP and the benefit to the public from the use of the device, (3) an opportunity for the submission of comments on the proposed order and the proposed findings, and (4) an opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

Section 515(b)(3) of the FD&C Act provides that FDA shall, after the close of the comment period on the proposed order, consideration of any comments received, and a meeting of a device classification panel described in section 513(b) of the FD&C Act, issue a final order to require premarket approval or publish a document terminating the proceeding together with the reasons for such termination. If FDA terminates the proceeding, FDA is required to initiate reclassification of the device under section 513(e) of the FD&C Act, unless the reason for termination is that the device is a banned device under section 516 of the FD&C Act (21 U.S.C. 360f).

Under section 501(f) of the FD&C Act (21 U.S.C. 351(f)), a preamendments class III device may be commercially distributed without a PMA until 90 days after FDA issues a final order (or a final rule issued under section 515(b) of the FD&C Act prior to the enactment of FDASIA) requiring premarket approval for the device, or 30 months after final classification of the device under section 513 of the FD&C Act, whichever is later. For CES devices, the preamendments class III devices that are the subject of this proposal, the later of these two time periods is the 90-day period. Since these devices were classified in 1979, the 30-month period has expired (44 FR 51770, September, 4, 1979). Therefore, if the proposal to require premarket approval for CES devices to treat depression is finalized, section 501(f)(2)(B) of the FD&C Act requires that a PMA for such device be filed within 90 days of the effective date of the final order. However, FDA does not intend to enforce compliance with the 90-day deadline for PMA submissions for currently legally marketed CES devices to treat depression. See further discussion in section IX ''Dates New Requirements Apply'' for proposed compliance dates.

Also, a preamendments device subject to the order process under section 515(b) of the FD&C Act is not required to have an approved investigational device exemption (IDE) (see part 812 (21 CFR part 812)) contemporaneous with its interstate distribution until the date identified by FDA in the final order requiring the filing of a PMA for the device. At that time, an IDE is required only if a PMA has not been filed. If the sponsor, manufacturer, or importer of the device submits an IDE application and FDA approves it, the device may be distributed for investigational use. If a PMA is not filed by the later of the two dates (*i.e.,* 180 days after the effective date of the final order), and the device is not distributed for investigational use under an IDE, the device is deemed to be adulterated within the meaning of section 501(f)(1)(A) of the FD&C Act, and subject to seizure and condemnation under section 304 of the FD&C Act (21 U.S.C. 334) if its distribution continues. Other enforcement actions include, but are not limited to, the following: Shipment of devices in interstate commerce will be subject to injunction under section 302 of the FD&C Act (21 U.S.C. 332), and the individuals responsible for such shipment will be subject to prosecution under section 303 of the FD&C Act (21 U.S.C. 333). In the past, FDA has requested that manufacturers take action to prevent the further use of devices for which no PMA or PDP has been filed and may determine that such a request is appropriate for the class III devices that are the subject of this proposed order, if finalized.

In accordance with section 515(b)(2)(D) of the FD&C Act, interested persons are being offered the opportunity to request reclassification of CES devices to treat depression.

II. Regulatory History of the Device

In 1978, the Neurological Devices Panel (the 1978 Panel) discussed the original classification for the CES device at two separate meetings (43 FR 55716, November 28, 1978). The 1978 Panel ultimately recommended that the device be classified into class III because the safety and effectiveness of the device had not been demonstrated. The 1978 Panel considered, among other data, information from the National Research Council, which reviewed 88 published studies on CES and concluded that the device had not been shown to be effective in treating any of the conditions for which it was prescribed. In addition, the 1978 Panel indicated that there was insufficient information to establish an adequate performance standard for CES because the characteristics of the electrical current necessary for potential effectiveness were not known. The 1978 Panel believed that general controls would not provide sufficient control over these characteristics, and that the device presented a potential unreasonable risk of illness or injury to the patient if the practitioner relied on the device instead of more conventional treatment, and the device was ineffective in treating any of the conditions for which it was prescribed. FDA agreed with the 1978 Panel's recommendation, and the CES device was classified into class III in 1979 (44 FR 51770, September 4, 1979).

In support of a subsequent proposed rule in 1993 to require PMAs for CES devices (58 FR 45865, August 31, 1993), FDA performed a literature review and identified additional studies that had been conducted on the use of CES. After a review of the scientific literature, FDA concluded that the effectiveness of CES had still not been established by adequate valid scientific evidence. On August 24, 1995, FDA issued a final rule requiring PMAs (60 FR 43967), but later proposed to revoke the call for PMAs because the Agency had received new information and wanted to reconsider the classification of CES and put out a call for information (62 FR 4023, January 28, 1997) under section 515(i) of the FD&C Act. The Agency subsequently revoked the call for PMAs (62 FR 30456, June 4, 1997).

On April 9, 2009, FDA published a notice for the submission of safety and effectiveness information on CES devices (74 FR 16214). In response to that order, FDA received information in support of reclassification from five device manufacturers that all recommended CES devices be reclassified to class II. The manufacturers stated that safety and effectiveness of these devices may be assured by limited postmarket surveillance; adequate instructions for use, including warnings about the possibility of unsafe use; availability only upon the order of a health care professional licensed to diagnose and differentiate the primary indications of CES for anxiety, insomnia, and depression from other disorders (*i.e.,* prescription use device); and compliance with voluntary consensus standards (*e.g.,* for electrical safety, biocompatibility, etc.).

On August 8, 2011, FDA published a proposed rule under section 515(b) of the FD&C Act proposing to require PMAs for CES devices (76 FR 48062). In developing the proposed rule, FDA considered literature on CES devices published since the previous 1993 proposed rule and the information provided in response to the 2009 notice. FDA concluded from the review of the scientific literature that the effectiveness of CES had not been established by adequate valid scientific evidence and the 1978 Panel's original class III recommendation remained appropriate. The August 8, 2011, proposed rule also provided an opportunity for interested persons to submit comments on the proposed rule and the Agency's findings. Under section 515(b)(2) of the FD&C Act, FDA also provided an opportunity for interested persons to request a change in the classification of the devices based on new information relevant to its classification. Any petition requesting a change in classification of the CES device was required to be submitted by August 23, 2011. The comment period for the proposed rule closed on November 7, 2011.

FDA received three petitions conforming to the requirements of § 860.123 (21 CFR 860.123) requesting a change in the classification of CES devices. Of these petitions, one requested the Agency to reclassify CES devices from class III to class II for the treatment of ''insomnia, depression, or anxiety.'' The second reclassification petition presented a more focused indication, requesting the Agency to reclassify CES devices from class III to class II for the ''treatment of depression, anxiety, and insomnia in adult substance abuse patients who have failed to achieve satisfactory improvement from one prior antidepressant or sleep medication at or above the minimal effective dose and duration in the current episode, or are unable to tolerate such medication.'' The third reclassification petition requested the Agency to reclassify CES devices from class III to class II for the ''general treatment of anxiety, depression, and insomnia as part of an approved program of medical care when conventional approaches have failed or are deemed inappropriate'' and ''for the treatment of the primary symptoms of substance abuse: Anxiety, depression, and insomnia when conventional approaches have failed or are deemed inappropriate.''

Consistent with the FD&C Act as it existed at the time, on February 10, 2012, FDA referred the reclassification petitions to the Neurological Devices Panel (the 2012 Panel) for its recommendation on the requested change in classification. FDA provided the 2012 Panel members with the three reclassification petitions and FDA's executive summary, which included an updated review of the available scientific literature on the CES device (Ref. 1). Based on its review of the data as well as information presented during an open meeting (Ref. 2), the majority of the 2012 Panel did not think there was valid scientific evidence supporting effectiveness for treatment of insomnia, depression, or anxiety. However, three 2012 Panel members, including the industry and patient representatives, did believe there was valid scientific evidence of effectiveness, and a fourth member believed effectiveness had been demonstrated for treatment of anxiety but not for insomnia or depression. The 2012 Panel also pointed out that there was a lack of device risk, meaning that a benefit/risk analysis might be favorable with any demonstrated effectiveness. The majority of the 2012 Panel, however, recommended that CES should be kept in class III. The class III recommendation from the 2012 Panel also applied to the more focused indication of the two petitioners that requested class II for use in the substance abuse population, which is an indication outside the scope of the current classification effort as CES devices have not been cleared for use in this patient population. The 2012 Panel did not consider, however, the possibility of splitting different indications into different classifications (though one 2012 Panel member did state that there seemed to be effectiveness for treatment of anxiety), or whether there is sufficient evidence to establish clinical performance testing as a special control. The Agency has since considered these possibilities, as discussed in this document.

FDA later issued a proposed administrative order to comply with the new procedural requirement created by FDASIA when requiring PMAs for a preamendments class III device (78 FR 20268, April 4, 2013). The proposed order provided for a comment period that was open until May 6, 2013. FDA received approximately 100 comments related to the CES device, most suggesting that the device should be reclassified from class III to class II considering the limited safety risks associated with the device and the ability to establish special controls to mitigate the risks to health. FDA also received one additional reclassification petition requesting that the device be reclassified from class III to class II.

On June 12, 2014, FDA withdrew the proposed rule and proposed order calling for PMAs for CES, stating in the **Federal Register** notice (79 FR 33712) that the Agency had received over 300 comments to the docket in response to the proposed rule and proposed order related to CES devices. Comments that expressed an opinion about the classification of CES devices were usually in favor of a class II designation. Some comments did not openly state an opinion, but included arguments against the proposed rule or order that could reasonably be interpreted as support for a class II designation. There were also comments that agreed with a class III designation. The withdrawal also stated that FDA has considered the information before the Agency, including the deliberations of the 2012 Panel and the reclassification petitions submitted for these devices, and has determined that there is sufficient information to establish special controls, and that these special controls, together with general controls, will provide a reasonable assurance of safety and effectiveness for CES devices intended to treat insomnia and/or anxiety.

III. Device Description

A CES device is currently defined as a device that applies electrical current to a patient's head to treat insomnia, depression, or anxiety. FDA is proposing in this order to modify the identification language from how it is presently written in § 882.5800(a) (21 CFR 882.5800(a)) for additional clarification. FDA is clarifying in the identification that these are prescription devices and that the electrical current should not be intended to induce a seizure in patients. Clarifying that the stimulation is specifically not intended to induce a seizure makes a more definitive distinction between CES and ECT devices. However, FDA does not intend to otherwise describe the stimulation or electrode placement in the definition. Existing CES technology encompasses a range of stimulation settings and electrode placements, and with supportive clinical data, FDA believes that it is not necessary to establish limitations on the technical characteristics of CES devices within the definition.

IV. Proposed Reclassification

FDA is proposing that CES devices intended to treat insomnia and/or anxiety be reclassified from class III to class II. In order to reclassify these devices, the Agency must determine that there is sufficient information to establish special controls that, combined with the general controls, will provide a reasonable assurance of device safety and effectiveness. FDA has reconsidered the information before the Agency, including the deliberations of the 2012 Panel meeting and the reclassification petitions submitted for these devices, and has determined that there is sufficient information to establish special controls to effectively mitigate the risks to health identified in section V, and that these special controls, together with general controls, will provide a reasonable assurance of safety and effectiveness when applied to CES devices intended to treat insomnia and/or anxiety, including those existing legally marketed devices that have been previously cleared by FDA in 510(k)s.

Therefore, in accordance with sections 513(e) and 515(i) of the FD&C Act and § 860.130 (21 CFR 860.130), based on new information with respect to the devices and taking into account the public health benefit of the use of the device and the nature and known incidence of the risk of the device, FDA, on its own initiative, is proposing to reclassify this preamendments class III device into class II when the device is intended to treat insomnia and/or anxiety. FDA believes that this new information is sufficient to demonstrate that the proposed special controls can mitigate the risks to health identified in the next section, and that these special controls, together with general controls, will provide a reasonable assurance of safety and effectiveness for CES devices intended for treating insomnia and/or anxiety.

In this proposed order, the Agency has identified special controls under section 513(a)(1)(B) of the FD&C Act that, together with general controls (including prescription-use restrictions) applicable to the devices, are necessary to provide reasonable assurance of their safety and effectiveness.

Section 510(m) to the FD&C Act authorizes the Agency to exempt class II devices from premarket notification (510(k)) requirements. FDA has considered CES devices intended for treating insomnia and/or anxiety and decided that the device does require premarket notification. Therefore, the Agency does not intend to exempt this proposed class II device from premarket notification (510(k)) submission.

V. Risks to Health

After considering available information for the classification of CES devices intended to treat insomnia and/or anxiety, FDA has determined that the following risks to health are associated with use of the CES devices:

- *Ineffective treatment*—If the device is not effective and the patient is not treated in a conventional manner, the patient's psychological condition may worsen.
- *Skin irritation*—The electrodes or the conductive cream used with the electrodes may cause skin irritation.
- *Headaches*—Reported cases of adverse effects of CES devices include headaches following treatment with electrical stimulation.
- *Dizziness*—At higher levels of current, patients may experience feelings of dizziness that subside when the stimulation is turned down.
- *Electrical shock and burns*—Malfunction of the device may result in electrical shock or burns to the user.

VI. Summary of Reasons for Reclassification

FDA believes that CES devices intended to treat insomnia and/or anxiety should be reclassified from class III to class II because, in light of new information about the effectiveness of these devices, special controls, in addition to general controls, can be established to provide reasonable assurance of safety and effectiveness of the device, and because general controls themselves are insufficient to provide reasonable assurance of its safety and effectiveness. FDA believes that the risks of the CES devices intended to treat insomnia and/or anxiety can be mitigated with special controls and that these mitigations will provide a reasonable assurance of safety for these devices. Based on a reconsideration of the available information and data, FDA believes that there is valid scientific evidence of effectiveness for CES devices in the treatment of insomnia and/or anxiety. However, because the information available to the Agency includes evaluations of different CES devices and the methodology of CES delivery (*e.g.,* electrode placement,

stimulation parameters, duration and frequency of treatment sessions) varies, the data are insufficient to determine adequate directions for use and warnings for unsafe use for specific devices, and to determine whether the devices when used in accordance with such directions will provide clinically meaningful results. Therefore, it cannot be concluded, based on available information alone, that there is a reasonable assurance of effectiveness for individual CES devices intended to treat insomnia and/or anxiety. However, the available information for the treatment of insomnia and/or generalized anxiety with CES devices is sufficient to develop special controls, that combined with general controls, can provide a reasonable assurance of safety and effectiveness.

VII. Summary of Data Upon Which the Reclassification Is Based

FDA believes that the identified special controls, in addition to general controls (including prescription use restrictions and 510(k) notification requirements for devices that have not been legally marketed prior to the effective date of the final order, or devices that have been legally marketed but are required to submit a new 510(k) under § 807.81(a)(3) (21 CFR 807.81(a)(3)) because the device is about to be significantly changed or modified), will provide a reasonable assurance of safety and effectiveness of CES devices intended to treat insomnia and/or anxiety. Therefore, in accordance with sections 513(e) and 515(i) of the FD&C Act and § 860.130, based on new information with respect to the device and taking into account the public health benefit(s) of the use of the device and the nature and known incidence of the risk(s) of the device, FDA is proposing to reclassify these devices from class III to class II. The Agency has identified special controls that, when combined with general controls, are necessary to provide reasonable assurance of their safety and effectiveness.

There is a reasonable assurance that a device is effective when it can be determined, based upon valid scientific evidence, that in a significant portion of the target population, the use of the device for its intended uses and conditions of use, when accompanied by adequate directions for use and warnings against unsafe use, will provide clinically significant results (see § 860.7(e)(1)). During the 2012 Panel meeting (Ref. 1), the 2012 Panel expressed reservations on classifying CES devices into class III, given that there are limited safety concerns associated with these devices, and because they are not life-supporting or life-sustaining, or of substantial importance in preventing impairment of human health. The 2012 Panel also suggested that the list of significant risks in the 2011 proposed rule (76 FR 48062) was not accurate. There was consensus on the risks of skin irritation, headaches, and dizziness. However, the 2012 Panel did not believe that seizures and blurred vision were risks associated with CES, and also suggested that worsening of the condition being treated, though of concern, could be adequately addressed by a patient being under the supervision of a medical professional. However, the 2012 Panel consensus was that, given the lack of adequate chronic effectiveness data, the benefits of the CES device did not outweigh the risks and the device should remain in class III as use of the device could present a potential unreasonable risk to health. FDA has reexamined the available information, however, including information made available after the 2012 Panel that confirms a level of effectiveness of CES treatment in certain indications, and believes that there is evidence of effectiveness for CES usage in treating patients with insomnia and/or anxiety.

The available information, while limited, consists of valid scientific evidence regarding CES use in treating insomnia and anxiety, which demonstrates basic effectiveness for some indications, as well as a low risk profile. In terms of safety, there is little evidence of device risk. FDA's own records (which include real-world clinical experience) indicate that only a very few adverse events have been reported over the past 10 years, and those reported have generally been minor in nature. It is also unclear how many of those events are attributable to use of the device. In the CES literature, 10 of the references reviewed reported no adverse events had occurred. Other studies reported a number of minor adverse events. More common adverse events reported in the literature include: Blurred vision, headaches, dizziness, tingling on the forehead, and increased situational anxiety. There are very limited reports of significant adverse events. In general, CES devices appear to have a favorable long-term safety profile. If properly manufactured and used as intended, FDA believes that the special controls identified in this proposed order, if finalized, together with general controls (including prescription-use restrictions and 510(k) notification requirements), are sufficient to mitigate the risks associated with CES devices intended to treat insomnia and/or anxiety.

The effectiveness of CES usage in the conditions studied, insomnia, depression, and anxiety, is more difficult to determine, as many of the studies reviewed did not use the Diagnostic and Statistical Manual of Mental Disorders (DSM) criteria to diagnose insomnia, depression, and anxiety. Some studies were also limited in terms of sample size, placebo effect (due to either no masking or unsuccessful masking), and inadequate statistical methods. Of the 39 papers included in the literature review presented at the 2012 Panel meeting (Ref. 2), some reported a beneficial effect of CES on certain indications while others demonstrated no effect. Furthermore, the body of research reviews 25 different models of CES devices used, excluding 7 that were custom built, and some studies did not report the CES device model. Because the electrical output characteristics vary across the different CES devices, it is difficult to definitively ensure the effectiveness of any one device. However, the Agency believes that the totality of the results of these studies do provide information on the general effectiveness of CES usage for insomnia and/or anxiety.

FDA's systematic assessment of the published literature, as presented to the 2012 Panel, included 30 studies for ''on-label'' CES use (tables 14 and 15 of the FDA Executive Summary) (Ref. 2). Study design and methodology varied across the published papers, several different CES devices were evaluated, and the methodology of CES delivery (*e.g.,* electrode placement, stimulation parameters, duration and frequency of treatment sessions) also varied.

There were 24 studies that investigated the impact of CES on anxiety (11 randomized controlled trials (RCTs), 11 observational studies, 1 meta-analysis, and 1 systematic review). Of the RCTs that were evaluated, some trials reported a statistically significant benefit of CES treatment versus placebo in reducing anxiety symptoms (Refs. 3 through 8), while other studies demonstrated no difference in anxiety between the groups (Refs. 9 through 12). Feighner et al. also conducted an RCT and reported a reduction in anxiety at 15 days after CES use, but this effect was no longer significant at 26 days (Ref. 13). The majority of observational studies reported a positive association between CES treatment and reduction in anxiety symptoms (Refs. 14 through 21). In the single-arm observational study by Bystritsky et al., improvements were reported for some but not all measures

of anxiety (Ref. 22). Only two observational studies reported that CES did not have a significant impact on anxiety based on clinical assessment and standard inventories (Refs. 23, 24). A meta-analysis of eight RCTs evaluating the effectiveness of CES on anxiety indicated that CES versus sham treatment was associated with significantly improved anxiety (Ref. 25). Similar findings were reported in a systematic review that examined 34 controlled trials involving a total of 767 patients receiving CES and an additional 867 patients serving as controls (Ref. 26). Twenty six of 34 studies (77 percent) reported decreased anxiety after treatment with CES and the remaining 8 of 34 studies (24 percent) reported no such benefit.

FDA's assessment identified 18 studies that evaluated the effectiveness of CES on insomnia. Of the nine RCTs, some reported statistically significant reductions in insomnia symptoms in the CES group compared to placebo (Refs. 3, 4, 13, 27), while others reported no significant differences between the two groups (Refs. 9, 11, 12, 28). A study by Heffernan et al. also reported significant changes between the active CES treatment and placebo groups (Ref. 8). Among the eight observational studies, CES treatment was associated with less frequent (Ref. 15) and less intense (Ref. 18) sleep disturbances, less difficulty falling asleep (Refs. 29, 30), and feeling more rested in the morning (Ref. 29). Two observational studies reported no impact of CES on insomnia (Refs. 31, 32). In a study by Moore et al., subjective measures of insomnia were markedly improved during the first week of CES treatment but were no longer significant at 2 weeks (Ref. 23). A study by Nagata et al reported a significant reduction in sleep latency in insomniacs but not in those without sleep disorders (Ref. 33). Lastly, a meta-analysis with pooled results from two RCTs examining the efficacy of CES for insomnia indicated no difference between the active CES use and sham groups (Ref. 25).

While the available scientific literature for insomnia and anxiety has shortcomings (as described previously) and no individual published study on CES provides definitive evidence of effectiveness of CES for the treatment of insomnia and/or anxiety, it is noteworthy that 18 of the 24 small published studies (those that enrolled fewer than 50 patients) that included assessments of insomnia and/or anxiety had a main finding that indicated a greater benefit of CES versus control for at least 1 of the outcome measures evaluated, and CES treatment group outcomes improved in all large published studies (although not all studies demonstrated improvement compared with control patients), including two studies identified after the 2012 Panel meeting (Refs. 34, 35). It is also worth noting that in a report on pain management (Ref. 36), the Army Surgeon General identifies CES as a potentially useful device for pain management, and argues that even treatments that may be associated with a placebo effect should be clinically exploited, given their effectiveness and safety margin. The report also states that gaps in evidence for such therapies exist due to lack of funded research. Based on the available information, it can be concluded that there is valid scientific evidence of effectiveness for CES in the treatment of insomnia and/or anxiety. Importantly, however, because different CES devices were evaluated and the methodology of CES delivery (*e.g.,* electrode placement, stimulation parameters, duration and frequency of treatment sessions) varied, the data are insufficient to determine the technical performance parameters, adequate directions for use, and warnings for unsafe use for specific devices, and to determine whether the devices when used in accordance with such directions will provide clinically meaningful results. Therefore, it cannot be concluded, based on available information alone, that specific CES devices will be effective for treating insomnia and/or anxiety. However, through general and special controls, it can be demonstrated that specific CES devices will provide clinically meaningful results.

FDA believes that these special controls should include clinical performance data that demonstrates that a device, when used as directed (including instructions for electrode placement, stimulation parameters, duration and frequency of treatment sessions, and other relevant characteristics), will provide clinically meaningful results in the indicated patient population for the intended use. It should be noted that the 2012 Panel asked during its meeting whether clinical data were available as a special control and was told that clinical data would likely not be collected if CES devices were classified in class II (Ref. 1). FDA has since reconsidered this point and believes that the totality of available information demonstrates general effectiveness of CES usage for insomnia and/or anxiety, but clinical data are necessary to demonstrate the clinical effect of specific devices for its labeled intended uses and specific stimulation parameters.

Based on its evaluation of the available information, FDA believes the proposed special controls identified in the next section, including clinical performance data, and in combination with the general controls, will provide reasonable assurance of safety and effectiveness for CES devices in the treatment of insomnia and/or anxiety.

VIII. Proposed Special Controls

FDA believes that the special controls in § 882.5800(b)(1), in addition to general controls (including applicable prescription-use restrictions and 510(k) notification requirements), address the risks to health and provide reasonable assurance of safety and effectiveness to mitigate the risks to health described in section V for CES devices intended to treat insomnia and/or anxiety and provide a reasonable assurance of safety and effectiveness.

As discussed in the preceding section, each CES device has different technological characteristics, and although sufficient evidence is present to reasonably demonstrate a class effect, a reasonable assurance of the safety and effectiveness of specific CES devices from the existing data is not evident based upon differences in the technological and stimulation parameters for the CES devices. Therefore, FDA believes that additional clinical performance data are necessary to support premarket notifications (510(k)s) for these devices. The intended use population under investigation should correspond to a clinically recognized diagnosis, or symptomatology associated with that diagnosis, and sample sizes should provide adequate statistical power for a reasonable determination of effectiveness. The output and conditions of use (including electrode placement) in any clinical investigation used to support the 510(k) must demonstrate effectiveness for treating insomnia and/or anxiety. In instances where the device output and/or conditions of use are different from a predicate, the 510(k) should contain a complete study report that includes the protocol and clinical study results, including systematic collection of adverse events. A CES device in compliance with the special controls could be used as a benchmark. In instances where the technological and stimulation characteristics are identical, as identified in the labeling, it may be possible to leverage existing clinical data in lieu of providing results from a new clinical study.

A number of comments at the 2012 Panel meeting noted that worsening of a patient's condition during ineffective treatment is mitigated by adequate physician monitoring. FDA agrees with this assessment, and we believe that the labeling must include a warning regarding the need for physician monitoring. FDA also believes that the clinical data collected to support a premarket notification will provide additional information to further characterize this risk and ensure that product labeling informs the user regarding appropriate use of the device and the patient population for which the device has sufficient performance to make a substantial equivalence determination.

The risks of skin irritation can be mitigated with biocompatibility testing to ensure that the materials used in patient-contacting components of the device are safe for skin contact as well as labeling that provides information on validated methods for reprocessing any reusable components between uses.

Headaches due to CES device use are typically transient and this risk can be mitigated by a warning that advises patients to reduce the level of stimulation or discontinue use of the device should a headache occur. The clinical data will also provide evidence regarding the stimulation parameters recommended for use during the study and the rate at which headaches occurred; the results and any observed adverse events must also appear in the labeling.

Some patients experience a feeling of dizziness at certain levels of stimulation. FDA believes this risk can be mitigated by a warning that advises patients to reduce the level of stimulation or discontinue use of the device if dizziness occurs, and to not drive or operate heavy machinery while using the device. The clinical data will also provide evidence regarding the stimulation parameters recommended for use during the study and the rate at which dizziness occurred; the results and any observed adverse events must also appear in the labeling.

Electrical shocks and burns, including unintended electric stimulation, pose risk to the patient. FDA believes this risk can be mitigated through appropriate electrical safety and electromagnetic compatibility (EMC) testing, and also through appropriate software verification, validation, and hazard analysis.

Table 1 shows how FDA believes that the risks to health identified in section V can be mitigated by the proposed special controls:

TABLE 1—HEALTH RISKS AND MITIGATION MEASURES FOR CES FOR INSOMNIA AND ANXIETY

Identified risk	Mitigation measures
Ineffective treatment	Clinical Performance Testing. Nonclinical (bench) performance testing. Characterization and verification of technical parameters. Labeling.
Skin irritation	Biocompatibility testing. Labeling.
Headaches	Clinical performance testing. Labeling.
Dizziness	Clinical performance testing. Labeling.
Electrical shocks and burns	Electrical safety and EMC testing. Software verification, validation, and hazard analysis.

In addition, under 21 CFR 801.109, the sale, distribution, and use of these devices are restricted to prescription use. Prescription use restrictions are a type of general control in section 513(a)(1)(A)(i) of the FD&C Act. Under § 807.81, the device would continue to be subject to 510(k) notification requirements.

IX. Dates New Requirements Apply

A. CES Devices Intended To Treat Depression

In accordance with section 515(b) of the FD&C Act, FDA is proposing to require that a PMA be filed with the Agency for CES devices intended to treat depression. Under section 501(f)(2)(B) of the FD&C Act, PMAs for currently legally marketed CES devices intended to treat depression are required to be filed on or before 90 days after the effective date of a final order. However, for currently legally marketed CES devices intended to treat depression, FDA does not intend to enforce compliance with this 90-day deadline for an additional 90 days after that deadline (*i.e.,* 180 days after the effective date of any final order), as long as notice of intent to file a PMA is submitted within 90 days of the effective date of the final order. The notification of the intent to file a PMA submission should include a list of all model numbers for which a manufacturer plans to seek marketing approval through a PMA. FDA does not intend to enforce compliance with the PMA requirements with respect to an applicant of a currently legally marketed CES device intended to treat depression during FDA's review of the PMA. FDA intends to review any PMA for the device within 180 days of the date of filing. FDA cautions that under section 515(d)(1)(B)(i) of the FD&C Act, the Agency may not enter into an agreement to extend the review period for a PMA beyond 180 days unless the Agency finds that ''the continued availability of the device is necessary for the public health.'' The following table shows the proposed regulatory timetable for currently legally marketed CES devices intended to treat depression.

TABLE 2—TIMETABLE FOR CES DEVICES INTENDED TO TREAT DEPRESSION

	Timetable for which FDA does not intend to enforce compliance (time after effective date of final order)	Distribution period (time after effective date of final order)
Intent to file a PMA	90 days	Devices included in an intent to file: 180 days.

TABLE 2—TIMETABLE FOR CES DEVICES INTENDED TO TREAT DEPRESSION—Continued

	Timetable for which FDA does not intend to enforce compliance (time after effective date of final order)	Distribution period (time after effective date of final order)
File a PMA	180 days	Devices not included in an intent to file: 90 days. Once PMA is filed, FDA does not intend to enforce compliance with PMA requirements until a not approvable decision or denial decision is issued; applicant may continue distribution if an approval order is issued.

FDA intends that under § 812.2(d), the preamble to any final order based on this proposal will state that, as of the date on which the filing of a PMA or a notice of completion of a PDP is required to be filed, the exemptions from the requirements of the IDE regulations for preamendments class III devices in § 812.2(c)(1) and (2) will cease to apply to any device that is (1) not legally on the market on or before that date or (2) legally on the market on or before that date but for which a PMA or notice of completion of a PDP is not filed by that date, or for which PMA approval has been denied or withdrawn.

If a PMA for a class III CES device is not filed with FDA within 90 days after the effective date of any final order requiring premarket approval for the device, the device would be deemed adulterated under section 501(f) of the FD&C Act. However, as explained previously, FDA does not intend to enforce compliance with this 90-day deadline for an additional 90 days after that deadline (*i.e.,* 180 days after the effective date of any final order), as long as notice of intent to file a PMA is submitted within 90 days of the effective date of the final order.

The device may be distributed for investigational use only if the requirements of the IDE regulations are met. The requirements for significant risk devices include submitting an IDE application to FDA for its review and approval. An approved IDE is required to be in effect before an investigation of the device may be initiated or continued under § 812.30. FDA, therefore, cautions that IDE applications should be submitted to FDA at least 30 days before the end of the 90-day period after the effective date of the final order to avoid interrupting investigations. In conducting any clinical studies, CES devices intended to treat depression may be distributed for investigational use if the requirements of the IDE regulations (part 812) are met. There will be no extended period for filing an IDE nor exemption from IDE requirements, and studies may not be initiated without appropriate IDE approvals, where necessary.

B. CES Devices Intended To Treat Insomnia and/or Anxiety

FDA proposes that the special controls identified in this proposed order take effect on the effective date of any final order, and CES devices intended to treat insomnia and/or anxiety must comply with the special controls following the effective date of the final order. However, FDA does not intend to enforce compliance with the special controls for currently legally marketed CES devices intended to treat insomnia and/or anxiety until 1 year after the effective date of the final order. FDA notes that a firm whose CES device was legally in commercial distribution before May 28, 1976, or whose device was found to be substantially equivalent to such a device and who does not intend to market such device for uses other than use in treating insomnia and/or anxiety, may remove such intended uses from the device's labeling. FDA proposes that for those manufacturers who wish to continue to offer for sale currently legally marketed CES devices intended to treat insomnia and/or anxiety, the manufacturers submit an amendment to their previously cleared 510(k)s for the devices within 1 year after the effective date of the final order that demonstrates compliance with the special controls. Such amendment will be added to the 510(k) file but will not serve as a basis for a new substantial equivalence review. A submitted 510(k) amendment in this context will be used solely to demonstrate to FDA that a CES device is in compliance with the special controls. If a 510(k) amendment for the device is not submitted within 1 year of the effective date of the final order or if FDA determines that the amendment does not demonstrate compliance with the special controls, then this compliance policy would not apply, and FDA would intend to enforce compliance with these requirements. In that case, the device is deemed adulterated under section 501(f)(1)(B) of the FD&C Act as of the date of FDA's determination of noncompliance or 1 year after the effective date of the final order, whichever is sooner.

For models of CES devices intended to treat insomnia and/or anxiety that have not been legally marketed prior to the effective date of the final order, or models that have been legally marketed but are subject to the requirement for a submission of a new 510(k) under § 807.81(a)(3) because the device is about to be significantly changed or modified, manufacturers must obtain 510(k) clearance, among other relevant requirements, and demonstrate compliance with the special controls included in the final order, before marketing the new or changed device.

X. Proposed Findings With Respect to Risks and Benefits

As required by section 515(b) of the FD&C Act, FDA is publishing its proposed findings regarding (1) the degree of risk of illness or injury designed to be eliminated or reduced by requiring that this device have an approved PMA or a declared completed PDP when intended for use in treating depression and (2) the benefits to the public from the use of CES devices for treating depression.

These findings are based on the reports and recommendations of the advisory committees (panels) for the classification of these devices along with information submitted in response to the FDA Order (74 FR 16214) that was issued under section 515(i) of the FD&C Act and any additional information that FDA has obtained. Additional information regarding the risks as well as classification associated with this device type can be found in 43 FR 55716, 44 FR 51770, 58 FR 45865, and 76 FR 48062.

XI. Device Subject to the Proposal To Require a PMA—CES Devices Intended To Treat Depression (§ 882.5800(c))

A. Identification

A cranial electrotherapy stimulator is a prescription device that applies electrical current that is not intended to induce a seizure to a patient's head to treat depression.

B. Summary of Data

For treating depression, FDA concludes that the safety and effectiveness of CES devices have not been established by adequate scientific evidence. Given the FDA analysis and the advisory panel deliberations (Ref. 1), there is insufficient evidence of effectiveness for this indication. The panel recommended class III designation for CES devices in all indications, although as explained previously, FDA is proposing to reclassify CES when intended to treat insomnia and/or anxiety. The body of evidence is not sufficiently robust for FDA to determine that there is a reasonable assurance of safety and effectiveness for CES treatment of depression.

In the Agency's literature assessment, we identified 12 papers that examined the effect of CES on measures of depression (6 RCTs and 6 observational studies). In most RCTs, depression levels did not differ significantly between patients who were treated with active CES compared to those treated with placebo (Refs. 3, 9 through 11, 13), although one randomized trial by Hearst et al. reported fewer depression symptoms in the active CES treatment versus placebo groups (Ref. 12). Of the six observational studies that were reviewed, four studies reported improvement in depression symptoms after treatment with CES (Refs. 14, 15, 18, 19). Moore et al. also reported improvement in depression post- (versus pre-) CES treatment, but the findings were not statistically significant (Ref. 23). Moreover, the observational study by Marshall et al. reported no difference in depressive symptoms between the CES and placebo arms (Ref. 37).

Among the intended uses of insomnia, anxiety, and depression, the evidence supporting the effectiveness of CES for treating depression is the weakest. FDA believes that insufficient information exists regarding the risks and benefits of the device in order for FDA to determine that general and/or special controls will provide reasonable assurance of the safety and effectiveness of CES for treating depression. As established in section 513(a)(1)(C) of the FD&C Act and 21 CFR 860.3(c)(3), a device is in class III if insufficient information exists to determine that general controls and/or special controls are sufficient to provide reasonable assurance of its safety and effectiveness and the device is purported or represented to be for a use that is life-supporting or life-sustaining, or for a use which is of substantial importance in preventing impairment of human health, or if the device presents a potential unreasonable risk of illness or injury. FDA believes that the risks to health identified in section V for the use of CES devices for treating depression, in the absence of an established positive benefit-risk profile, presents a potential unreasonable risk of illness or injury.

C. Risks to Health

The risks to health for CES devices for treatment of depression are the same as outlined in section V.

D. Benefits of CES Devices

As discussed previously, there is inadequate scientific evidence regarding the effectiveness of CES devices for treatment of depression, although the devices have the potential to benefit the public by providing an additional treatment option for depression.

XII. PMA Requirements for CES Devices Intended To Treat Depression

A PMA for CES devices for treatment of depression must include the information required by section 515(c)(1) of the FD&C Act. Such a PMA should also include a detailed discussion of the risks identified previously, as well as a discussion of the effectiveness of the device for which premarket approval is sought. In addition, a PMA must include all data and information on: (1) Any risks known, or that should be reasonably known, to the applicant that have not been identified in this document; (2) the effectiveness of the device that is the subject of the application; and (3) full reports of all preclinical and clinical information from investigations on the safety and effectiveness of the device for which premarket approval is sought.

A PMA must include valid scientific evidence to demonstrate reasonable assurance of the safety and effectiveness of the device for its intended use (see § 860.7(c)(1)). Valid scientific evidence is evidence from well-controlled investigations, partially controlled studies, studies and objective trials without matched controls, well-documented case histories conducted by qualified experts, and reports of significant human experience with a marketed device, from which it can fairly and responsibly be concluded by qualified experts that there is reasonable assurance of the safety and effectiveness of a device under its conditions of use. Isolated case reports, random experience, reports lacking sufficient details to permit scientific evaluation, and unsubstantiated opinions are not regarded as valid scientific evidence to show safety or effectiveness. (§ 860.7(c)(2)).

XIII. Opportunity To Request a Change in Classification

Before requiring the filing of a PMA or notice of completion of a PDP for a device, FDA is required by section 515(b)(2)(D) of the FD&C Act to provide an opportunity for interested persons to request a change in the classification of the device based on new information relevant to the classification. Any proceeding to reclassify the device will be under the authority of section 513(e) of the FD&C Act.

A request for a change in the classification of CES devices is to be in the form of a reclassification petition containing the information required by § 860.123, including new information relevant to the classification of the device.

XIV. Codification of Orders

Prior to the amendments by FDASIA, section 513(e) of the FD&C Act provided for FDA to issue regulations to reclassify devices. Although section 513(e) as amended requires FDA to issue final orders rather than regulations, FDASIA also provides for FDA to revoke previously issued regulations by order. FDA will continue to codify classifications and reclassifications in the Code of Federal Regulations (CFR). Changes resulting from final orders will appear in the CFR as changes to codified classification determinations or as newly codified orders. Therefore, under section 513(e)(1)(A)(i), as amended by FDASIA, in this proposed order we are proposing to amend § 882.5800 by (1) revoking the requirements in § 882.5800(b) and (c) related to the classification of CES devices intended to treat insomnia and/or anxiety as class III devices and codifying the reclassification of CES devices intended to treat insomnia and/or anxiety to class II (special controls); and (2) retaining the requirements in § 882.5800(b) and (c) related to the classification of CES devices intended to treat depression as class III devices subject to PMAs, as described in section XII.

XV. Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

XVI. Paperwork Reduction Act of 1995

This proposed order refers to currently approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814, subpart B, have been approved under OMB control number 0910–0231; and the collections of information under 21 CFR part 801 have been approved under OMB control number 0910–0485.

The effect of this order, if finalized, is to shift certain devices from the 510(k) premarket notification process to the PMA process. To account for this change, FDA intends to transfer some of the burden from OMB control number 0910–0120, which is the control number for the 510(k) premarket notification process, to OMB control number 0910–0231, which is the control number for the PMA process. As noted previously, FDA estimates that it will receive three new PMAs as a result of this order, if finalized. Based on FDA's most recent estimates, this will result in a 1,040-hour burden increase to OMB control number 0910–0231. FDA also estimates that there will be three fewer 510(k) submissions as a result of this order, if finalized. Based on FDA's most recent estimates, this will result in a 136-hour burden decrease to OMB control number 0910–0120. Therefore, on net, FDA expects a burden hour increase of 904 hours due to this proposed regulatory change.

XVII. Proposed Effective Date

FDA proposes that any final order based on this proposal become effective on the date of publication of the final order in the **Federal Register** or at a later date if stated in the final order.

XVIII. Comments for Previous Dockets

Comments submitted to the previous dockets (2011–N–0504, 2013–N–0195) have been officially noted and do not need to be resubmitted. FDA has considered previous docket comments before issuing this proposed order.

XIX. References

The following references are on display in the Division of Dockets Management (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *http://www.regulations.gov.* FDA has verified the Web site addresses, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

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2. FDA Executive Summary, Prepared for the February 10, 2012, meeting of the Neurological Devices Panel, *http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/MedicalDevices/MedicalDevicesAdvisoryCommittee/NeurologicalDevicesPanel/UCM330887.pdf.*
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List of Subjects in 21 CFR Part 882

Medical devices, Neurological devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 882 be amended as follows:

PART 882—NEUROLOGICAL DEVICES

■ 1. The authority citation for 21 CFR part 882 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Revise § 882.5800 to read as follows:

§ 882.5800 Cranial electrotherapy stimulator.

(a) *Identification.* A cranial electrotherapy stimulator is a prescription device that applies electrical current that is not intended to induce a seizure to a patient's head to treat psychiatric conditions.

(b) *Classification.* (1) Class II (special controls) when intended to treat insomnia and/or anxiety. The special controls for this device are:

(i) A detailed summary of the clinical testing pertinent to use of the device to demonstrate the effectiveness of the device when intended to treat insomnia and/or anxiety.

(ii) Components of the device that come into human contact must be demonstrated to be biocompatible.

(iii) The device must be designed and tested for electrical safety and electromagnetic compatibility (EMC) in its intended use environment.

(iv) Appropriate software verification, validation, and hazard analysis must be performed.

(v) The technical parameters of the device, including waveform, output mode, pulse duration, frequency, train delivery, maximum charge and energy, must be fully characterized and verified.

(vi) The labeling for the device must include the following:

(A) The intended use population and the intended use environment.

(B) A warning that patients should be monitored by their physician for signs of worsening.

(C) A warning that instructs patients on how to mitigate the risk of headaches, and what to do should a headache occur.

(D) A warning that instructs patients on how to mitigate the risk of dizziness, and what to do should dizziness occur.

(E) A detailed summary of the clinical testing, which includes the clinical outcomes associated with the use of the device, and a summary of adverse events and complications that occurred with the device.

(F) Instructions for use that address where to place the electrodes, what stimulation parameters to use, and duration and frequency of treatment sessions. This information must be based on the results of clinical studies for the device.

(G) A detailed summary of the device technical parameters, including waveform, output mode, pulse duration, frequency, train delivery, and maximum charge and energy.

(H) Information on validated methods for reprocessing any reusable components between uses.

(vii) Cranial electrotherapy stimulator devices marketed prior to the effective date of this reclassification must have an amendment submitted to the previously cleared premarket notification (510(k)) demonstrating compliance with these special controls.

(2) Class III (premarket approval) when intended to treat depression.

(c) *Date premarket approval application (PMA) or notice of completion of product development protocol (PDP) is required.* A PMA or notice of completion of a PDP is required to be filed with the Food and Drug Administration on or before [A DATE WILL BE ADDED 90 DAYS AFTER DATE OF PUBLICATION OF A FUTURE FINAL ORDER IN THE FEDERAL REGISTER], for any cranial electrotherapy stimulator device with an intended use described in (b)(3) of this section, that was in commercial distribution before May 28, 1976, or that has, on or before [A DATE WILL BE ADDED 90 DAYS AFTER DATE OF PUBLICATION OF A FUTURE FINAL ORDER IN THE FEDERAL REGISTER], been found to be substantially equivalent to any cranial electrotherapy stimulator device with an intended use described in paragraph (b)(3) of this section, that was in commercial distribution before May 28, 1976. Any other cranial electrotherapy stimulator device with an intended use described in paragraph (b)(3) of this section shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

Dated: January 15, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–01173 Filed 1–21–16; 8:45 am]

BILLING CODE 4164–01–P

POSTAL SERVICE

39 CFR Part 551

Semipostal Stamp Program

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: This proposed rule would remove certain restrictions on the commencement date for the Postal Service's discretionary Semipostal Stamp Program, and clarify how many semipostal stamps issued under that program may be on sale at any one time.

DATES: Comments must be received on or before February 22, 2016.

FOR FURTHER INFORMATION CONTACT: Lori Mazzone, Manager, Stamp Products & Exhibitions, 202–268–6711, *lori.l.mazzone@usps.gov.*

SUPPLEMENTARY INFORMATION:

Pursuant to the Semipostal Authorization Act, Public Law 106–253, the Postal Service has been granted discretionary authority to issue and sell semipostal stamps to advance such

causes as it considers to be ''in the national public interest and appropriate.'' See 39 U.S.C. 416(b). On June 12, 2001, the Postal Service published a final rule establishing the regulations in 39 CFR part 551 for the discretionary Semipostal Stamp Program (66 FR 31826). Minor revisions were made to these regulations to implement Public Law 107–67, 115 Stat. 514 (2001), and to reflect minor organizational changes in the Postal Service (67 FR 5215 (February 5, 2002)). On February 19, 2004, the Postal Service published a final rule clarifying the cost-offset policy for semipostal stamps (69 FR 7688), and on February 9, 2005, the Postal Service also published an additional minor clarifying revision to these cost-offset regulations (70 FR 6764).

The Postal Service now proposes to revise paragraphs (a) and (b) of 39 CFR 551.5. A brief description of each proposed change follows.

The proposed revision of § 551.5(a) would remove certain restrictions on the commencement date of the discretionary Semipostal Stamp Program. Under current regulations, the 10-year period for the discretionary semipostal stamp program commences on a date determined by the Office of Stamp Services, but that date must be after the sales period of the Breast Cancer Research Stamp (BCRS) is concluded. Most recently, Public Law 114–99 (December 11, 2015) extended that sales period to December 31, 2019.

The proposed revision of § 551.5(a) would specify that the 10-year period will commence on a date determined by the Office of Stamp Services, but this date need not be after the BCRS sale period concludes.

The proposed revision of § 551.5(b) would clarify that although only one semipostal stamp under the discretionary Semipostal Stamp Program under 39 U.S.C. 416 (a ''discretionary program semipostal stamp'') will be offered for sale at any one time, other semipostal stamps required to be issued by Congress (such as the BCRS) may be on sale when a discretionary program semipostal stamp is on sale. Current regulations state that the Postal Service will offer only one semipostal stamp for sale at any given time during the 10-year period (not specifying whether it is a discretionary program semipostal stamp or a semipostal stamp required by Congress).

The proposed revision of § 551.5(b) would clarify that the one-at-a-time limitation on the sale of semipostal stamps applies only to discretionary program semipostal stamps.

We will publish an appropriate amendment to 39 CFR part 551 to reflect these changes if the proposal is adopted.

List of Subjects in 39 CFR Part 551

Administrative practice and procedure.

In accordance with 39 U.S.C. 416(e)(2), the Postal Service invites public comment on the following proposed amendments to the *Code of Federal Regulations.* For the reasons stated in the preamble, the Postal Service proposes to revise 39 CFR part 551 as follows:

PART 551—SEMIPOSTAL STAMP PROGRAM

■ 1. The authority citation for 39 CFR part 551 continues to read as follows:

Authority: 39 U.S.C. 101, 201, 203, 401, 403, 404, 410, 414, 416.

■ 2. In § 551.5, revise paragraphs (a) and (b) to read as follows:

§ 551.5 Frequency and other limitations.

(a) The Postal Service is authorized to issue semipostal stamps for a 10-year period beginning on the date on which semipostal stamps are first sold to the public under 39 U.S.C. 416. The Office of Stamp Services will determine the date of commencement of the 10-year period.

(b) The Postal Service will offer only one semipostal stamp pursuant to the discretionary semipostal stamp program under 39 U.S.C. 416 for sale at any given time during the 10-year period.

* * * * *

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–01070 Filed 1–21–16; 8:45 am]

BILLING CODE 7710–12–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 3, 4, and 52

[FAR Case 2015–012; Docket No. 2015–0012; Sequence No. 1]

RIN 9000–AN04

Federal Acquisition Regulation: Contractor Employee Internal Confidentiality Agreements

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 Consolidated and Further Continuing Appropriations Act, 2015, that prohibits the use of funds, appropriated or otherwise made available, for a contract with an entity that requires employees or subcontractors to sign an internal confidentiality agreement that restricts such employees or subcontractors from lawfully reporting waste, fraud, or abuse to a designated Government representative authorized to receive such information.

DATES: Interested parties should submit written comments to the Regulatory Secretariat at one of the addresses shown below on or before March 22, 2016 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2015–012 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''FAR Case 2015–012''. Select the link ''Comment Now'' that corresponds with FAR Case 2015–012. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''FAR Case 2015–012'' on your attached document(s).
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405–0001.

Instructions: Please submit comments only and cite ''FAR Case 2015–012'' in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. 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. Cecelia L. Davis, Procurement Analyst, at 202–219–0202 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAR Case 2015–012.

SUPPLEMENTARY INFORMATION:

I. Background

This proposed rule revises the FAR to implement section 743 of Division E,

Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235) and successor provisions in subsequent appropriations acts (and as extended in continuing resolutions). Section 743 prohibits the use of funds appropriated or otherwise made available by Division E or any other Act for a contract, grant, or cooperative agreement with an entity that requires employees or subcontractors of such entity seeking to report waste, fraud, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

II. Discussion and Analysis

A. FAR Changes

This proposed rule implements section 743 by adding a new FAR section 3.909, Prohibition on contracting with entities that require certain internal confidentiality agreements. The proposed rule is written to also cover future successor provisions in subsequent appropriations acts and perpetuation of the requirement through continuing resolutions. This allows more seamless implementation. If at any point an appropriations act does not include a similar prohibition, the FAR will be modified accordingly.

The proposed rule requires that each offeror, in order to be eligible for award, represent, by submission of its offer, that it does not require employees or subcontractors to sign or comply with such internal confidentiality agreements. The representation is in a new provision at FAR section 52.203–XX, Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements—Representation, which must be included in all solicitations, except solicitations for personal services contracts with an individual, using funds subject to the prohibition, except that this requirement is implemented for commercial item solicitations by the part 12 provision at FAR section 52.212–3, paragraph (q). Contracting officers shall not insert this provision in solicitations for personal services contracts with an individual if the services are to be performed entirely by the individual, rather than by an employee of the contractor or a subcontractor.

The new FAR clause 52.203–YY, Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements, notifies the contractor of the prohibition on use of funds for the contract, if the contractor is in noncompliance with the requirements of the clause. The clause also requires that contractors notify employees that any such agreements in pre-existing confidentiality agreements are no longer in effect. This notice could be accomplished through normal business communication channels, such as email. This clause must be included in all solicitations and resultant contracts, except for personal services contracts with individuals.

Existing contracts must be modified to include the clause before obligating Fiscal Year (FY) 2015 or subsequent FY funds that are subject to the same prohibition on confidentiality agreements, except for personal services contracts with individuals.

There are also conforming changes at FAR sections 3.900, 4.1202, 52.204–8, and 52.212–5.

B. Applicability

DoD, GSA, and NASA are proposing to apply this rulemaking to all solicitations and resultant contracts that are funded with FY 2015 funds or subsequent FY funds that are subject to the same prohibition on confidentiality agreements, including contracts and subcontracts for acquisitions in amounts not greater than the simplified acquisition threshold, and contracts and subcontracts for the acquisition of commercial items, (including commercially available off-the-shelf items).

Because the emphasis of section 743 is to prohibit restrictions on the ability of employees and subcontractors to report waste, fraud, or abuse to appropriate Government authorities, it is not in the best interest of the Federal Government to waive the applicability of section 743 to contracts and subcontracts in amounts not greater than the simplified acquisition threshold, or for the acquisition of commercial items (including commercially available off-the-shelf items).

In making the initial determination to prohibit restrictions on the ability of employees and subcontractors to report waste, fraud, or abuse to appropriate Government authorities, it is not in the best interest of the Federal Government to waive the applicability of section 743 to contracts and subcontracts in amounts not greater than the simplified acquisition threshold, or for the acquisition of commercial items (including commercially available off-the-shelf items), since it would exclude a significant number of acquisitions and thereby further limit the number of contractor and subcontractor employees affected by section 743.

The FAR Council considered the following factors: (1) The benefits of the policy in furthering Administration goals, (2) the extent to which the benefits of the policy would be reduced if an exemption is provided for acquisitions in amounts not greater than the simplified acquisition threshold, or for the acquisition of commercial items (including commercially available off-the-shelf items), and (3) the burden on contractors if the policy is applied to acquisitions in amounts not greater than the simplified acquisition threshold, or for the acquisition of commercial items (including commercially available off-the-shelf items).

With respect of the first factor, the Administration is committed to implementing policy that ensures reducing waste, fraud, or abuse in all Federal acquisitions is achieved. This proposed rule makes certain that there are no restrictions that prevent contractors and subcontractors from reporting these types of situations to a designated Government representative.

With respect to the second factor (the impact of excluding acquisitions in amounts not greater than the simplified acquisition threshold, and contracts and subcontracts for the acquisition of commercial items, (including commercially available off-the-shelf items) on the overall benefits of the underlying policy), the FAR Council believes impact on these benefits may inhibit contractor employees and subcontractors subject to such internal confidentiality agreements from reporting of waste, fraud, or abuse to appropriate Government authorities, thus allowing the perpetuation of such waste, fraud, or abuse.

With respect to the third factor, this proposed rule imposes a minimal burden on offerors and contractors, requiring only that offerors represent by submission of the offer that they do not require certain internal confidentiality agreements, and contractors must notify employees that the prohibition and restrictions of any internal confidentiality agreements covered by the clause are no longer in effect. This proposed rule does not contain any information collection requirements.

Public feedback is welcomed on the analysis and preliminary determination to cover acquisitions in amounts not greater than the simplified acquisition threshold, and contracts and subcontracts for the acquisition of

commercial items, (including commercially available off-the-shelf items). After receipt and analysis of public comments, and in accordance with 41 U.S.C. 1905, 1906, and 1907, the FAR Council and the Administrator for Federal Procurement Policy will determine whether to incorporate in the final rule this proposed applicability to all solicitations and resultant contracts, including contracts and subcontracts for acquisitions in amounts not greater than the simplified acquisition threshold, and contracts and subcontracts for the acquisition of commercial items, (including commercially available off-the-shelf items).

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 a significant regulatory action and, therefore, was 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 do not expect this rule to 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.* However, an Initial Regulatory Flexibility Analysis (IRFA) has been performed and is summarized as follows:

This action is necessary to implement section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235) and successor provisions in subsequent appropriations acts (and as extended in continuing resolutions). Section 743 prohibits the use of funds appropriated or otherwise made available by Division E or any other Act for a contract, grant, or cooperative agreement with an entity that requires employees or subcontractors of such entity seeking to report waste, fraud, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

The objective of the rule is to remove restrictions on the ability of employees and subcontractors to report waste, fraud, or abuse to the appropriate Government authorities. The legal basis for the rule is the above cited statute.

This rule will apply to all small entities that receive Government contracts awarded using funds subject to the restriction of section 743, or successor provisions in subsequent appropriations acts with the same prohibition (and as extended in continuing resolutions). Based on FPDS data for Fiscal Year 2014, this rule may affect up to 108,500 small entities per year (75,000 small entities receiving new awards, 33,500 modifications). However, it is doubtful that most small entities have any such prohibited internal confidentiality agreements with their employees and subcontractors.

The rule has no significant economic impact on small entities. DoD, GSA, and NASA did not identify any significant alternatives that would reduce the impact on small entities and still meet the objectives of the statute.

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 rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2015–012), in correspondence.

V. Paperwork Reduction Act

The proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subject in 48 CFR Parts 3, 4, 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, DoD, GSA, and NASA are proposing to amend 48 CFR parts 3, 4, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 3, 4, 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 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

■ 2. Amend section 3.900 by—

■ a. Removing from the introductory paragraph ''three different'' and adding ''various'' in its place;

■ b. Redesignating paragraph (c) as paragraph (d); and

■ c. Adding new paragraph (c) to read as follows:

3.900 Scope of subpart.

* * * * *

(c) Section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235) and successor provisions in subsequent appropriations acts (and as extended in continuing resolutions), implemented in 3.909, applicable to all agencies.

* * * * *

■ 3. Add section 3.909 to Subpart 3.9—Whistleblower Protections for Contractor Employees to read as follows:

3.909 Prohibition on contracting with entities that require certain internal confidentiality agreements.

3.909–1 Prohibition.

(a) The Government is prohibited from using certain appropriated funds for a contract with an entity that requires employees or subcontractors of such entity seeking to report waste, fraud, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information. See section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions.)

(b) The prohibition in paragraph (a) of this section does not contravene requirements applicable to Standard Form 312 (Classified Information Nondisclosure Agreement), Form 4414 (Sensitive Compartmented Information Nondisclosure Agreement), or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

3.909–2 Representation by the offeror.

(a) In order to be eligible for contract award, an offeror must represent that it does not require employees or

subcontractors of such entity seeking to report waste, fraud, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information. Any offeror that cannot so represent is ineligible for award of a contract.

(b) The contracting officer may rely on an offeror's representation unless the contracting officer has reason to question the representation.

3.909–3 Solicitation provision and contract clause.

When using funding subject to the prohibitions in 3.909–1(a) of this subpart, the contracting officer shall—

(a)(1) Include the provision at 52.203–XX, Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements—Representation, in all solicitations, except as provided in paragraph (a)(2) of this section; and

(2) Do not insert the provision in solicitations for a personal services contract with an individual if the services are to be performed entirely by the individual, rather than by an employee of the contractor or a subcontractor.

(b)(1) Include the clause at 52.203–YY, Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements, in all solicitations and resultant contracts, other than personal services contracts with individuals.

(2) Modify existing contracts, other than personal services contracts with individuals, to include the clause before obligating FY 2015 or subsequent FY funds that are subject to the same prohibition on confidentiality agreements.

PART 4—ADMINISTRATIVE MATTERS

■ 4. Amend section 4.1202, as amended in 80 FR 75905 (December 4, 2015), effective February 26, 2016, by redesignating paragraphs (a)(3) through (30) as paragraphs (a)(4) through (31), respectively; and adding new paragraph (a)(3) to read as follows:

4.1202 Solicitation provision and contract clause.

(a) * * *

(3) 52.203–XX, Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements—Representation.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Add sections 52.203–XX and 52.203–YY to read as follows:

52.203–XX Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements—Representation.

As prescribed in 3.909–3(a), insert the following provision:

Prohibition on Contraction With Entities That Require Certain Internal Confidentiality Agreements—Representation (Date)

(a) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions), Government agencies are not permitted to use funds appropriated (or otherwise made available) for contracts with an entity that requires employees or subcontractors of such entity seeking to report waste, fraud, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(b) The prohibition in paragraph (a) of this provision does not contravene requirements applicable to Standard Form 312, (Classified Information Nondisclosure Agreement), Form 4414 (Sensitive Compartmented Information Nondisclosure Agreement), or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(c) *Representation.* By submission of its offer, the Offeror represents that it does not require employees or subcontractors of such entity seeking to report waste, fraud, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(End of provision)

52.203–YY Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements.

As prescribed in 3.909–3(b), insert the following clause:

Prohibition on Contraction With Entities That Require Certain Internal Confidentiality Agreements (Date)

(a) The Contractor shall not require employees or subcontractors of such entity seeking to report waste, fraud, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(b) The Contractor shall notify employees that the prohibitions and restrictions of any internal confidentiality agreements covered by this clause are no longer in effect.

(c) The prohibition in paragraph (a) of this clause does not contravene requirements applicable to Standard Form 312 (Classified Information Nondisclosure Agreement), Form 4414 (Sensitive Compartmented Information Nondisclosure Agreement), or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(d) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015, (Pub. L. 113–235), use of funds appropriated (or otherwise made available) under that or any other Act may be prohibited, if the Government determines that the Contractor is not in compliance with the provisions of this clause.

(e) The contractor shall include the substance of this clause, including this paragraph (e), in subcontracts under such contracts.

(End of clause)

■ 6. Amend section 52.204–8, as amended in 80 FR 75906 (December 4, 2015), effective February 26, 2016, by—

■ a. Revising the date of the provision;

■ b. Redesignating paragraphs (c)(1)(iii) through (xxii) as (c)(1)(iv) through (xxiii), respectively; and

■ c. Adding new paragraph (c)(1)(iii).

The revised and added text reads as follows:

52.204–8 Annual Representations and Certifications.

* * * * *

Annual Representations and Certifications (Date)

* * * * *

(c)(1) * * *

(iii) 52.203–XX, Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements—Representation. This provision applies to all solicitations.

* * * * *

■ 7. Amend section 52.212–3, as amended at 80 FR 75907 (December 4, 2015), effective February 26, 2016, by—

■ a. Revising the date of the provision;

■ b. Removing from the introductory paragraph and paragraph (b)(2) ''through (q)'' and adding ''through (r)'' in its place; and

■ c. Adding paragraph (r).

The revised and added text reads as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (Date)

* * * * *

(r)(1) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions), Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with an entity that requires employees or subcontractors of such entity seeking to report waste, fraud, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(2) The prohibition in paragraph (r)(1) of this provision does not contravene requirements applicable to Standard Form 312 (Classified Information Nondisclosure Agreement), Form 4414 (Sensitive Compartmented Information Nondisclosure Agreement), or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(3) *Representation.* By submission of its offer, the Offeror represents that it does not require employees or subcontractors of such entity seeking to report waste, fraud, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(End of provision)

■ 8. Amend section 52.212–5, as amended at 80 FR 75907 (December 4, 2015), effective February 26, 2016, by—

■ a. Revising the date of the clause;

■ b. Redesignating paragraphs (a)(1) through (3) as paragraphs (a)(2) through (4), respectively; and

■ c. Adding new paragraph (a)(1).

The revised and added text reads 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)

(a) * * *

(1) 52.203–YY, Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements (DATE) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

* * * * *

[FR Doc. 2016–01050 Filed 1–21–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2015–0125; 4500030113]

RIN 1018–BB07

Endangered and Threatened Wildlife and Plants; Endangered Status for 49 Species From the Hawaiian Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period, and announcement of public information meeting and hearing.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the comment period on our September 30, 2015, proposed rule to list 49 species from the Hawaiian Islands, including the Hawaiian distinct population segment of the band-rumped storm-petrel (*Oceanodroma castro*), the orangeblack Hawaiian damselfly (*Megalagrion xanthomelas*), the anchialine pool shrimp (*Procaris hawaiana*), seven yellow-faced bees (*Hylaeus anthracinus, H. assimulans, H. facilis, H. hilaris, H. kuakea, H. longiceps,* and *H. mana*), and 39 endemic plant species, as endangered species under the Endangered Species Act of 1973, as amended (Act). We now reopen the public comment period on the proposed rule for an additional 30 days and announce a public information meeting and public hearing on the proposed rule. We are reopening the public comment period and holding a public hearing to allow all interested parties an additional opportunity to comment on the proposed rule.

DATES: *Written Comments:* We will consider comments received or postmarked on or before February 22, 2016 or at the public hearing. Please note comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date. Any comments that we receive after the closing date may not be considered in the final decision on these actions.

Public Information Meeting and Public Hearing: We will hold a public information meeting, followed by a public hearing, on Tuesday, February 9, 2016. The public information meeting will be held from 5:00 p.m. to 6:00 p.m., and the public hearing will be held from 6:00 p.m. to 8:00 p.m.

ADDRESSES: *Document Availability:* You may obtain copies of the proposed rule at *http://www.regulations.gov* at Docket No. FWS–R1–ES–2015–0125; from the Pacific Islands Fish and Wildlife Office's Web site (*http://www.fws.gov/pacificislands*); or by contacting the Pacific Islands Fish and Wildlife Office directly (see **FOR FURTHER INFORMATION CONTACT**).

Comment Submission: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R1–ES–2015–0125, which is the docket number for this action. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit comments on the proposed listing rule by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R1–ES–2015–0125; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service, MS: BPHC; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

(3) *At the public hearing:* Interested parties may provide oral or written comments at the public hearing.

We request that you provide comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the **PUBLIC COMMENTS** section, below, for more information).

Public Information Meeting and Public Hearing: The public information meeting and public hearing will be held at Aunty Sally Kaleohano's Luau Hale, 799 Piilani Street, Hilo, HI 96720.

FOR FURTHER INFORMATION CONTACT: Mary Abrams, Field Supervisor, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Honolulu, HI 96850; by telephone at 808–792–9400; or by facsimile at 808–792–9581. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

On September 30, 2015, we published in the **Federal Register** a proposed rule to list 49 species from the Hawaiian Islands as endangered species (80 FR 58820). We accepted public comments on the proposed rule for 60 days, ending November 30, 2015. During the comment period, we received a request to hold a public hearing and to extend the public comment period on the proposed rule. In order to ensure that

the public has an adequate opportunity to review and comment, we are reopening the comment period on our September 30, 2015, proposed rule for an additional 30 days. We will accept comments and information until the date specified above in **DATES** or at the public hearing. We will consider all information and recommendations we receive from all interested parties.

For details on specific information that we are requesting, please see the Information Requested section of our proposed rule (80 FR 58820; September 30, 2015). The proposed rule is available at the Federal eRulemaking Portal at *http://www.regulations.gov* (see **ADDRESSES**, above). Our final determination concerning the proposed rulemaking will take into consideration all written and oral comments and any additional information we receive. If you previously submitted comments or information on the proposed rule, please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in our final determination.

You may submit your comments and materials concerning the proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R1–ES–2015–0125 or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Public Information Meeting and Public Hearing

We will hold a public information meeting and public hearing on the date listed above in the **DATES** section at the location listed above in the **ADDRESSES** section. The public information meeting is an opportunity for Service staff to provide information and address questions on the proposed rule; at the public hearing, we accept formal verbal testimony on the proposed rule.

Anyone wishing to make an oral statement at a public hearing for the record is encouraged to provide a written copy of their statement to us at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Speakers can sign up at a hearing if they desire to make an oral statement. Oral and written statements receive equal consideration. There are no limits on the length of written comments submitted to us.

People needing reasonable accommodation in order to attend and participate in the public information meeting or public hearing should contact Mary Abrams, Field Supervisor, Pacific Islands Fish and Wildlife Office, as soon as possible (see **FOR FURTHER INFORMATION CONTACT**).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 5, 2016.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2016–01143 Filed 1–21–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151110999–5999–01]

RIN 0648–BF53

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Specifications and Management Measures

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

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes 2016–2018 specifications for Atlantic mackerel and the river herring and shad catch cap for Atlantic mackerel. NMFS previously set specifications for butterfish, longfin squid, and *Illex* squid for 3 years in 2015 (2015–2017) and, therefore, new specifications will not be included in this year's specification rulemaking. This action also proposes to adjust the butterfish mesh requirement, clarify the use of strengtheners in the butterfish fishery, and suspend indefinitely the pre-trip notification system requirement in the longfin squid fishery. These proposed specifications and management measures are intended to promote the sustainable utilization and conservation of the Atlantic mackerel, squid, and butterfish resources.

DATES: Public comments must be received by February 22, 2016.

ADDRESSES: Copies of supporting documents used by the Mid-Atlantic Fishery Management Council, including the Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), are available from: Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901, telephone (302) 674–2331. The EA/RIR/IRFA is also accessible via the Internet at *http://www.greateratlantic.fisheries.noaa.gov.*

You may submit comments, identified by NOAA–NMFS–2015–0151, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0151,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on 2016 MSB Specifications.''

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS, Greater Atlantic Regional Fisheries Office and by email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Carly Bari, Fishery Policy Analyst, (978) 281–9224, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION:

Background

This rule proposes specifications, which are the combined suite of commercial and recreational catch levels established for one or more fishing years. The specifications process also allows for the modification of a select number of management measures, such as closure thresholds, gear restrictions, and possession limits. The Mid-Atlantic Fishery Management Council's process for establishing specifications relies on provisions within the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP) and its implementing regulations, as well as requirements established by the Magnuson-Stevens Fishery Conservation and Management Act. Specifically, section 302(g)(1)(B) of the Magnuson-Stevens Act states that the Scientific and Statistical Committee (SSC) for each Regional Fishery Management Council shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch (ABC), preventing overfishing, maximum sustainable yield, and achieving rebuilding targets. The ABC is a level of catch that accounts for the scientific uncertainty in the estimate of the stock's defined overfishing level (OFL). The Council's SSC met on May 13 and 14, 2015, to recommend an ABC for the 2016–2018 Atlantic mackerel specifications.

The FMP's implementing regulations require the Council's Atlantic Mackerel, Squid, and Butterfish Monitoring Committee to consider and develop specification recommendations for each species. Since the Magnuson-Stevens Act requirements for the SSC to recommend ABC became effective, the role of all Council monitoring committees has largely been to recommend any reduction in catch limits from the SSC-recommended ABCs to account for management uncertainty, and to recommend other management measures (*e.g.,* gear and/or possession restrictions) needed for the efficient management of the fishery. The Monitoring Committee met via webinar on May 21, 2015, to discuss recommendations for the 2016–2018 mackerel fishery.

The Council considered the recommendations of the SSC, the Monitoring Committee, and public comments at its June 9, 2015, meeting in Virginia Beach, VA, and made its specification recommendations. The Council submitted the recommendations, along with the required analyses, for agency review on August 24, 2015, with final submission on December 11, 2015. NMFS must review the Council's recommendations for the compliance with the FMP and applicable law, and conduct notice-and-comment rulemaking to propose and implement the final specifications.

The regulations for the FMP require the specification of annual catch limits (ACLs) and accountability measure (AM) provisions for mackerel and butterfish. Both squid species are exempt from the ACL/AM requirements because they have a life cycle of less than 1 year. In addition, the regulations require the specification of domestic annual harvest (DAH), domestic annual processing (DAP), total allowable level of foreign fishing (TALFF), joint venture processing (JVP), commercial and recreational annual catch targets (ACT), and the river herring and shad catch cap for mackerel, the butterfish mortality cap in the longfin squid fishery, and initial optimum yield (IOY) for both squid species.

In addition to the specifications, this action will adjust the butterfish mesh requirement, clarify the use of strengtheners in the butterfish fishery, and suspend indefinitely the pre-trip notification system (PTNS) requirement in the longfin squid fishery.

Proposed 2016–2018 Specifications for Atlantic Mackerel

TABLE 1—PROPOSED 2016–2018 SPECIFICATIONS IN METRIC TONS (mt) FOR ATLANTIC MACKEREL

Overfishing limit (OFL)	Unknown.
ABC	19,898.
ACL	11,009.
Commercial ACT	9,294.
Recreational ACT/Recreational Harvest Limit (RHL).	614.
DAH/DAP	9,177.
JVP	0.
TALFF	0.

The most recent U.S. stock assessment for Atlantic mackerel was conducted by the Transboundary Resources Assessment Committee (TRAC) in March 2010. The 2010 TRAC Status Report indicated reduced productivity in the stock and a lack of older fish in both the survey and catch data; however, the status of the Atlantic mackerel stock is unknown because biomass reference points could not be determined. Due to this uncertainty in the 2010 assessment, the TRAC Status Report recommended that total annual mackerel catches not exceed 80,000 mt (average total U.S. and Canadian landings from 2006–2008) until new information is available.

Since 2010, the SSC has recommended a stock-wide ABC of 80,000 mt based on the recommendation in the TRAC Status Report. NMFS previously implemented specifications that matched the recommendation in the TRAC Status Report for the 2013–2015 fishing years as part of the 2013 specifications for the FMP (January 16, 2013; 78 FR 3346). However, more recent data has shown that 2006–2008 was a period of unusually high catches. Given the uncertainty in the 2010 mackerel assessment, low U.S. landings since 2011, and results from a 2014 Canadian assessment suggesting the stock is doing poorly, the SSC concluded that the foundation that it used for developing its previous ABC recommendation was inappropriate. In order to capture the highly periodic nature of mackerel catches, NMFS implemented a stock-wide ABC of 40,165 mt for the 2015 fishing year only. 40,165 mt is the median of U. S. and Canadian catches from 1978–2013, a time period during which fisheries operations were relatively consistent and foreign fleets were not in operation.

For 2016–2018, the SSC recommended an ABC of 19,898 mt. The SSC concluded that the mackerel stock is in a depleted state relative to historical levels of abundance, and that the foundation (which assumed sustainable catch in the period 1978–2013) previously used to establish the ABC was no longer valid. The SSC used 50 percent of the median catch to calculate the new ABC, because the SSC's review of a management strategy evaluation concluded that this method came closest to meeting (while not exceeding) the acceptable probability of overfishing under the Council's risk policy. The median value of the long term mackerel catch series (1978–2014) is 39,797 mt. Accordingly, the SSC recommended an ABC of half that, or 19,898 mt, for 2016–2018.

According to the FMP, the mackerel ABC must be calculated using the formula: U.S. ABC = Stock-wide ABC − C, where C is the estimated catch of mackerel in Canadian waters for the upcoming fishing year. Canadian catch was estimated at 8,889 mt, which is the Canadian quota (8,000 mt) plus 10 percent to account for management uncertainty (the same ratio that the Council has used for management uncertainty in the U.S. fishery). The Council deducted estimated Canadian catch from the stock-wide ABC to recommend a U.S. ABC of 11,009 mt (19,898 mt minus 8,889 mt).

The Council recommended a recreational allocation of 683 mt (6.2 percent of the U.S. ABC). The Recreational ACT is equal to the Recreational Harvest Limit (RHL), the effective cap on recreational catch. The proposed Recreational ACT of 614 mt (90 percent of 683 mt) accounts for uncertainty in recreational catch and discard estimates.

For the commercial mackerel fishery, the Council recommended a commercial fishery allocation of 10,327 mt (93.8 percent of the U.S. ABC, the portion of the ACL that was not allocated to the recreational fishery). The recommended Commercial ACT of 9,294 mt (90 percent of 10,327 mt) compensates for management uncertainty, uncertainty in discard estimates, and possible misreporting of mackerel catch. The Commercial ACT would be further reduced by a discard rate of 1.26 percent to arrive at the proposed DAH of 9,177 mt. The DAH would be the effective cap on commercial catch.

Consistent with the Council's recommendation, NMFS proposes Atlantic mackerel specifications that would set the U.S. ACL at 11,009 mt, the Commercial ACT at 9,294 mt, the DAH and DAP at 9,177 mt, and the Recreational ACT at 614 mt.

Additionally, as recommended by the Council, NMFS proposes to maintain JVP at zero (the most recent allocation was 5,000 mt of JVP in 2004). In the past, the Council recommended a JVP greater than zero because it believed U.S. processors lacked the ability to process the total amount of mackerel that U.S. harvesters could land. However, for the past 11 years, the Council has recommended zero JVP because U.S. shoreside processing capacity for mackerel has expanded. The Council concluded that processing capacity was no longer a limiting factor relative to domestic production of mackerel.

The Magnuson-Stevens Act provides that the specification of TALFF, if any, shall be the portion of the optimum yield (OY) of a fishery that will not be harvested by U.S. vessels. TALFF would allow foreign vessels to harvest U.S. fish and sell their product on the world market, in direct competition with U.S. industry efforts to expand exports. While a surplus existed between ABC and the mackerel fleet's harvesting capacity for many years, that surplus has disappeared due to downward adjustments of the specifications in recent years. Based on analysis of the global mackerel market and possible increases in U.S. production levels, the Council concluded that specifying a DAH/DAP that would result in zero TALFF would yield positive social and economic benefits to both U.S. harvesters and processors, and to the Nation. For these reasons, consistent with the Council's recommendation, NMFS proposes to specify DAH at a level that can be fully harvested by the domestic fleet, thereby precluding the specification of a TALFF, in order to support the U.S. mackerel industry.

2016–2018 Proposed River Herring and Shad Catch Cap in the Atlantic Mackerel Fishery

In order to limit river herring and shad catch, Amendment 14 to the FMP (February 24, 2014; 79 FR 10029) allows the Council to set a river herring and shad cap through annual specifications. For 2015, we implemented a cap that was set at 89 mt initially, but if mackerel landing surpass 10,000 mt before closure, then the cap would increase to 155 mt. The 89-mt cap represents the median annual river herring and shad catch by all vessels landing over 20,000 lb (9.08 mt) of mackerel per trip from 2005–2012. These were the years when the fishery caught about 13,000 mt of mackerel. The 155-mt cap was based on the median river herring and shad catch by all vessels landing over 20,000 lb (9.08 mt) of mackerel per trip from 2005–2012, adjusted to the 2015 DAH (20,872 mt). This two-tier system was implemented to encourage the fishery to avoid river herring and shad regardless of the rate of mackerel catches.

For 2016–2018, the Council recommended that the cap be set at 82 mt. For 2016–2018, the proposed mackerel catch limit is 9,177 mt, which is 8.23 percent less than the river herring and shad catch cap increase trigger set in 2015 (10,000 mt). The Council recommended the river herring and shad cap should be reduced by the same proportion as the catch cap increase trigger, resulting in a cap of 82 mt (8.23 percent less than 89 mt). Once the mackerel fishery catches 95 percent of the river herring and shad cap, we will close the directed mackerel fishery and implement a 20,000-lb (9.08-mt) mackerel incidental catch trip limit for the remainder of the year.

Butterfish Mesh Requirement Adjustment and Clarification

The Council recommended increasing the possession limit for vessels fishing with mesh smaller than 3 inches (7.62 cm) from 2,500 lb (1.13 mt) to 5,000 lb (2.27 mt). The 3-inch (7.62-cm) mesh requirement is designed to allow escapement of juvenile butterfish during directed butterfish fishing. Currently, vessels holding a longfin squid and butterfish moratorium permit and fishing with nets that have a mesh size smaller than 3 inches (7.62 cm) are allowed to retain up to 2,500 lb (1.13 mt) of butterfish. This action proposes to increase the possession limit to 5,000 lb (2.27 mt) of butterfish for those vessels fishing with mesh smaller than 3 inches (7.62 cm).

The Council also recommended a clarification regarding net strengtheners used in the butterfish fishery. The regulations do not directly address whether strengtheners are allowed in the operation of the butterfish fishery. This action proposes to amend the regulations to clearly state that 5-inch (12.7-cm) square or diamond, or greater, mesh size strengtheners may be used outside the 3-inch (7.62-cm) mesh to avoid breaking nets during large hauls.

Suspension of the Longfin Squid Pre-Trip Notification System Requirement

NMFS proposes an indefinite suspension of the longfin squid PTNS requirement for vessels with longfin squid moratorium permits that want to retain more than 2,500 lb (1,13 mt) of longfin squid. This requirement was implemented via Amendment 10 to the Atlantic Mackerel, Squid, and Butterfish FMP (75 FR 11441, March 11, 2010) to improve the selection process of vessels being observed for purposes of monitoring the longfin squid fishery's butterfish cap. However, the new Standardized Bycatch Reporting Methodology (SBRM) requires observers to adhere to a region/gear intercept selection procedure that conflicts with use of the PTNS for assigning observers. This action proposes to resolve the resulting logistical problems by relying on observer coverage through the new SBRM, and eliminating the PTNS requirement.

Corrections

This proposed rule contains minor adjustment to existing regulations to correct references to the gear stowage regulations.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Atlantic Mackerel, Squid, and Butterfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility

Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A summary of the analysis follows.

Description of the Reasons Why Action by the Agency Is Being Considered

This action proposes 2016–2018 specifications for Atlantic mackerel and the river herring and shad catch cap. It also proposes management measures for the butterfish and longfin squid fisheries. The preamble to this proposed rule includes a complete description of the reasons why the Council and NMFS are considering this action, and these are not repeated here.

Statement of the Objectives of, and Legal Basis for, This Proposed Rule

This action proposes the 2016–2018 specifications for Atlantic mackerel. It also proposes to modify the possession limit for butterfish using a mesh smaller than 3 inches (7.62 cm), and to suspend PTNS requirements for vessels targeting longfin squid. The preamble to this proposed rule includes a complete description of the reasons why this action is being considered, and the objectives of and legal basis for this action, and these are not repeated here.

Description and Estimate of the Number of Small Entities to Which This Proposed Rule Would Apply

The proposed alternatives apply to vessels that hold Atlantic mackerel, squid, and butterfish limited access permits. Based on permit data for 2014, 370 separate vessels hold Atlantic mackerel, squid, and butterfish limited access permits, 271 entities own those vessels, and, based on current Small Business Administration (SBA) definitions, 259 of these are small entities. Of the 259 small entities, 25 had no revenue in 2014 and those entities with no revenue are considered small entities for the purpose of this analysis. All of the entities that had revenue fell into the finfish or shellfish categories, and the SBA definitions for those categories for 2014 are $20.5 million for finfish fishing and $5.5 million for shellfish fishing.

The only proposed alternative that involves increased restrictions applies to Atlantic mackerel limited access permits so those numbers are listed separately (they are a subset of the above entities). Based on permit data for 2014, 139 separate vessels hold Atlantic mackerel limited access permits, 105 entities own those vessels, and based on current SBA definitions, 97 are small entities. Of the 97 small entities, 3 had no revenue in 2014 and those entities with no revenue are considered small entities for the purpose of this analysis. Of the entities with revenues, their average revenues in 2014 were $1,212,230. Sixty entities had primary revenues from finfish fishing and 34 had their primary revenues from shellfish fishing.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of This Proposed Rule

The proposed action contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval under Control Number 0648–0679.

Under the proposed action, all limited access longfin squid vessels intending to land more than 2,500 lb (1.13 mt) of longfin squid will no longer be required to call PTNS to request an observer. This would remove the information collection requirement to reduce logistical issues for the Northeast Fishery Observer Program and reduce burden for industry participants. The reduction in burden estimates for these new requirements apply to all limited access longfin squid vessels. In a given fishing year, NMFS estimates that removal of this reporting requirement will reduce time burden by 256 hours and reduce cost to the government by $25,943 from that which was previously approved under OMB Control Number 0648–0679.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the Regional Administrator (see **ADDRESSES**), or by email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–5806.

Notwithstanding any other provisions of the law, no person is required to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number. All currently approved NOAA collections of information may be viewed at: *http://www.cio.noaa.gov/services_programs/prasubs.html.*

Federal Rules Which May Duplicate, Overlap, or Conflict With This Proposed Rule

This action contains no other compliance costs. It does not duplicate, overlap, or conflict with any other Federal law.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

The Atlantic mackerel commercial DAH proposed in this action (9,177 mt) represents a reduction from status quo (2015 DAH = 20,872 mt). Despite the reduction, the proposed DAH is above recent U.S. landings; mackerel landings for 2012–2014 averaged 5,136 mt. Thus, the reduction should not have more than minimal impact on the affected small entities compared to recent operation of the fishery (2012–2014, and 2015 landings to date appear similar to 2014). Even though the proposed 2016–2018 quota is lower than 2015, it would still allow more catch compared to any year from 2012–2014.

The proposed river herring and shad catch cap in the Atlantic mackerel fishery has the potential to limit the fishery from achieving its full mackerel quota if the river herring and shad encounter rates are high, but it is very unlikely that this fishery would close before exceeding the levels of landings experienced since 2010, when landing have been less than 11,000 mt. Based on the operation of the cap in 2014 and first half of 2015 (the first years of the cap), as long as the fishery can maintain relatively low river herring and shad catch rates, the proposed lower cap should not negatively impact fishery participants. However, a few large river herring and shad bycatch events could potentially shut down the mackerel fishery early. At 2014 prices ($491/mt), the proposed mackerel quota (9,177 mt) could potentially generate about $4.5 million. While the performance of the cap in 2014–2015 suggests that the fishery can operate with very low river herring and shad catch rates, if river herring and shad catch rates happen to be relatively high then most of the mackerel catch, and associated revenues could be forgone.

The proposed butterfish mesh requirement adjustment would allow more butterfish to be retained with small mesh gear; therefore, there should be no negative impacts on the relevant entities.

The proposed suspension of PTNS requirement for longfin squid would reduce administrative burden, so there should be no negative impacts on the relevant entities.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: January 14, 2016.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.11, paragraphs (n)(1)(i), (ii), (iii), and (iv) are revised to read as follows:

§ 648.11 At-sea sea sampler/observer coverage.

* * * * *

(n) * * *

(1) * * *

(i) A vessel issued a limited access Atlantic mackerel permit, as specified at § 648.4(a)(5)(iii), must, for the purposes of observer deployment, have a representative provide notice to NMFS of the vessel name, vessel permit number, contact name for coordination of observer deployment, telephone number or email address for contact; and the date, time, port of departure, gear type, and approximate trip duration, at least 48 hr, but no more than 10 days, prior to beginning any fishing trip, unless it complies with the possession restrictions in paragraph (n)(1)(iii) of this section.

(ii) A vessel that has a representative provide notification to NMFS as described in paragraph (n)(1)(i) of this section may only embark on a mackerel trip without an observer if a vessel representative has been notified by NMFS that the vessel has received a waiver of the observer requirement for that trip. NMFS shall notify a vessel representative whether the vessel must carry an observer, or if a waiver has been granted, for the specific mackerel trip, within 24 hr of the vessel representative's notification of the prospective mackerel trip, as specified in paragraph (n)(1)(i) of this section. Any request to carry an observer may be waived by NMFS. A vessel that fishes with an observer waiver confirmation number that does not match the mackerel trip plan that was called in to NMFS is prohibited from fishing for, possessing, harvesting, or landing mackerel except as specified in paragraph (n)(1)(iii) of this section. Confirmation numbers for trip notification calls are only valid for 48 hr from the intended sail date.

(iii) *Trip limits.* A vessel issued a limited access mackerel permit, as specified in § 648.4(a)(5)(iii), that does not have a representative provide the trip notification required in paragraph (n)(1)(i) of this section is prohibited from fishing for, possessing, harvesting, or landing more than 20,000 lb (9.07 mt) of mackerel per trip at any time, and may only land mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours.

(iv) If a vessel issued a limited access Atlantic mackerel permit, as specified in § 648.4(a)(5)(iii), intends to possess, harvest, or land more than 20,000 lb (9.07 mt) of mackerel per trip or per calendar day, and has a representative notify NMFS of an upcoming trip, is selected by NMFS to carry an observer, and then cancels that trip, the representative is required to provide notice to NMFS of the vessel name, vessel permit number, contact name for coordination of observer deployment, and telephone number or email address for contact, and the intended date, time, and port of departure for the cancelled trip prior to the planned departure time. In addition, if a trip selected for observer coverage is cancelled, then that vessel is required to carry an observer, provided an observer is available, on its next trip.

* * * * *

■ 3. In § 648.14, paragraphs (g)(2)(ii)(E), (g)(2)(iii)(A) and (C), and (g)(2)(iv) are revised to read as follows:

§ 648.14 Prohibitions.

* * * * *

(g) * * *

(2) * * *

(ii) * * *

(E) Possess more than 5,000 lb (2.27 mt) of butterfish, unless the vessel meets the minimum mesh requirements specified in § 648.23(a).

* * * * *

(iii) * * *

(A) Fish with or possess nets or netting that do not meet the gear requirements for Atlantic mackerel, longfin squid, *Illex,* or butterfish specified in § 648.23(a); or that are modified, obstructed, or constricted, if subject to the minimum mesh requirements, unless the nets or netting are stowed and not available for immediate use as defined in § 648.2 or the vessel is fishing under an exemption specified in § 648.23(a)(4).

* * * * *

(C) Enter or fish in the mackerel, squid, and butterfish bottom trawling restricted areas, as described in § 648.23(a)(5).

* * * * *

(iv) *Observer requirements for longfin squid fishery.* Fail to comply with any of the provisions specified in § 648.11.

* * * * *

■ 4. In § 648.23, paragraph (a) is revised to read as follows:

§ 648.23 Mackerel, squid, and butterfish gear restrictions.

(a) *Mesh restrictions and exemptions.* Vessels subject to the mesh restrictions in this paragraph (a) may not have available for immediate use any net, or any piece of net, with a mesh size smaller than that specified in paragraphs (a)(1), (a)(2) and (a)(3) of this section.

(1) *Butterfish fishery.* Owners or operators of otter trawl vessels possessing more than 5,000 lb (2.27 mt) of butterfish harvested in or from the EEZ may only fish with nets having a minimum codend mesh of 3 inches (7.62 cm) diamond mesh, inside stretch measure, applied throughout the codend for at least 100 continuous meshes forward of the terminus of the net, or for codends with less than 100 meshes, the minimum mesh size codend shall be a minimum of one-third of the net, measured from the terminus of the codend to the headrope.

(2) *Longfin squid fishery.* (i) Owners or operators of otter trawl vessels possessing longfin squid harvested in or from the EEZ may only fish with nets having a minimum mesh size of 2⅛ inches (54 mm) during Trimesters I (Jan–Apr) and III (Sept–Dec), or 1⅞ inches (48 mm) during Trimester II (May–Aug), diamond mesh, inside stretch measure, applied throughout the codend for at least 150 continuous meshes forward of the terminus of the net, or, for codends with less than 150 meshes, the minimum mesh size codend shall be a minimum of one-third of the net measured from the terminus of the codend to the headrope, unless their gear is stowed and not available for immediate use as defined in § 648.2.

(ii) *Jigging exemption.* During closures of the longfin squid fishery resulting from the butterfish mortality cap, described in § 648.24(c)(3), vessels fishing for longfin squid using jigging gear are exempt from the closure possession limit specified in § 648.26(b), provided that all otter trawl gear is

stowed and not available for immediate use as defined in § 648.2.

(3) *Net obstruction or constriction.* (i) Owners or operators of otter trawl vessels fishing for and/or possessing butterfish shall not use any device, gear, or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of the regulated portion of a trawl net that results in an effective mesh opening of less than 3 inches (7.62 cm) diamond mesh, inside stretch measure. ''Top of the regulated portion of the net'' means the 50 percent of the entire regulated portion of the net that would not be in contact with the ocean bottom if, during a tow, the regulated portion of the net were laid flat on the ocean floor. However, owners or operators of otter trawl vessels fishing for and/or possessing butterfish may use net strengtheners (covers), splitting straps, and/or bull ropes or wire around the entire circumference of the codend provided they do not have a mesh opening of less than 5 inches (12.7 cm) diamond or square mesh, inside stretch measure.

(ii) Owners or operators of otter trawl vessels fishing for and/or possessing longfin squid shall not use any device, gear, or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of the regulated portion of a trawl net that results in an effective mesh opening of less than 2⅛ inches (54 mm) during Trimesters I (Jan–Apr) and III (Sept–Dec), or 1⅞ inches (48 mm) during Trimester II (May–Aug), diamond mesh, inside stretch measure. ''Top of the regulated portion of the net'' means the 50 percent of the entire regulated portion of the net that would not be in contact with the ocean bottom if, during a tow, the regulated portion of the net were laid flat on the ocean floor. However, owners or operators of otter trawl vessels fishing for and/or possessing longfin squid may use net strengtheners (covers), splitting straps, and/or bull ropes or wire around the entire circumference of the codend, provided they do not have a mesh opening of less than 5 inches (12.7 cm) diamond mesh, inside stretch measure. For the purposes of this requirement, head ropes are not to be considered part of the top of the regulated portion of a trawl net.

(iii) The owner or operator of a fishing vessel shall not use any mesh construction, mesh configuration, or other means that effectively decreases the mesh size below the minimum mesh size, except that a liner may be used to close the opening created by the rings in the aftermost portion of the net, provided the liner extends no more than 10 meshes forward of the aftermost portion of the net. The inside webbing of the codend shall be the same circumference or less than the outside webbing (strengthener). In addition, the inside webbing shall not be more than 2 ft (61 cm) longer than the outside webbing.

(4) *Illex fishery.* Seaward of the following coordinates, connected in the order listed by straight lines except otherwise noted, otter trawl vessels possessing longfin squid harvested in or from the EEZ and fishing for *Illex* during the months of June, July, August, in Trimester II, and September in Trimester III are exempt from the longfin squid gear requirements specified in paragraph (a)(2) of this section, provided that landward of the specified coordinates they do not have available for immediate use, as defined in § 648.2, any net, or any piece of net, with a mesh size less than 1⅞ inches (48 mm) diamond mesh in Trimester II, and 2⅛ inches (54 mm) diamond mesh in Trimester III, or any piece of net, with mesh that is rigged in a manner that is prohibited by paragraphs (a)(2) and (a)(3)(ii) of this section.

Point	N. lat.	W. long.
M0	43°58.0′	(1)
M1	43°58.0′	67°22.0′
M2	43°50.0′	68°35.0′
M3	43°30.0′	69°40.0′
M4	43°20.0′	70°00.0′
M5	42°45.0′	70°10.0′
M6	42°13.0′	69°55.0′
M7	41°00.0′	69°00.0′
M8	41°45.0′	68°15.0′
M9	42°10.0′	67°10.0′ [2]
M10	41°18.6′	66°24.8′ [2]
M11	40°55.5′	66°38.0′
M12	40°45.5′	68°00.0′
M13	40°37.0′	68°00.0′
M14	40°30.0′	69°00.0′
M15	40°22.7′	69°00.0′
M16	40°18.7′	69°40.0′
M17	40°21.0′	71°03.0′
M18	39°41.0′	72°32.0′
M19	38°47.0′	73°11.0′
M20	38°04.0′	74°06.0′
M21	37°08.0′	74°46.0′
M22	36°00.0′	74°52.0′
M23	35°45.0′	74°53.0′
M24	35°28.0′	74°52.0′
M25	35°28.0′	(3)

[1] The intersection of 43°58.0′ N. latitude and the US-Canada Maritime Boundary.

[2] Points M9 and M10 are intended to fall along and are connected by the US-Canada Maritime Boundary.

[3] The intersection of 35°28.0′ N. latitude and the outward limit of the U.S. EEZ.

(5) *Mackerel, squid, and butterfish bottom trawling restricted areas*—(i) *Oceanographer Canyon.* No permitted mackerel, squid, or butterfish vessel may fish with bottom trawl gear in the Oceanographer Canyon or be in the Oceanographer Canyon unless transiting. Vessels may transit this area provided the bottom trawl gear is stowed and not available for immediate use as defined in § 648.2. Oceanographer Canyon is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

OCEANOGRAPHER CANYON

Point	N. lat.	W. long.
OC1	40°10.0′	68°12.0′
OC2	40°24.0′	68°09.0′
OC3	40°24.0′	68°08.0′
OC4	40°10.0′	67°59.0′
OC1	40°10.0′	68°12.0′

(ii) *Lydonia Canyon.* No permitted mackerel, squid, or butterfish vessel may fish with bottom trawl gear in the Lydonia Canyon or be in the Lydonia Canyon unless transiting. Vessels may transit this area provided the bottom trawl gear is stowed and not available for immediate use as defined in § 648.2. Lydonia Canyon is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

LYDONIA CANYON

Point	N. lat.	W. long.
LC1	40°16.0′	67°34.0′
LC2	40°16.0′	67°42.0′
LC3	40°20.0′	67°43.0′
LC4	40°27.0′	67°40.0′
LC5	40°27.0′	67°38.0′
LC1	40°16.0′	67°34.0′

* * * * *

■ 5. In § 648.26, paragraphs (b)(2) and (d)(2) are revised to read as follows:

§ 648.26 Mackerel, squid, and butterfish possession restrictions.

* * * * *

(b) * * *

(2) During a closure of the directed fishery for longfin squid for Trimester II, a vessel with a longfin squid/butterfish moratorium permit that is on a directed *Illex* squid fishing trip (*i.e.,* possess over 10,000 lb (4.54 mt) of *Illex*) and is seaward of the coordinates specified at § 648.23(a)(4), may possess up to 15,000 lb (6.80 mt) of longfin squid. Once landward of the coordinates specified at § 648.23(a)(4), such vessels must stow all fishing gear, as defined in § 648.2, in

order to possess more than 2,500 lb (1.13 mt) of longfin squid per trip.

* * * * *

(d) * * *

(2) A vessel issued longfin squid/butterfish moratorium permit fishing with mesh less than 3 inches (76 mm) may not fish for, possess, or land more than 5,000 lb (2,27 mt) of butterfish per trip at any time, and may only land butterfish once on any calendar day, provided that butterfish harvest has not reached the DAH limit and the reduced possession limit has not been implemented, as described in § 648.24(c)(1). When butterfish harvest is projected to reach the DAH limit (as described in § 648.24(c)(1)), these vessels may not fish for, possess, or land more than 600 lb (0.27 mt) of butterfish per trip at any time, and may only land butterfish once on any calendar day.

* * * * *

■ 6. In § 648.80, paragraphs (a)(4)(iv)(B)(*2*) and (g)(5)(i) are revised to read as follows:

§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(a) * * *

(4) * * *

(iv) * * *

(B) * * *

(*2*) *Net size requirements.* Vessels may fish any combination of roundfish and flatfish gillnets, up to 50 nets. Such vessels, as defined in § 648.2, may stow additional nets not to exceed 150, counting the deployed net. Such vessels may stow additional nets in accordance with the definition of not available for immediate use as defined in § 648.2 not to exceed 150 nets, counting the deployed net.

* * * * *

(g) * * *

(5) * * *

(i) *Nets of mesh size less than 2.5 inches (6.4 cm).* A vessel lawfully fishing for small-mesh multispecies in the GOM/GB, SNE, or MA Regulated Mesh Areas, as defined in paragraphs (a), (b), and (c) of this section, with nets of mesh size smaller than 2.5 inches (6.4-cm), as measured by methods specified in paragraph (f) of this section, may use net strengtheners (covers, as described at § 648.23(a)(3)), provided that the net strengthener for nets of mesh size smaller than 2.5 inches (6.4 cm) complies with the provisions specified under § 648.23(a)(3)(iii).

* * * * *

■ 7. In § 648.90, paragraphs (a)(5)(i)(D)(*2*) and (*3*) are revised to read as follows:

§ 648.90 NE Multispecies assessment, framework procedures and specifications, and flexible area action system.

* * * * *

(a) * * *

(5) * * *

(i) * * *

(D) * * *

(*2*) *Atlantic halibut.* If NMFS determines the overall ACL for Atlantic halibut is exceeded, as described in this paragraph (a)(5)(i)(D)(*2*), by any amount greater than the management uncertainty buffer, the applicable AM areas shall be implemented and any vessel issued a NE multispecies permit or a limited access monkfish permit and fishing under the monkfish Category C or D permit provisions, may not fish for, possess, or land Atlantic halibut for the fishing year in which the AM is implemented, as specified in paragraph (a)(5)(i)(D) of this section. If the overall ACL is exceeded by more than 20 percent, the applicable AM area(s) for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section, and the Council shall revisit the AM in a future action. The AM areas defined below are bounded by the following coordinates, connected in the order listed by rhumb lines, unless otherwise noted. Any vessel issued a limited access NE multispecies permit and fishing with trawl gear in the Atlantic Halibut Trawl Gear AM Area may only use a haddock separator trawl, as specified in § 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(*3*); a rope separator trawl, as specified in § 648.84(e); or any other gear approved consistent with the process defined in § 648.85(b)(6). When in effect, a limited access NE multispecies permitted vessel with gillnet or longline gear may not fish or be in the Atlantic Halibut Fixed Gear AM Areas, unless transiting with its gear stowed and not available for immediate use as defined in § 648.2, or such gear was approved consistent with the process defined in § 648.85(b)(6). If a sub-ACL for Atlantic halibut is allocated to another fishery, consistent with the process specified at § 648.90(a)(4), and there are AMs for that fishery, the groundfish fishery AM shall only be implemented if the sub-ACL allocated to the groundfish fishery is exceeded (*i.e.,* the sector and common pool catch for a particular stock, including the common pool's share of any overage of the overall ACL caused by excessive catch by other sub-components of the fishery pursuant to § 648.90(a)(5), exceeds the common pool sub-ACL) and the overall ACL is also exceeded.

ATLANTIC HALIBUT TRAWL GEAR AM AREA

Point	N. Latitude	W. Longitude
1	42°00′	69°20′
2	42°00′	68°20′
3	41°30′	68°20′
4	41°30′	69°20′

ATLANTIC HALIBUT FIXED GEAR AM AREA 1

Point	N. Latitude	W. Longitude
1	42°30′	70°20′
2	42°30′	70°15′
3	42°20′	70°15′
4	42°20′	70°20′

ATLANTIC HALIBUT FIXED GEAR AM AREA 2

Point	N. Latitude	W. Longitude
1	43°10′	69°40′
2	43°10′	69°30′
3	43°00′	69°30′
4	43°00′	69°40′

(*3*) *Atlantic wolffish.* If NMFS determines the overall ACL for Atlantic wolffish is exceeded, as described in this paragraph (a)(5)(i)(D)(*3*), by any amount greater than the management uncertainty buffer, the applicable AM areas shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section. If the overall ACL is exceeded by more than 20 percent, the applicable AM area(s) for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section, and the Council shall revisit the AM in a future action. The AM areas defined below are bounded by the following coordinates, connected in the order listed by rhumb lines, unless otherwise noted. Any vessel issued a limited access NE multispecies permit and fishing with trawl gear in the Atlantic Wolffish Trawl Gear AM Area may only use a haddock separator trawl, as specified in § 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(*3*); a rope separator trawl, as specified in § 648.84(e); or any other gear approved consistent with the process defined in § 648.85(b)(6). When in effect, a limited access NE multispecies permitted vessel with gillnet or longline gear may not fish or be in the Atlantic Wolffish Fixed Gear AM Areas, unless transiting with its gear stowed and not available for immediate use as defined in § 648.2, or such gear was approved consistent with the process defined in § 648.85(b)(6). If a sub-ACL for Atlantic wolffish is allocated to another fishery, consistent

with the process specified at § 648.90(a)(4), and AMs are developed for that fishery, the groundfish fishery AM shall only be implemented if the sub-ACL allocated to the groundfish fishery is exceeded (*i.e.,* the sector and common pool catch for a particular stock, including the common pool's share of any overage of the overall ACL caused by excessive catch by other sub-components of the fishery pursuant to § 648.90(a)(5), exceeds the common pool sub-ACL) and the overall ACL is also exceeded.

ATLANTIC WOLFFISH TRAWL GEAR AM AREA

Point	N. Latitude	W. Longitude
1	42°30′	70°30′
2	42°30′	70°15′
3	42°15′	70°15′
4	42°15′	70°10′
5	42°10′	70°10′
6	42°10′	70°20′
7	42°20′	70°20′
8	42°20′	70°30′

ATLANTIC WOLFFISH FIXED GEAR AM AREA 1

Point	N. Latitude	W. Longitude
1	41°40′	69°40′

ATLANTIC WOLFFISH FIXED GEAR AM AREA 1—Continued

Point	N. Latitude	W. Longitude
2	41°40′	69°30′
3	41°30′	69°30′
4	41°30′	69°40′

ATLANTIC WOLFFISH FIXED GEAR AM AREA 2

Point	N. Latitude	W. Longitude
1	42°30′	70°20′
2	42°30′	70°15′
3	42°20′	70°15′
4	42°20′	70°20′

* * * * *

[FR Doc. 2016–01189 Filed 1–21–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No.:150904827–5827–01]

RIN 0648–BF36

Fisheries of the Exclusive Economic Zone Off of Alaska; Observer Coverage Requirements for Small Catcher/Processors in the Gulf of Alaska and Bering Sea and Aleutian Islands Groundfish Fisheries

Correction

In proposed rule document 2015–32742 appearing on pages 81262–81271 in the issue of Tuesday, December 29, 2015 make the following corrections:

1. On page 81263, in the first column, in the second paragraph, beginning on the eighth line, ''February 29, 2016'' should read ''December 17, 2015''.

2. In the same paragraph, in the 10th line, ''February 29, 2016'' should read ''February 16, 2016''.

3. In the same paragraph, in the 13th line, ''February 29, 2016'' should read ''February 16, 2016''.

[FR Doc. C1–2015–32742 Filed 1–21–16; 8:45 am]

BILLING CODE1505–01–D

Notices

Federal Register

Vol. 81, No. 14

Friday, January 22, 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

Farm Service Agency

Submission for OMB Review; Comment Request

January 15, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are required regarding (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden 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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by February 22, 2016 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725–17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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

Farm Service Agency

Title: 7 CFR 764, Direct Loan Making.

OMB Control Number: 0560–0237.

Summary of Collection: The Farm Loan Program (FLP) provides loans to family farmers to purchase real estate and equipment and finance agricultural production. The regulation covered by this collection describes the policies and procedures the agency uses to provide supervised credit to FLP applicants requesting direct loan assistance in accordance with the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921) (Pub. L. 87–128), as amended. Authority to establish the regulatory requirements contained in 7 CFR 764, is provided under 5 U.S.C. 301, which provides that ''The Head of an Executive department or military department may prescribe regulations for the government of his department, the distribution and performance of its business . . .'' The Secretary delegated authority to administer the provisions of the Act applicable to the Farm Loan Program (FLP) to the Under Secretary for Farm and Foreign Agricultural Service in section 2.16 of 7 CFR part 2. FLP provides loans to family farmers to purchase real estate equipment and finance agricultural production.

Need and Use of the Information: Information is submitted by the applicants to the local agency office serving the county in which their business is headquartered. The information is necessary to thoroughly evaluate the applicant's request for a direct loan and is used by agency officials to: (1) Ensure that cash flow projections used in determining loan repayment are based on the actual production history of the operation, (2) Ensure that a loan is adequately secured. (3) Ensure the applicant meets the statutorily established program eligibility requirements, and (4) Obtain assignment on income or sales proceeds, when appropriate, to ensure timely repayment of the loans. Since the agency is mandated to provide supervised credit, failure to collect the information, or collecting it less frequently, could result in the failure of the farm operation or loss of agency security property.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 183,433.

Frequency of Responses: Reporting: On occasion; Annually.

Total Burden Hours: 345,484.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–01254 Filed 1–21–16; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Submission for OMB Review; Comment Request

January 15, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden 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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by February 22, 2016 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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

Food and Nutrition Service

Title: Supplemental Nutrition Assistance Program Forms: Applications, Periodic Reporting, and Notices.

OMB Control Number: 0584–0064.

Summary of Collection: The Food and Nutrition Act of 2008 (the Act), as amended, specifies national eligibility standards and imposes certain administrative requirements on State agencies in administering the program. Information must be collected from households to assure that they are eligible for the program and that they receive the correct amount of Supplemental Nutrition Assistance Program (SNAP) benefits. Information collected is limited to that necessary for the administration and enforcement of the SNAP Program. The Federal procedures for implementing the application and certification procedures in the Act are in Parts 271, 272, and 273 of the Title 7 of the Code of Federal Register.

Need and Use of the Information: FNS will collect information to determine the eligibility of households for the SNAP program and to determine the correct benefit levels for eligible households. If information is not collected to certify households in accordance with the Act or changing the frequency of information or reporting requirements as they relate to the application, certification, and continue eligibility of households would result in a direct violation of the Act and its implementing regulations. Further, benefits could be overissued or underissued for a long period of time if necessary information is not collected or actions are not taken timely.

Description of Respondents: State, Local, and Tribal Government; Individuals or household.

Number of Respondents: 14,622,419.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Monthly; Quarterly.

Total Burden Hours: 118,221,440.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–01256 Filed 1–21–16; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Gallatin County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Gallatin County Resource Advisory Committee (RAC) will meet in Bozeman, MT. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://www.fs.usda.gov/detail/custergallatin/workingtogether/?cid=stelprdb5304491.*

DATES: The meeting will be held March 10 from 12:30–5:30 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Bozeman Public Library, Small Community Room, 626 E Main St. Bozeman, MT 59715.

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 Custer Gallatin National Forest Supervisors Office, 10 E Babcock, Bozeman, MT 59105. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Mariah Leuschen-Lonergan, Public Affairs Specialist and RAC Coordinator by phone at 406–587–6735 or via email at *mdleuschen@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:

1. Review and recommend 2016 project proposals to Designated Federal Official.

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 19 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 for oral comments must be sent to Attn: Mariah Leuschen, RAC Coordinator, 10 E Babcock, Bozeman, MT 59105 or by email to *mdleuschen@fs.fed.us* or via facsimile to 406–587–6758.

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 contactingthe person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: January 11, 2016.

Mary C. Erickson,

Custer Gallatin Forest Supervisor.

[FR Doc. 2016–01241 Filed 1–21–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

El Dorado County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The El Dorado County Resource Advisory Committee (RAC) will meet in Placerville, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the title II of the Act.

The meetings are open to the public. RAC information can be found at the following Web site: *www.fs.usda.gov/eldorado*.

DATES: The meeting will be held at 6:00 p.m. on February 8, 2016.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the El Dorado Center of Folsom Lake College, Community Room, 6699 Campus Drive, Placerville, California.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Eldorado National Forest (NF) Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Jennifer Chapman, RAC Coordinator, by phone at 530–621–5280 or via email at *jenniferachapman@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 the initial review and discussion of project proposals.

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 at least 7 days in advance of the meeting date 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 for oral comments must be sent to Jennifer Chapman, RAC Coordinator, Eldorado NF Supervisor's Office, 100 Forni Road, Placerville, California 95667; by email to *jenniferachapman@fs.fed.us,* or via facsimile to 530–621–5297.

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 14, 2016.

Laurence Crabtree,

Forest Supervisor.

[FR Doc. 2016–01240 Filed 1–21–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Southern Montana Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southern Montana Resource Advisory Committee (RAC) will meet in Columbus, Montana. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *www.fs.usda.gov/custergallatin.*

DATES: The meeting will be held on February 26, 2016, at 9:00 a.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at Columbus Fire Rescue, Community Room, 944 East Pike Avenue, Columbus, Montana. No additional call in number, VTC, or field trips are planned.

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 Custer Gallatin Forest Supervisors Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Mariah Leuschen-Lonergan, RAC Coordinator, by phone at 406–587–6735 or via email at *mdleuschen@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. Review and recommend project submissions for the 2016 field season; and

2. Recommendations will be passed onto the Designated Federal Officer for approval and signature.

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 12 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 for oral comments must be sent to Mariah Leuschen-Lonergan, RAC Coordinator, Custer Gallatin Forest Supervisors Office, 10 East Babcock, P.O. Box 130, Bozeman, Montaan 59771; by email to *mdleuschen@fs.fed.us,* or via facsimile to 406–587–6758.

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 11, 2016.

Mary C. Erickson,

Custer Gallatin Forest Supervisor.

[FR Doc. 2016–01245 Filed 1–21–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Resource Coordinating Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Forest Resource Coordinating Committee (Committee) will meet via teleconference. The Committee is established consistent with the Federal Advisory Committee Act of 1972 (FACA) (5 U.S.C. App. II),

and the Food, Conservation, and Energy Act of 2008 (the Act) (Pub. L. 110–246). Committee information can be found at the following Web site at *http://www.fs.fed.us/spf/coop/frcc/.*

DATES: The teleconference will be held on February 17, 2016 from 12:00 p.m. to 1:30 p.m., Eastern Standard Time (EST).

All 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 via teleconference. For anyone who would like to attend the teleconference, please visit the Web site listed in the **SUMMARY** section or contact Andrea Bedell-Loucks at *abloucks@fs.fed.us* for further details.

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 placed on the Committee's Web site listed above.

FOR FURTHER INFORMATION CONTACT: Andrea Bedell-Loucks, Designated Federal Officer, at 202–205–1190.

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. Learn about extension and university landowner outreach efforts;
2. Work group report outs on outreach efforts;
3. Develop future meeting topics; and
4. Develop April meeting agenda.

The teleconference is open to the public. However, the public is strongly encouraged to RSVP prior to the teleconference to ensure all related documents are shared with public meeting participants. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing 10 days before the planned meeting 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 time requests for oral comments must be sent to Laurie Schoonhoven, 1400 Independence Avenue SW., Mailstop 1123, Washington, DC 20250; or by email to *lschoonhoven@fs.fed.us.* A summary of the meeting will be posted on the Web site listed above within 21 days after the meeting.

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 15, 2016.

James E. Hubbard,

Deputy Chief, State and Private Forestry.

[FR Doc. 2016–01220 Filed 1–21–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Submission for OMB Review; Comment Request

January 19, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden 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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by February 22, 2016 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725–17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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

National Institute of Food and Agriculture

Title: Reporting Requirements for State Plans of Work for Agricultural Research and Extension Formula Funds.

OMB Control Number: 0524–0036.

Summary of Collection: Section 202 and 225 of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA) which requires that a plan of work must be submitted by each institution and approved by the National Institute of Food and Agriculture (NIFA) before formula funds may be provided to the 1862 and 1890 land-grant institutions. The plan of work must address critical agricultural issues in the State and describe the programs and project targeted to address these issues using the NIFA formula funds. The plan of work also must describe the institution's multistate activities as well as their integrated research and extension activities.

NIFA is requesting to continue to collect an update to the 5-Year Plan of Work which began with the Fiscal Year 2007, and as a result no longer needs to collect the initial 5-Year Plan. Also, as required by the Food Conservation and Energy Act of 2008 (FCEA) (Pub. L. 110–246, Sec. 7505), NIFA is working with the university partners in extension and research to review and identify measures to streamline the submission, reporting under, and implementation of plan of work requirements.

Need and Use of the Information: Institutions are required to annually report to NIFA the following: (1) The actions taken to seek stakeholder input to encourage their participation; (2) a brief statement of the process used by the recipient institution to identify individuals or groups who are stakeholders and to collect input from them; and (3) a statement of how collected input was considered. NIFA uses the information to provide feedback to the institutions on their Plans of Work and Annual Reports of Accomplishments and Results in order for institutions to improve the conduct

and the delivery of their programs. Failure to comply with the requirements may result in the withholding of a recipient institution's formula funds and redistribution of its share of formula funds to other eligible institutions.

Description of Respondents: Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 75.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 49.

National Institute of Food and Agriculture

Title: Children, Youth, and Families at Risk (CYFAR) Year End Report.

OMB Control Number: 0524–0043.

Summary of Collection: Funding for the Children, Youth, and Families at Risk (CYFAR) is authorized under section 3(d) of the Smith-Lever Act (7 U.S.C. 341 *et seq.*), as amended and other relevant authorizing legislation, which provides jurisdictional basis for the establishment and operation of extension educational work for the benefit of youth and families in communities. The CYFAR funding program supports community-based programs serving children, youth, and families in at risk environments. CYFAR funds are intended to support the development of high quality, effective programs based on research and to document the impact of these programs on intended audiences which are children, youth, and families in at-risk environments.

Need and Use of the Information: The purpose of the CYFAR Year End Report is to collect the demographic and impact data from each community site in order to evaluate the impact of the programs on intended audiences. Data from the CYFAR annual reports is used to refine and improve program focus and effectiveness. The CYFAR data is also used to respond to requests for impact information from Congress, the White House, and other Federal agencies. Without the information NIFA would not be able to verify if CYFAR programs are reaching at risk, low-income audiences.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 51.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 16,422.

National Institute of Food and Agriculture

Title: Expanded Food and Nutrition Education Program (EFNEP).

OMB Control Number: 0524–0044.

Summary of Collection: The Department of Agriculture's National Institute of Food and Agriculture (NIFA), Expanded Food and Nutrition Education Program (EFNEP) is a unique program that began in 1969 and is designed to reach limited resource audiences, especially youth and families with young children. EFNEP operates in all 50 states, the District of Columbia and in American Samoa, Guam, Micronesia, Northern Marianas, Puerto Rico, and the Virgin Islands. Extension professionals train and supervise paraprofessionals and volunteers who teach food and nutrition information and skills to limited resources families and youth.

Need and Use of the Information: NIFA will collect information using Web-Based Nutrition Education Evaluation and Reporting System (WebNEERS), which is an integrated database system that stores information on: (1) Adult program participants, their family structure and dietary practices; (2) youth group participants; and (3) staff, NEERS consists of separate software sub-systems for the County and the State levels (State also refers to U.S. Territories). Without the information it would be extremely difficult for the national office to compare, assess, and analyze the effectiveness and the impact of EFNEP without the annual collection of data.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 75.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 86,826.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–01262 Filed 1–21–16; 8:45 am]

BILLING CODE 3410–09–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

TIME AND DATE: January 28, 2016, 6:00 p.m. CST

PLACE: Hilton Waco—113 S. University Parks Dr., Waco, TX 76701

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Pursuant to the Government in the Sunshine Act, 5 U.S.C. 552b, the Chemical Safety and Hazard Investigation Board (CSB) will convene a public meeting on January 28, 2016, starting at 6:00 p.m. CST at the Hilton Waco, 113 S. University Parks Dr., Waco, TX 76701. The Board will discuss the investigation into the April 17, 2013, ammonium nitrate explosion at the West Fertilizer facility that claimed the lives of twelve volunteer firefighters and at least two members of the public. CSB staff will present the final investigation report and proposed recommendations for the Board's review and approval. The Board will hear public comments on the investigation. CSB staff will also present to the Board details of a proposed study on land use planning.

Additional Information

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

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

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

Public Comment

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

Contact Person for Further Information

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

Dated: January 19, 2016.

Kara A. Wenzel,

Acting General Counsel, Chemical Safety and Hazard Investigation Board.

[FR Doc. 2016–01334 Filed 1–20–16; 11:15 am]

BILLING CODE 6350–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–2–2016]

Notification of Proposed Production Activity; GE Generators (Pensacola) L.L.C.; Subzone 249A (Wind Turbine Nacelles and Hubs); Pensacola, Florida

GE Generators (Pensacola) L.L.C. (GE Generators), operator of Subzone 249A, submitted a notification of proposed production activity to the FTZ Board, for its facility located in Pensacola, Florida. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on January 8, 2016.

GE Generators already has authority to produce wind turbines and related blades within Subzone 249A. The current request would add finished products (nacelle assemblies and hubs) and foreign-status components to the scope of authority. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status 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 GE Generators from customs duty payments on the foreign status components used in export production. On its domestic sales, GE Generators would be able to choose the duty rates during customs entry procedures that apply to nacelle assemblies and hubs (duty rates—free, 2.5%) for the foreign-status inputs noted below and in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components sourced from abroad include: Pitch bearings; hub castings; pitch cabinets; pitch drives; gearboxes; main shafts; yaw drives; bed plates; yaw bearings; top boxes; main bearings; pillow blocks; generator frames; flex couplings; gearbox coolers; gearbox isolation pedestals; pillow block housing covers; generator frames and legs; blade root spacers; and, elastomeric gearbox mounts (duty rate ranges from free to 5.8%).

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 March 2, 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 15, 2016.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–01294 Filed 1–21–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE388

Endangered and Threatened Species; Notice of Initiation of a 5-Year Review and Notice of Intent To Update the Recovery Plan for the U.S. Distinct Population Segment of Smalltooth Sawfish (Pristis pectinata)

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

ACTION: Notice of initiation of a 5-year review and notice of intent to update a recovery plan; request for information.

SUMMARY: We, NMFS, announce the initiation of a 5-year review for the U.S. distinct population segment (DPS) of smalltooth sawfish (hereafter referred to as 'smalltooth sawfish'), and our intent to update the smalltooth sawfish recovery plan. A 5-year review is a periodic process conducted to ensure that the listing classification of a species is accurate. Recovery plans are guides to rebuild and assure the long-term viability of protected species in the wild. Each document is based on the best scientific and commercial data available at the time of the review/update. Therefore, we are requesting submission of any information on the status of smalltooth sawfish that has become available since the previous iterations of these documents in 2010 and 2009 respectively.

DATES: Information regarding the status of smalltooth sawfish must be received by March 22, 2016.

ADDRESSES: You may submit information by either of the following methods:

- *Electronic Submissions:* Submit all electronic comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0005,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written information to the Protected Resources Division, NMFS Southeast Regional Office, 263 13th Avenue South, Saint Petersburg, FL 33701.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous), although submitting comments anonymously will prevent us from contacting you if we have difficulty retrieving your submission. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Adam Brame, Protected Resources Division, 727–209–5958.

SUPPLEMENTARY INFORMATION:

Background

Section 4(c)(2)(A) of the Endangered Species Act of 1973 (ESA), as amended, requires that we conduct a review of listed species at least once every five years. The regulations in 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the smalltooth sawfish.

Section 4(f) of the ESA requires NMFS to develop and implement recovery plans for the conservation and survival of federally-listed species. Section 4(f) also requires that a public notice and opportunity to review and comment be provided during recovery plan development.

Recovery means that listed species and their ecosystems are restored, and their future secured, so that the protections of the ESA are no longer necessary. The ESA specifies that recovery plans must include: (1) A description of management actions necessary to achieve the plan's goals for

the conservation and survival of the species; (2) objective, measurable criteria which, when met, would result in the species being removed from the list; and (3) estimates of the time and costs required to achieve the plan's goal and the intermediate steps towards that goal.

The U.S. DPS of smalltooth sawfish (*Pristis pectinata*) was listed as endangered under the ESA on April 1, 2003 (68 FR 15680) subsequent to a 1999 listing petition from The Ocean Conservancy. Smalltooth sawfish were once prevalent throughout Florida and were encountered from Texas to North Carolina. Currently, smalltooth sawfish can only be found with any regularity in south Florida between the Caloosahatchee River and the Florida Keys. The smalltooth sawfish recovery team prepared a recovery plan in 2009. Then in 2010, NMFS completed the first 5-year review for the species. NMFS will consider all substantive comments and information presented during the public comment period in the course of drafting each of these documents.

Public Solicitation of New Information

To ensure that the 5-year review is complete and based on the best available scientific and commercial information, we are soliciting new information from the public, governmental agencies, Tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of smalltooth sawfish in U.S. waters. Categories of requested information include: (1) Species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics; (2) habitat conditions including, but not limited to, amount, distribution, and suitability; (3) conservation measures that have been implemented that benefit the species; (4) status and trends of threats; and (5) other new information, data, or corrections. Any new information will be considered during the 5-year review and will also be incorporated, as appropriate, into the recovery plan update.

In regards to the recovery plan, we are soliciting relevant information related to smalltooth sawfish and their habitats, including: (1) Criteria for removing smalltooth sawfish from the list of threatened and endangered species; (2) human activities that contribute to the ESA listing factors (section 4(a)(1)(A)–(E)); (3) strategies and/or actions necessary to recover smalltooth sawfish; (4) critical knowledge gaps and/or uncertainties that need to be resolved to better inform recovery efforts; and (5) research, monitoring and evaluation needs to address knowledge gaps and uncertainties, to assess the species' status, or to evaluate progress in addressing the ESA listing factors relative to recovery goals. Upon completion, the updated recovery plan will be available for public review and comment through the publication of a **Federal Register** Notice.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 19, 2016.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–01239 Filed 1–21–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Economic Impacts of Diving and Snorkeling Expenditures in Southern Florida

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 22, 2016.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Kristy Wallmo, 301–427–8190 or *kristy.wallmo@noaa.gov*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a new collection of information.

The objective of the survey will be to understand divers' and snorkelers' expenditures associated with recreational coral reef diving activities in South Florida. The survey will also collect information on divers' attitudes, preferences, and concerns about recreational diving and coral reefs health in South Florida. We are conducting this survey to improve our understanding of divers' expenditure patterns and to estimate the economic impact of coral reef related spending. Results of the survey will be used to inform coastal resource management planning and establish a baseline for outreach and education. The expenditure survey is also expected to provide useful information for local economic and business interests.

II. Method of Collection

The survey will be conducted using two modes: Mail and Internet.

III. Data

OMB Control Number: 0648–XXXX.

Form Number: None.

Type of Review: Regular submission (request for a new information collection).

Affected Public: Individual recreational divers and snorkelers.

Estimated Number of Respondents: 1,500.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 500.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 15, 2016.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2016–01195 Filed 1–21–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE405

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold a three-day meeting.

DATES: The meeting will be held Tuesday, Wednesday, and Thursday, February 9–11, 2016 beginning at 9 a.m. on Tuesday, February 9, 2016 and ending at 1 p.m. on Thursday, February 11, 2016.

ADDRESSES: The meeting will be held at Double Tree by Hilton New Bern, 100 Middle Street, New Bern, NC 28560; telephone: (252) 638–3585.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331 or on their Web site at *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION:

Agenda

Tuesday, February 9, 2016

The Executive Committee will hold a closed session to discuss Scientific and Statistical Committee membership and process. The Collaborative Research Committee will review and discuss preliminary alternatives for long-term collaborative research. The Council will convene to consider comments from the Unmanaged Forage Fish Fishery Management Team, Ecosystems and Ocean Planning Advisory Panel, and Ecosystems and Ocean Planning Committee meetings on list of species, management alternatives, and other aspects of the amendment and review and approve the public hearing document. A presentation will be offered to the Council on the Northeast Regional Ocean Council Party/Charter Electronic Reporting Project.

Wednesday, February 10, 2016

The Council will convene to review the Ecosystem Approach to Fisheries Management Interactions White Paper and discuss the first draft of the Ecosystems Approach to Fisheries Management Guidance Document. The Fisheries Dependent Data Project will be presented. Ricks E Savage Award will be presented. The Law Enforcement reports will be presented by NOAA Office of Law Enforcement and the U.S. Coast Guard. The Council will review the Advisory Panel input for Scup Gear Restricted Areas (Framework Meeting 2), review analysis of the impacts, and select the final alternative. The Council will select preferred alternatives for the Omnibus Industry Funded Monitoring Amendment for standard cost responsibilities, framework provisions for Industry Funded Monitoring Programs, service provider requirements, a prioritization process to allocate federal funding, and monitoring set-asides.

Thursday, February 11, 2016

The Council will receive an update on implementation activities for the Marine Recreational Information Program. The Naming of the Deep Sea Coral Protection Areas will be discussed. The day will conclude with brief reports from the National Marine Fisheries Service's GARFO and the Northeast Fisheries Science Center, NOAA's Office of General Counsel, the Atlantic States Marine Fisheries Commission (ASMFC), the New England and South Atlantic Fishery Council's liaisons and the Regional Planning Body Report. The Council will also receive the Council's Executive Director's Report, the Science Report, and a Committee Report for the Collaborative Research Committee, and discuss any continuing and/or new business.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: January 15, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–01217 Filed 1–21–16; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Addition and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to and Deletions from the Procurement List.

SUMMARY: This action adds a service to the Procurement List that will be provided by the nonprofit agency employing persons who are blind or have other severe disabilities, and deletes products and a service from the Procurement List previously furnished by such agencies.

DATES: *Effective Date:* 2/21/2016

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION:

Addition

On 7/17/2015 (80 FR 42481–42483), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed addition to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agency to provide the service and impact of the addition on the current or most recent contractors, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or

other compliance requirements for small entities other than the small organization that will provide the service to the Government.

2. The action will result in authorizing a small entity to provide the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service is added to the Procurement List:

Service

Service Type: Dining Facility Attendant Service
Service Mandatory For: US Army, Mission and Installation Contracting Command, 1792 12th Street Fort Riley, KS
Mandatory Source(s) of Supply: Lakeview Center, Inc., Pensacola, FL
Contracting Activity: Dept of the Army, W6QM MICC–FT RILEY, Fort Riley, KS

Deletions

On 12/18/2015 (80 FR 79031–79032), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products and service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products and service deleted from the Procurement List.

End of Certification

Accordingly, the following products and service are deleted from the Procurement List:

Products

Product Name(s)—NSN(s): Paper, Mimeograph and Duplicating
7530–00–224–6754
7530–00–239–9747
7530–00–221–0805
7530–01–074–1832
7530–00–231–7125
Paper, Duplicating, Liquid Process, White, 8 1/2″ x 11″
7530–00–240–4768
Mandatory Source(s) of Supply: Louisiana Association for the Blind, Shreveport, LA
Contracting Activity: General Services Administration, New York, NY
Product Name(s)—NSN(s): Module, Medical System—8465–00–NSH–0063
Mandatory Source(s) of Supply: ServiceSource, Inc., Alexandria, VA
Contracting Activity: W6QK ACC–APG Natick, Natick, MA

Service

Service Type: Janitorial/Custodial Service, US Army Reserve, Lemma Whyman USARC, 145 Charlotte Street, Canandaigua, NY
Mandatory Source(s) of Supply: NYSARC, Inc., Seneca-Cayuga Counties Chapter, Waterloo, NY
Contracting Activity: Dept of the Army, W6QK ACC–PICA, Picatinny Arsenal, NJ

Barry S. Lineback,
Director, Business Operations.

[FR Doc. 2016–01278 Filed 1–21–16; 8:45 am]

BILLING CODE 6353–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings Notice

TIME AND DATE: Wednesday January 27, 2016, 9:30 a.m.–11:00 a.m.

PLACE: Room 837–C, Enter on the Fourth Floor, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Commission Meeting—Open to the Public.

Matter To Be Considered: *Decisional Matter:* Voluntary Standards Activities, Commission Participation and Employee Involvement—Final Rule to Amend 16 CFR part 1031.

A live webcast of the Meeting can be viewed at *www.cpsc.gov/live.*

TIME AND DATE: Wednesday, January 27, 2016; 11:00 a.m.–12:00 p.m.

PLACE: Room 837–C, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Commission Meeting—Closed to the Public.

MATTER TO BE CONSIDERED: *Compliance Matters:* The Commission staff will brief the Commission on compliance matters.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: January 19, 2016.

Todd A. Stevenson,
Secretariat.

[FR Doc. 2016–01327 Filed 1–20–16; 11:15 am]

BILLING CODE 6355–01–P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 16–0007–CRB–AU]

Notice of Intent To Audit

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Public notice.

SUMMARY: The Copyright Royalty Judges announce receipt of a notice of intent to audit the 2012, 2013, and 2014 statements of account of DMX concerning the royalty payments its New Subscription Service made pursuant to two statutory licenses.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, Program Specialist, by telephone at (202) 707–7658 or by email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: The Copyright Act, title 17 of the United States Code, grants to copyright owners of sound recordings the exclusive right to publicly perform sound recordings by means of certain digital audio transmissions, subject to certain limitations. Specifically, the right is limited by the statutory license in section 114 which allows nonexempt noninteractive digital subscription services and eligible nonsubscription services to perform publicly sound recordings by means of digital audio transmissions. 17 U.S.C. 114(f). In addition, a statutory license in section 112 allows a service to make necessary ephemeral reproductions to facilitate the digital transmission of the sound recording. 17 U.S.C. 112(e).

Licensees may operate under these licenses provided they pay the royalty fees and comply with the terms set by the Copyright Royalty Judges. The rates and terms for the section 112 and 114 licenses are set forth in 37 CFR parts 380 and 382–84. As part of the terms set for these licenses, the Judges designated SoundExchange, Inc. as the Collective,

i.e., the organization charged with collecting the royalty payments and statements of account submitted by eligible nonexempt noninteractive digital subscription services such as New Subscription Services and with distributing the royalties to the copyright owners and performers entitled to receive them. 37 CFR 383.4(a). As the designated Collective, SoundExchange may conduct a single audit of a licensee for any calendar year in order to verify royalty payments. SoundExchange must first file with the Judges a notice of intent to audit a licensee and deliver the notice to the licensee. 37 CFR 383.4(a) and 382.15(c).

On December 23, 2015, SoundExchange filed with the Judges a notice of intent to audit DMX's New Subscription Service for the years 2012, 2013, and 2014.

Section 382.15(c) requires the Judges to publish notice in the **Federal Register** within 30 days of receipt of a notice announcing the Collective's intent to conduct an audit. Today's notice fulfills this requirement with respect to SoundExchange's December 23, 2015, notice of intent to audit.

Dated: January 19, 2016.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

[FR Doc. 2016–01305 Filed 1–21–16; 8:45 am]

BILLING CODE 1410–72–P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 16–0008–CRB–AU]

Notice of Intent To Audit

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Public notice.

SUMMARY: The Copyright Royalty Judges announce receipt of a notice of intent to audit the 2012, 2013, and 2014 statements of account of Muzak LLC concerning the royalty payments its Preexisting Subscription Service made pursuant to two statutory licenses.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, Program Specialist, by telephone at (202) 707–7658 or by email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: The Copyright Act, title 17 of the United States Code, grants to copyright owners of sound recordings the exclusive right to publicly perform sound recordings by means of certain digital audio transmissions, subject to certain limitations. Specifically, the right is limited by the statutory license in section 114 which allows nonexempt noninteractive digital subscription services and eligible nonsubscription services to perform publicly sound recordings by means of digital audio transmissions. 17 U.S.C. 114(f). In addition, a statutory license in section 112 allows a service to make necessary ephemeral reproductions to facilitate the digital transmission of the sound recording. 17 U.S.C. 112(e).

Licensees may operate under these licenses provided they pay the royalty fees and comply with the terms set by the Copyright Royalty Judges. The rates and terms for the section 112 and 114 licenses are set forth in 37 CFR parts 380 and 382–84. As part of the terms set for these licenses, the Judges designated SoundExchange, Inc. as the Collective, *i.e.,* the organization charged with collecting the royalty payments and statements of account submitted by eligible nonexempt noninteractive digital subscription services such as Preexisting Subscription Services and with distributing the royalties to the copyright owners and performers entitled to receive them. 37 CFR 382.2. As the designated Collective, SoundExchange may conduct a single audit of a licensee for any calendar year in order to verify royalty payments. SoundExchange must first file with the Judges a notice of intent to audit a licensee and deliver the notice to the licensee. 37 CFR 382.6(c).

On December 23, 2015, SoundExchange filed with the Judges a notice of intent to audit Muzak LLC's Preexisting Subscription Service for the years 2012, 2013, and 2014.

Section 382.6(c) requires the Judges to publish notice in the **Federal Register** within 30 days of receipt of a notice announcing the Collective's intent to conduct an audit. Today's notice fulfills this requirement with respect to SoundExchange's December 23, 2015, notice of intent to audit.

Dated: January 19, 2016.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

[FR Doc. 2016–01301 Filed 1–21–16; 8:45 am]

BILLING CODE 1410–72–P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 16–0004–CRB–AU]

Notice of Intent To Audit

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Public notice.

SUMMARY: The Copyright Royalty Judges announce receipt of two notices of intent to audit the 2012, 2013, and 2014 statements of account submitted by DMX and Muzak LLC concerning the royalty payments their Business Establishment Services made pursuant to two statutory licenses.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, Program Specialist, by telephone at (202) 707–7658 or by email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: The Copyright Act, title 17 of the United States Code, grants to copyright owners of sound recordings the exclusive right to publicly perform sound recordings by means of certain digital audio transmissions, subject to certain limitations. Specifically, the right is limited by an exception that allows noninteractive public performances by means of a digital audio transmission that are part of a transmission to a business establishment for use in the ordinary course of its business. 17 U.S.C. 114(d)(1)(C)(iv). In addition, a statutory license in section 112 allows a service to make necessary ephemeral reproductions to facilitate the digital transmission of the sound recording, including the ephemeral recordings made by entities that transmit performances of sound recordings to business establishments (Business Establishment Services).[1] 17 U.S.C. 112(e).

Licensees may operate under this license provided they pay the royalty fees and comply with the terms set by the Copyright Royalty Judges. The rates and terms for the section 112 license for Business Establishment Services is set forth in 37 CFR part 384. As part of the terms set for this license, the Judges designated SoundExchange, Inc. as the Collective, *i.e.,* the organization charged with collecting the royalty payments and statements of account submitted by Business Establishment Services and with distributing the royalties to the copyright owners and performers entitled to receive them. 37 CFR 384.4(b). As the designated Collective, SoundExchange may conduct a single audit of a licensee for any calendar year in order to verify royalty payments. SoundExchange must first file with the Judges a notice of intent to audit a licensee and serve the notice on the licensee. 37 CFR 384.6(c).

On December 23, 2015, SoundExchange filed with the Judges a notice of intent to audit the Business Establishment Services of DMX and

[1] Subject to the limitations set forth in section 114(d)(1)(C)(iv).

Muzak LLC for the years 2012, 2013, and 2014.

Section 384.6(c) requires the Judges to publish notice in the **Federal Register** within 30 days of receipt of a notice announcing the Collective's intent to conduct an audit. Today's notice fulfills this requirement with respect to SoundExchange's December 23, 2015, notices of intent to audit.

Dated: January 19, 2016.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

[FR Doc. 2016–01299 Filed 1–21–16; 8:45 am]

BILLING CODE 1410–72–P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 16–0005–CRB–AU]

Notice of Intent To Audit

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Public notice.

SUMMARY: The Copyright Royalty Judges announce receipt of five notices of intent to audit the 2012, 2013, and 2014 statements of account submitted by broadcasters Beasley Broadcast Group Inc., Greater Media Inc., Saga Communications Inc., and Univision Communications Inc. and the 2013 and 2014 statements of account submitted by broadcaster Townsquare Media Broadcasting concerning royalty payments each made pursuant to two statutory licenses.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, Program Specialist, by telephone at (202) 707–7658 or by email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: The Copyright Act, title 17 of the United States Code, grants to copyright owners of sound recordings the exclusive right to publicly perform sound recordings by means of certain digital audio transmissions, subject to certain limitations. Specifically, the right is limited by the statutory license in section 114 which allows nonexempt noninteractive digital subscription services and eligible nonsubscription services to perform publicly sound recordings by means of digital audio transmissions. 17 U.S.C. 114(f). In addition, a statutory license in section 112 allows a service to make necessary ephemeral reproductions to facilitate the digital transmission of the sound recording. 17 U.S.C. 112(e).

Licensees may operate under these licenses provided they pay the royalty fees and comply with the terms set by the Copyright Royalty Judges. The rates and terms for the section 112 and 114 licenses are set forth in 37 CFR parts 380 and 382–84. As part of the terms set for these licenses, the Judges designated SoundExchange, Inc. as the Collective, *i.e.,* the organization charged with collecting the royalty payments and statements of account submitted by eligible nonsubscription services such as broadcasters and with distributing the royalties to copyright owners and performers entitled to receive them. 37 CFR 380.13(b)(1). As the designated Collective, SoundExchange may conduct a single audit of a licensee for any calendar year in order to verify royalty payments. SoundExchange must first file with the Judges a notice of intent to audit a licensee and deliver the notice to the licensee. 37 CFR 380.15(c).

On December 23, 2015, SoundExchange filed with the Judges five separate notices of intent to audit Beasley Broadcast Group Inc., for the years 2012–14, Greater Media Inc. for the years 2012–14, Saga Communications Inc. for the years 2013–14, Townsquare Media Broadcasting for the years 2012–14, and Univision Communications Inc. for the years 2012–14.

Section 380.15(c) requires the Judges to publish notice in the **Federal Register** within 30 days of receipt of a notice announcing the Collective's intent to conduct an audit. Today's notice fulfills this requirement with respect to SoundExchange's December 23, 2015, notices of intent to audit.

Dated: January 19, 2016.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

[FR Doc. 2016–01300 Filed 1–21–16; 8:45 am]

BILLING CODE 1410–72–P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 16–0006–CRB–AU]

Notice of Intent To Audit

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Public notice.

SUMMARY: The Copyright Royalty Judges announce receipt of four notices of intent to audit the 2012, 2013, and 2014 statements of account submitted by commercial webcasters Batanga, DMX, Muzak Inc., and the 2013 and 2014 statements of account submitted by commercial webcaster Pandora Media Inc., concerning the royalty payments each made pursuant to two statutory licenses.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, Program Specialist, by telephone at (202) 707–7658 or by email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: The Copyright Act, title 17 of the United States Code, grants to copyright owners of sound recordings the exclusive right to publicly perform sound recordings by means of certain digital audio transmissions, subject to certain limitations. Specifically, the right is limited by the statutory license in section 114 which allows nonexempt noninteractive digital subscription services and eligible nonsubscription services to perform publicly sound recordings by means of digital audio transmissions. 17 U.S.C. 114(f). In addition, a statutory license in section 112 allows a service to make necessary ephemeral reproductions to facilitate the digital transmission of the sound recording. 17 U.S.C. 112(e).

Licensees may operate under these licenses provided they pay the royalty fees and comply with the terms set by the Copyright Royalty Judges. The rates and terms for the section 112 and 114 licenses are set forth in 37 CFR parts 380 and 382–84. As part of the terms set for these licenses, the Judges designated SoundExchange, Inc. as the Collective, *i.e.,* the organization charged with collecting the royalty payments and statements of account submitted by eligible nonsubscription services such as Commercial Webcasters and with distributing the royalties to the copyright owners and performers entitled to receive them under the section 112 and 114 licenses. 37 CFR 380.4(b)(1). As the designated Collective, SoundExchange may conduct a single audit of a licensee for any calendar year in order to verify royalty payments. SoundExchange must first file with the Judges a notice of intent to audit a licensee and deliver the notice to the licensee. 37 CFR 380.6(c).

On December 23, 2015, SoundExchange filed with the Judges notices of intent to audit Batanga, DMX, and Muzak Inc., for the years 2012, 2013, and 2014 and Pandora Media Inc. for the years 2013 and 2014.

Sections 380.6(c) requires the Judges to publish notice in the **Federal Register** within 30 days of receipt of a notice announcing the Collective's intent to conduct an audit. Today's notice fulfills this requirement with respect to SoundExchange's December 23, 2015, notices of intent to audit.

Dated: January 19, 2016.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

[FR Doc. 2016–01306 Filed 1–21–16; 8:45 am]

BILLING CODE 1410–72–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2016–HQ–0001]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to delete a System of Records.

SUMMARY: The Department of the Air Force is deleting a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The system notice is F035 AFAPO A, entitled ''Air Force Art Program''.

DATES: Comments will be accepted on or before February 22, 2016. The proposed action will be effective the day following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

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

FOR FURTHER INFORMATION CONTACT: Ms. Bao-Anh V. Trinh, Department of the Air Air Force Privacy Act Office, Office of Warfighting Integration and Chief Information officer, ATTN: SAF/CIO A6, 1800 Air Force Pentagon, Washington, DC 20330–1800, or telephone: (703) 614–8500.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**.

The Department of the Air Force proposes to delete a system of records notices from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletions are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: January 15, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Deletion:
F035 AFAPO A

AIR FORCE ART PROGRAM (AUGUST 23, 2004, 69 FR 51815)

Reason: The Air Force Art Program system of records notice, F035 AFAPO A, can be deleted. The records were no longer needed, and all records have been destroyed. The program no longer maintains sensitive personal information of the artists for travel purposes. DHRA 08 DoD, entitled Defense Travel System (March 24, 2010, 75 FR 14142) covers all travel. This system does not have an OMB control number associated with this collection.

[FR Doc. 2016–01212 Filed 1–21–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Notice of Public Workshop To Provide Comments on Field Testing and Verification for Project DE–EE0006789, ''Assimilation of Wave Imaging Radar Observations for Real-Time Wave-by-Wave Forecasting''

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

ACTION: Notice of public workshop.

SUMMARY: The Department of Energy (DOE) is announcing the following web-based public workshop entitled, ''Field Testing and Verification for Project DE–EE0006789, [Assimilation of Wave Imaging Radar Observations for Real-time Wave-by-Wave Forecasting]''. The purpose of the meeting is for DOE to obtain industry feedback regarding field testing and verification of the wave-by-wave forecasting system under development.

DATES: The public workshop will be held via webinar on Tuesday, February 16, from 1:00 p.m. EST–4:00 p.m. EST.

ADDRESSES: The meeting will be held via webinar. Please register for the webinar in advance at *https://attendee.gotowebinar.com/register/2296218256164279042.*

FOR FURTHER INFORMATION CONTACT: Questions may be directed to Tim Ramsey, Department of Energy at (240) 562–1758 or *tim.ramsey@ee.doe.gov,* or Joel Cline, Department of Energy, at (202) 287–6966 or *joel.cline@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting

The DOE is supporting a project through Oregon State University (OSU) to develop and assess the performance of a method for using wave-resolving marine radar to provide all weather, large-area, phase-resolved, wave forecasts for wave energy converter control applications. The target time horizon for the forecasts will be 3–5 minutes (min) and the target spatial domain will be approximately 3–5 kilometers (km) on a side. A wave forecasting system based on wave-resolving marine radar data will be developed and implemented. The main components of the system are a wave imaging marine radar, a phase-resolving linear wave model based on Mild Slope Equations (Polar-MSE), and a variational inversion algorithm which produces the wave forecast via estimation of the offshore wave boundary conditions. Presently, the algorithm is being validated via testing using synthetic data and comparison to a limited set of in situ observations. The purpose of the meeting is for DOE and OSU to obtain feedback from the marine renewable energy industry regarding field testing and verification of the wave-by-wave forecasting system under development.

Public Participation

Members of the public are welcome to attend the workshop. Registration is free and persons interested in attending this public workshop must register online by 1:00 p.m. EST, February 16, 2016. To register for the public workshop, please visit *https://attendee.gotowebinar.com/register/2296218256164279042.* Registrants will receive confirmation after they have been successfully registered. If you need special accommodations due to a disability, please contact Tim Ramsey, (240) 562–1758 or *tim.ramsey@ee.doe.gov,* no later than February 9, 2016.

The objective of the meeting is to ask for public input regarding the project described above. To that end, it would be most helpful if members of the public provide information based on their personal experience, individual advice, and facts regarding this topic. It is not the objective of this meeting to obtain any group position or consensus. Rather, the DOE is seeking as many recommendations as possible from all individuals at this meeting.

Issued in Washington, DC on January 11, 2016.

Jose Zayas,

Director, Wind and Water Power Technologies Office, Energy Efficiency and Renewable Energy.

[FR Doc. 2016–01293 Filed 1–21–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1953–087]

Consolidated Water Power Company; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Extension of license term.

b. *Project No.:* 1953–087.

c. *Date Filed:* December 11, 2015.

d. *Applicant:* Consolidated Water Power Company (licensee).

e. *Name of Project:* DuBay Hydroelectric Project.

f. *Location:* Wisconsin River in Marathon, Portage, and Wood counties, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Thomas J. Witt, Resources Manager, Consolidated Water Power Company, 610 High St., P.O. Box 8050, Wisconsin Rapids, WI 54495, (715) 422–3927.

i. *FERC Contact:* Ashish Desai, (202) 502–8370, *Ashish.Desai@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests, is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, and recommendations, using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–1953–087.

k. *Description of Application:* On October 24, 1991, the Commission issued a 30-year license for the DuBay Project that expires on October 23, 2021. The licensee requests the Commission extend the term of the license to June 30, 2026 to match the expiration dates of the licensee's Wisconsin Rapids (P–2256) and Whiting (P–2590) Projects, also on the Wisconsin River. The licensee states that the extension would allow for better coordination during project relicensing and would be consistent with the Commission's policy of coordinating the license expiration dates of projects located within the same river basin.

l. This notice is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the Docket number (P–1953–087) excluding the last three digits in the docket number field to access the notice. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions To Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by a proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: January 15, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–01235 Filed 1–21–16; 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 corporate filings:

Docket Numbers: EC16–11–000.

Applicants: Greeley Energy Facility, LLC.

Description: Supplement to October 13, 2015 Application for Authorization Under Section 203 of the Federal Power Act and Request for Expedited Action of Greeley Energy Facility, LLC.

Filed Date: 1/4/16.

Accession Number: 20160104–5540.

Comments Due: 5 p.m. ET 1/22/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–161–014; ER12–645–016; ER14–25–011.

Applicants: Bishop Hill Energy LLC, California Ridge Wind Energy LLC, Prairie Breeze Wind Energy LLC.

Description: Notice of Change in Status and Request for Confidential Treatment of Bishop Hill Energy LLC, et al.

Filed Date: 1/14/16.

Accession Number: 20160114–5434.

Comments Due: 5 p.m. ET 2/4/16.

Docket Numbers: ER12–2068–010; ER15–1471–005; ER10–2460–010;

ER10–2461–010; ER12–2159–006; ER12–682–011; ER10–2463–010; ER15–1672–004; ER11–2201–014; ER10–2464–007; ER10–1821–011; ER13–1139–013; ER13–1585–007; ER12–2205–007; ER10–2465–006; ER11–2657–007; ER13–17–008; ER14–2630–006; ER12–919–005; ER12–1311–010; ER10–2466–011; ER11–4029–010.

Applicants: Blue Sky East, LLC, Blue Sky West, LLC, Canandaigua Power Partners, LLC, Canandaigua Power Partners II, LLC, Canadian Hills Wind, LLC, Erie Wind, LLC, Evergreen Wind Power, LLC, Evergreen Wind Power II, LLC, Evergreen Wind Power III, LLC, First Wind Energy Marketing, LLC, Goshen Phase II LLC, Imperial Valley Solar 1, LLC, Longfellow Wind, LLC, Meadow Creek Project Company LLC, Milford Wind Corridor Phase I, LLC, Milford Wind Corridor Phase II, LLC, Niagara Wind Power, LLC, Regulus Solar, LLC, Rockland Wind Farm LLC, Stetson Holdings, LLC, Stetson Wind II, LLC, Vermont Wind, LLC.

Description: Notice of Change in Status of Blue Sky East, LLC, et al.

Filed Date: 1/14/16.

Accession Number: 20160114–5449.

Comments Due: 5 p.m. ET 2/4/16.

Docket Numbers: ER15–2483–002.

Applicants: Emerald City Renewables LLC.

Description: Notification of Non-Material Change in Status of Emerald City Renewables LLC.

Filed Date: 1/15/16.

Accession Number: 20160115–5157.

Comments Due: 5 p.m. ET 2/5/16.

Docket Numbers: ER16–91–001.

Applicants: Blythe Solar 110, LLC.

Description: Amendment to December 18, 2015 Notification of Change in Status of Blythe Solar 110, LLC.

Filed Date: 1/14/16.

Accession Number: 20160114–5447.

Comments Due: 5 p.m. ET 2/4/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 15, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–01231 Filed 1–21–16; 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 corporate filings:

Docket Numbers: EC16–61–000.

Applicants: American Transmission Company LLC, Wisconsin Power and Light Company.

Description: Application of American Transmission Company LLC, et al. for Authority to Acquire Certain Facilities under Section 203 of the FPA.

Filed Date: 1/15/16.

Accession Number: 20160115–5395.

Comments Due: 5 p.m. ET 2/5/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–303–002.

Applicants: PJM Interconnection, L.L.C., American Transmission Systems, Incorporated.

Description: Compliance filing: ATSI submits superseding compliance filing re revisions to Attach. H–21A & H–21B to be effective 1/1/2015.

Filed Date: 1/15/16.

Accession Number: 20160115–5266.

Comments Due: 5 p.m. ET 2/5/16.

Docket Numbers: ER16–733–000.

Applicants: LQA, LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization and Request for Waivers to be effective 1/16/2016.

Filed Date: 1/15/16.

Accession Number: 20160115–5289.

Comments Due: 5 p.m. ET 2/5/16.

Docket Numbers: ER16–734–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Service Agreement Nos. 4372–4390; Queue Nos. AB1–035–AB1–052 and AB1–071 (WMPAs) to be effective 12/21/2015.

Filed Date: 1/15/16.

Accession Number: 20160115–5307.

Comments Due: 5 p.m. ET 2/5/16.

Docket Numbers: ER16–735–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2016–01–15 FTR Market Data Posting Filing to be effective 3/15/2016.

Filed Date: 1/15/16.

Accession Number: 20160115–5336.

Comments Due: 5 p.m. ET 2/5/16.

Docket Numbers: ER16–736–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Revisions to OATT Schedule 12 Appdx A–RTEP Approved by the PJM Board Dec 2015 to be effective 2/11/2016.

Filed Date: 1/15/16.

Accession Number: 20160115–5385.

Comments Due: 5 p.m. ET 2/5/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 15, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–01232 Filed 1–21–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–513–000]

Texas Gas Transmission, LLC; Revised Notice of Schedule for Environmental Review of the Northern Supply Access Project

This notice identifies the Federal Energy Regulatory Commission (Commission or FERC) staff's revised schedule for the completion of the environmental assessment (EA) for Texas Gas Transmission, LLC's Northern Supply Access Project. The previous notice of schedule, issued on December 23, 2015, identified February 4, 2016 as the issuance date.

Schedule for Environmental Review

Issuance of EA, January 26, 2016
90-day Federal Authorization Decision Deadline, April 25, 2016

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: January 15, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–01234 Filed 1–21–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–144–000]

Florida Gas Transmission Company, LLC: Notice of Availability of the Environmental Assessment for the Proposed Jacksonville Expansion Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Jacksonville Expansion Project, proposed by the Florida Gas Transmission Company, LLC (FGT) in the above-referenced docket. FGT requests authorization to construct about 8.7 miles of natural gas pipeline and associated aboveground facilities in Suwannee, Columbia, Bradford, and Clay Counties, Florida. The purpose is to provide a total of approximately 75,000 MMBtu/d of natural gas capacity to be delivered at various amounts at several points throughout Florida.

The EA assesses the potential environmental effects of constructing and operating the Jacksonville Expansion Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The proposed Jacksonville Expansion Project includes the following facilities:

- Approximately 3.0 miles of 30-inch-diameter looping pipeline and associated facilities [1] in Suwannee and Columbia Counties;
- one new compressor unit, re-wheel an existing turbine compressor unit, and construct and modify piping and valves at Compressor Station 16 in Bradford County;
- approximately 5.7 miles of 20-inch-diameter looping pipeline and associated facilities in Bradford and Clay Counties; and
- a new regulation station in Bradford County.

The FERC staff mailed copies of the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding. In addition, the EA is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before February 15, 2016.

For your convenience, there are three methods you can use to file your comments to the Commission. In all instances, please reference the project docket number (CP15–144–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[2] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (*i.e.,* CP15–144). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

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[1] Associated facilities include new or relocated pig launchers and receivers, valves, and cathodic protection equipment.

[2] See the previous discussion on the methods for filing comments.

Dated: January 15, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–01233 Filed 1–21–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2114–277]

Public Utility District No. 2 of Grant County; Notice of Application and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Request to revise project boundary.

b. *Project No:* 2114–277.

c. *Date Filed:* October 7, 2015, supplemented December 23, 2015.

d. *Applicant:* Public Utility District No. 2 of Grant County (Grant PUD).

e. *Name of Project:* Priest Rapids Hydroelectric Project.

f. *Location:* The Priest Rapids Hydroelectric Project is located on the mid-Columbia River in portions of Grant, Yakima, Kittitas, Douglas, Benton, and Chelan counties, Washington. The revision to the project boundary would occur in Grant County.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Ross Hendrick, License Compliance Manager, Grant PUD, P. O. Box 878, Ephrata, WA 98823–0878, (509) 793–1468, *rhendr1@gcpud.org.*

i. *FERC Contact:* Hillary Berlin, (202) 502–8915, *hillary.berlin@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* February 18, 2016.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, or recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2114–277.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* Grant PUD requests Commission approval to add Lot 51 within the Sunland Estates Community (parcel 050579000) to the project boundary. Grant PUD states that the parcel is needed to access project lands along the shoreline for the project purposes of monitoring and removing unauthorized uses and encroachments, monitoring for compliance with non-project use conditions, implementing shoreline restoration projects, and vegetation management (including noxious weed control). Grant PUD also states that this parcel is used for public and community access to the shoreline. All previous intervenors in this proceeding remain a party to the proceeding and do not need to file another motion to intervene, but may file additional comments.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: January 15, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–01236 Filed 1–21–16; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2013–0677; FRL–9941–40]

Receipt of Test Data Under the Toxic Substances Control Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing its receipt of test data submitted pursuant to a test rule issued by EPA under the Toxic Substances Control Act (TSCA). As required by TSCA, this document identifies each chemical substance and/or mixture for which test data have been received; the uses or intended uses of such chemical substance and/or mixture; and describes the nature of the test data received. Each chemical substance and/or mixture related to this announcement is identified in Unit I. under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kathy Calvo, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8089; email address: *calvo.kathy@epa.gov*.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Chemical Substances and/or Mixtures

Information about the following chemical substances and/or mixtures is provided in Unit IV.: *Phosphorochloridothioic acid, O,O-diethyl ester* (*CAS RN 2524–04–1*).

II. Federal Register Publication Requirement

Section 4(d) of TSCA (15 U.S.C. 2603(d)) requires EPA to publish a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under TSCA section 4 (15 U.S.C. 2603).

III. Docket Information

A docket, identified by the docket identification (ID) number EPA–HQ–OPPT–2013–0677, has been established for this **Federal Register** document that announces the receipt of data. Upon EPA's completion of its quality assurance review, the test data received will be added to the docket for the TSCA section 4 test rule that required the test data. Use the docket ID number provided in Unit IV. to access the test data in the docket for the related TSCA section 4 test rule.

The docket for this **Federal Register** document and the docket for each related TSCA section 4 test rule is available electronically at *http://www.regulations.gov* or in person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

IV. Test Data Received

This unit contains the information required by TSCA section 4(d) for the test data received by EPA. *Phosphorochloridothioic acid, O,O-diethyl ester* (*CAS RN 2524–04–1*).

1. *Chemical Uses:* An intermediate for pesticides, an oil and gasoline additive, in flame-retardants, and in flotation agents.

2. *Applicable Test Rule:* Chemical testing requirements for second group of high production volume chemicals (HPV2), 40 CFR 799.5087.

3. *Test Data Received:* The following listing describes the nature of the test data received. The test data will be added to the docket for the applicable TSCA section 4 test rule and can be found by referencing the docket ID number provided. EPA reviews of test data will be added to the same docket upon completion.

Bacterial Reverse Mutation Test (E1). The docket ID number assigned to this data is EPA–HQ–OPPT–2007–0531.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: January 14, 2016.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2016–01292 Filed 1–21–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0321; FRL–9941–08]

Product Cancellation Order for Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations, voluntarily requested by the registrants and accepted by the Agency, of the products listed in Table 1 of Unit II., pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows a June 16, 2015 **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 2 of Unit II. to voluntarily cancel these product registrations. In the June 16, 2015 notice, EPA indicated that it would issue an order implementing the cancellations, unless the Agency received substantive comments within the 180-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency received one comment on this notice from a registrant to withdraw one cancellation request. Also the following registration numbers were listed in the June 16, 2015 notice and already have been canceled by another **Federal Register** notice so are not listed in this notice: 4787–43, 4787–46, 5382–46, 5481–350, 5481–418, 5481–420, 5481–446, 21164–3, 21164–5, 71995–3, CA090010 and HI840004. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations are effective January 22, 2016.

FOR FURTHER INFORMATION CONTACT: Michael Yanchulis, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–0237; email address: *yanchulis.michael@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, 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.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2015–0321, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the agency taking?

This notice announces the cancellation, as requested by registrant, of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Table 1 of this unit.

TABLE 1—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Chemical name
100–793	100	Mefenoxam E	Metalaxyl-M.
100–795	100	Subdue WSP Fungicide	Metalaxyl-M.
100–801	100	Ridomil Gold EC	Metalaxyl-M.
100–823	100	Ridomil Gold PC GR	Metalaxyl-M; Pentachloronitrobenzene.
100–958	100	Boundary Herbicide	Metribuzin; S-Metolachlor.
100–964	100	Medal Herbicide	S-Metolachlor.
100–965	100	Medal II Herbicide	S-Metolachlor.
100–1148	100	Camix Selective Herbicide	Mesotrione; S-Metolachlor.
100–1165	100	Brawn Herbicide	S-Metolachlor; Atrazine.
100–1217	100	Gramoxone Inteon	Paraquat dichloride.
100–1227	100	Ridomil Gold/Bravo Liquid Fungicide	Metalaxyl-M.
100–1243	100	Quadris Gold	Azoxystrobin; Metalaxyl-M.
100–1316	100	Cyclone Star	Carfentrazone-ethyl; Paraquat dichloride.
100–1360	100	Cannonball WP	Fludioxonil.
264–685	264	Option Corn Herbicide	Foramsulfuron.
264–771	264	Domain	Flufenacet; Metribuzin.
352–793	352	Dupont Imprelis Herbicide	Aminocyclopyrachlor potassium salt.
400–578	400	Blizzard	Fluthiacet-methyl.
432–1403	432	Prostar 1.5G	Flutolanil.
432–1408	432	Super GT Fungicide	Iprodione.
432–1414	432	26/36 Fungicide	Iprodione; Thiophanate-methyl.
432–1476	432	Tiberon 2.8% SC	Cyclanilide.
432–1486	432	Reserve Fungicide	Triticonazole; Chlorothalonil.
1021–565	1021	Pyrocide Concentrate 5792	Pyrethrins; Piperonyl butoxide; MGK 264.
1021–1164	1021	Pyrocide Intermediate 7070	Pyrethrins; Piperonyl butoxide; MGK 264.
1021–1437	1021	Multicide Intermediate 2232	Tetramethrin; Phenothrin.
1021–1465	1021	Multicide Mosquito Adulticiding Concentrate 2271.	Phenothrin.
1021–1582	1021	Evercide Vegetable and Garden Insect Killer 2526.	Esfenvalerate.
1021–1611	1021	Pyrocide Intermediate 51	Pyrethrins; Piperonyl butoxide.
1021–1626	1021	Evergreen Concentrate 7397	Pyrethrins; Piperonyl butoxide.
1021–1643	1021	Evercide Emulsifiable Concentrate 2667	Esfenvalerate.
1021–1655	1021	Evercide Concentrate 2625	Prallethrin; Esfenvalerate.
1021–1656	1021	Evercide Nylar Total Release Aerosol 2644.	Prallethrin; Esfenvalerate; Pyriproxyfen.
1021–1657	1021	Nylar Concentrate 2631	Pyriproxyfen.
1021–1660	1021	Nylar 10% Concentrate 2637	Pyriproxyfen.
1021–1676	1021	Evercide Total Release Aerosol 2615	Pyrethrins; Enfenvalerate; Piperonyl butoxide; MGK 264; Pyriproxyfen.
1021–1683	1021	Multicide Intermediate 2737	Prallethrin; Cyphenothrin; MGK 264.
1021–1684	1021	Multicide Total Release Aerosol 27371	Prallethrin; Cyphenothrin; MGK 264.
1021–1718	1021	ETOC Fogging Concentrate 2764	Prallethrin.
1021–1731	1021	MGK Roach Trap	2-Cyclopenten-1-one, 2-hydroxy-3-methyl-.
1021–1752	1021	Evercide Esfenvalerate 35% W.P. MUP 2787.	Esfenvalerate.
1021–1756	1021	Evercide Residual Roach and Ant Spray 27692.	Esfenvalerate; Imiprothrin; MGK 264.
1021–1757	1021	Evercide Residual Roach and Ant Spray 27691.	Esfenvalerate; Imiprothrin; MGK 264.
1021–1765	1021	Multicide Multi-Purpose Spray 27373	Prallethrin; Cyphenothrin; MGK 264.
1021–1768	1021	Multicide Wasp & Hornet Spray 27301	Prallethrin; MGK 264.
1021–1769	1021	Multicide Intermediate 2730	Prallethrin; MGK 264.
1021–1781	1021	Evercide(R) Emulsifiable Concentrate 28051.	Esfenvalerate.
1021–1782	1021	Evercide Emulsifiable Concentrate 2805 MUP.	Esfenvalerate.
1021–1789	1021	Evercide Concentrate 2801	Prallethrin; Permethrin; MGK 264.
1021–1793	1021	Evercide Concentrate 26621 MUP	Esfenvalerate.
1021–1794	1021	Evercide Esfenvalerate 10MC	Esfenvalerate.
1021–1804	1021	Evercide(R) Industrial Spray 27524	Esfenvalerate.
1021–1809	1021	Evercide Total Release Fogger 24601	Pyrethrins; MGK 264; Permethrin.
1021–1811	1021	Multicide Fogging Concentrate 2611 MUP	Prallethrin; Piperonyl butoxide; MGK 264.
1021–1831	1021	Evercide Total Release Fogger 24602	Pyrethrins; MGK 264; Permethrin.
1021–1877	1021	Dry Pyganic Pro	Pyrethrins.
1021–2555	1021	MGK F–2929	Bifenthrin.
1021–2632	1021	Tetraperm Wasp & Hornet Killer FEQ 24	Tetramethrin; Permethrin; Piperonyl butoxide.

TABLE 1—PRODUCT CANCELLATIONS—Continued

Registration No.	Company No.	Product name	Chemical name
1021–2633	1021	Tetraperm Crawling Insect Killer FEQ 23	Tetramethrin; Permethrin; Piperonyl butoxide.
1021–2637	1021	Tetraperm Crawling Insect Killer WBA Q3	Tetramethrin; Permethrin; Piperonyl butoxide.
1021–2638	1021	Tetraperm Total Release Indoor Fogger Q3.	Tetramethrin; Permethrin; Piperonyl butoxide.
1021–2641	1021	Tetraperm Total Release Indoor Fogger Q5.	Tetramethrin; Permethrin; Piperonyl butoxide.
1021–2642	1021	Tetraperm Crawling Insect Killer WBA Q5	Tetramethrin; Permethrin; Piperonyl butoxide.
1021–2643	1021	Permanone Total Release Aerosol	Permethrin.
1021–2648	1021	D100 Insecticide	Deltamethrin.
1021–2655	1021	Ultratec HPC 1	Deltamethrin.
1021–2664	1021	Pyrenone Industrial Spray Emulsifiable Concentrate.	Pyrethrins; Piperonyl butoxide.
1021–2665	1021	Pyrenone General Purpose Household Spray.	Pyrethrins; Piperonyl butoxide.
1021–2672	1021	Pyrenone Multi-Purpose Insecticide	Pyrethrins; Piperonyl butoxide.
1021–2677	1021	Pyrenone Pet Spray	Pyrethrins; Piperonyl butoxide.
1021–2686	1021	Permanone General Purpose Aqueous Insecticide.	Permethrin.
1021–2691	1021	Tetraperm Indoor Insect Killer N104 WBA	Permethrin; Tetramethrin; Piperonyl butoxide.
1021–2696	1021	Tetraperm Total Release Indoor Fogger N104.	Permethrin; Tetramethrin; Piperonyl butoxide.
1021–2698	1021	Tetraperm .2+.2 CIK Household Insect Killer.	Permethrin; Tetramethrin; Piperonyl butoxide.
1021–2700	1021	Pyraperm Household Insect Killer WBA P60.	Pyrethrins; Permethrin; Piperonyl butoxide.
1021–2702	1021	Pyraperm Total Release Indoor Fogger WBA P60.	Pyrethrins; Permethrin; Piperonyl butoxide.
1021–2703	1021	Pyraperm Household Insect Killer WBA P61.	Pyrethrins; Permethrin; Piperonyl butoxide.
1021–2704	1021	Pyraperm Industrial Insect Killer WBA P61	Pyrethrins; Permethrin; Piperonyl butoxide.
1021–2705	1021	Pyraperm Total Release Indoor Fogger WBA P61.	Pyrethrins; Permethrin; Piperonyl butoxide.
1021–2708	1021	Pyraperm Total Release Indoor Fogger WBA P59.	Pyrethrins; Permethrin; Piperonyl butoxide.
1021–2719	1021	Aqueous Pyrenone Garden Spray	Pyrethrins; Piperonyl butoxide.
1021–2723	1021	Pramix Dust (0.25)	Permethrin.
1021–2727	1021	RUC–415 Insecticide	Deltamethrin.
1021–2744	1021	Pyrenone 30–3 Insecticide	Pyrethrins; Piperonyl butoxide.
1021–2745	1021	Tetraperm TRA	Tetramethrin; Permethrin; Piperonyl butoxide.
1021–2746	1021	Tetraperm AS TRA	Tetramethrin; Permethrin; Piperonly butoxide; Triethylene glycol.
1021–2749	1021	Pramex TC Plus	Permethrin.
1021–2750	1021	S-Fen 10MC	Esfenvalerate.
1021–2751	1021	Ultratec 5% TRA Concentrate	Deltamethrin.
1021–2757	1021	Tetraperm 10–10 Concentrate	Permethrin; Tetramethrin.
1021–2758	1021	Tetraperm 11 WB Wasp, Hornet & Yellow Jacket Killer.	Permethrin; Tetramethrin.
1021–2759	1021	Tetraperm 22 WB Wasp, Hornet & Yellow Jacket Killer.	Permethrin; Tetramethrin.
1021–2766	1021	Pramex 11.55% MUP	Permethrin.
1021–2768	1021	Pyrenone 0.5–2.5 Space Spray	Pyrethrins; Piperonyl butoxide.
1021–2770	1021	Pyrenone 1–5 Space Spray	Pyrethrins; Piperonyl butoxide.
1021–2777	1021	S–FEN 40% Concentrate	Esfenvalerate.
1021–2778	1021	S–FEN 0.25% Spray	Esfenvalerate.
1448–53	1448	Busan 881	Carbamodithioic acid, cyano-, disodium salt; Metam-Potassium.
1448–84	1448	Busan 1014	Oxydiethylenebis(alkyl* dimethyl ammonium chloride) *(as in fatty acids of coconut oil).
1448–115	1448	NM–875–11	Carbamodithioic acid, cyano-, disodium salt; Metam-Potassium.
1448–128	1448	NM–35–1	Carbamodithioic acid, cyano-, disodium salt; Metam-Potassium.
1448–180	1448	NM–175–1	Carbamodithioic acid, cyano-, disodium salt; Metam-Potassium.
1448–185	1448	D–10–1	Potassium dimethyldithiocarbamate.
1448–265	1448	B–30–6	2-(Thiocyanomethylthio)benzothiazole.
1448–347	1448	Alstar Non-Foaming Algaecide	Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl (dimethylimino)-1,2-ethanediyl dichloride).
1448–351	1448	Busan 1104	1H-Pyrazole-1-methanol, 3,5-dimethyl-.
1448–382	1448	NABE–M	Carbamodithioic acid, cyano-, disodium salt; Metam-Potassium.
1448–399	1448	Busan 1211	Ethanone, 2-bromo-1-(4-hydroxyphenyl)-.
1677–191	1677	ECO2000–GR	Boric acid.
1706–217	1706	H–940 Microbiocide	Sodium bromide.
2935–550	2935	Nubark Mancozeb AS	Streptomycin sulfate; Mancozeb.
3282–32	3282	Wincon Warfarin Technical	Warfarin.
3282–96	3282	D-Con Bait Station VII	Bromethalin.

TABLE 1—PRODUCT CANCELLATIONS—Continued

Registration No.	Company No.	Product name	Chemical name
3282–97	3282	D-Con Bait Station VIII	Bromethalin.
3282–106	3282	Hyperactive	Indoxacarb.
3282–107	3282	Silent	Esfenvalerate.
3282–108	3282	Creepy	Esfenvalerate; Imiprothrin; MGK 264.
3282–109	3282	Mandible	Indoxacarb.
3282–110	3282	Difethialone Mini Blocks	Difethialone.
5813–14	5813	Formula 409 Disinfectant Bathroom Cleaner I.	Quaternary ammonium compounds.
5813–16	5813	Clorox Cleaner	Quaternary ammonium compounds.
5813–17	5813	Formula 409 Disinfectant Bathroom Cleaner.	Quaternary ammonium compounds.
5813–22	5813	Entire	Quaternary ammonium compounds.
5813–26	5813	Lemon-Sol Cleaner-Disinfectant	Quaternary ammonium compounds.
5813–29	5813	Lemon-Sol Household Cleaner & Disinfectant.	Quaternary ammonium compounds.
5813–30	5813	Pine-Sol Household Cleaner	Quaternary ammonium compounds; Pine oil.
5813–37	5813	Pine-Sol Multi-Purpose Spray Cleaner	Quaternary ammonium compounds; Pine oil.
5813–38	5813	Pine-Sol Spray 18488	Quaternary ammonium compounds.
5813–39	5813	Pine-Sol Spray 18864	Quaternary ammonium compounds.
5813–55	5813	Clorox RTU–C	Quaternary ammonium compounds.
5813–62	5813	Clorox 409–P	Quaternary ammonium compounds.
5813–75	5813	Clorox Trapeze	Poly(hexamethylenebiguanide hydrochloride).
5813–77	5813	CDWII	Poly(hexamethylenebiguanide hydrochloride).
5813–78	5813	CTW	Poly(hexamethylenebiguanide hydrochloride).
6836–71	6836	Lonza Formulation Y–59	Quaternary ammonium compounds.
10163–247	10163	Flutolanil Technical	Flutolanil.
11556–167	11556	Endalfly Insecticide Cattle Ear Tag	Endosulfan.
35935–52	35935	Tribenuron Technical	Tribenuron-methyl.
39967–98	39967	N–1386 Naphtha HAN	Bis(trichloromethyl) sulfone.
39967–104	39967	P–1 Preservative Solution	o-Phenylphenol, sodium salt.
48273–27	48273	Marman Herbiquat Herbicide	Paraquat dichloride.
56392–1	56392	Precise Hospital Foam Cleaner Disinfectant.	o-Phenylphenol.
56392–2	56392	Citrace Hospital Germicidal Deodorizer	o-Phenylphenol; Ethanol.
56392–4	56392	Citrex Hospital Spray Disinfectant	o-Phenylphenol; Ethanol.
57787–4	57787	Liquichlor Bleach	Sodium hypochlorite.
57787–20	57787	Algae Inhibitor	Quaternary ammonium compounds.
57787–21	57787	Silver Algaecide	Silver.
66330–307	66330	Metsulfuron 60EG IVM	Metsulfuron.
66330–308	66330	Metsulfuron 60EG Turf	Metsulfuron.
66330–309	66330	Metsulfuron Methyl Technical	Metsulfuron.
66330–310	66330	Metsulfuron 60EG AG	Metsulfuron.
66330–384	66330	Audit 75 WDG Herbicide	Tribenuron-methyl; Thifensulfuron.
66330–390	66330	Shooter Insecticide	Deltamethrin; Geraniol; Oil of thyme.
67619–2	67619	CPPC 409	Quaternary ammonium compounds.
67619–23	67619	CPPC CDQ	Quaternary ammonium compounds.
69129–1	69129	Nexa Cedarwood Oil Moth Protection	Cedarwood oil.
69681–17	69681	Clor Mor Perfect Shock 45	Sodium dichloro-s-triazinetrione.
69681–18	69681	Clor Mor Perfect Shock 15	Sodium dichloro-s-triazinetrione.
71654–11	71654	Dupont Simple Pool Care Sanitizer Chlorinating Granules.	Sodium dichloroisocyanurate dihydrate.
71654–12	71654	Dupont Simple Pool Care Sanitizer [3″][1″] Chlorinating Tablets.	Trichloro-s-triazinetrione.
71654–13	71654	Dupont Spa Care Sanitizer Brominating Tablets.	1,3-Dichloro-5-ethyl-5-methylhydantoin; 1,3-Dichloro-5,5-dimethylhydantoin; Halobrom.
81927–32	81927	Alligare Volt Herbicide	Pyraflufen-ethyl; Glyphosate-isopropylammonium.
AL050002	100	Caparol 4L	Prometryn.
AL090003	62719	Milestone VM	Triisopropanolamine salt of aminopyralid.
AR010004	279	Command 3ME Microencapsulated Herbicide.	Clomazone.
AR080002	279	Spartan 4F	Sulfentrazone.
AR100004	62719	Milestone VM	Triisopropanolamine salt of aminopyralid.
AR140002	524	Mon 63410 Herbicide	Acetochlor.
AZ060004	10163	Eptam 7–E	Carbamothioic acid, dipropyl-, S-ethyl ester.
CA000003	279	Capture 2EC-Cal Insecticide/Miticide	Bifenthrin.
CA020004	279	Capture 2EC-Cal Insecticide/Miticide	Bifenthrin.
CA060009	1677	Tsunami 100	Hydrogen peroxide; Ethaneperoxoic acid.
CA080005	10163	Onager Miticide	Hexythiazox.
CA110007	10163	Supracide 2E Insecticide	Methidathion.
CA940002	10163	Gowan Trifluralin 10G	Trifluralin.
CA940003	10163	Gowan Trifluralin 10G	Trifluralin.
CA970036	59639	Valent Bolero 10 G	Thiobencarb.

TABLE 1—PRODUCT CANCELLATIONS—Continued

Registration No.	Company No.	Product name	Chemical name
CO060003	264	Radius Herbicide	Isoxaflutole; Flufenacet.
CO080006	264	Ethrel Brand Ethephon Plant Regulator	Ethephon.
CO100001	279	Mustang Max Insecticide	Zeta-Cypermethrin.
CT080001	70506	Dupont Manzate Pro-Stick Fungicide	Mancozeb.
CT090001	70506	Penncozeb 75 DF	Mancozeb.
DC030001	34704	Sprout Nip Emulsifiable Concentrate	Chlorpropham.
FL000006	100	Reward Landscape and Aquatic Herbicide	Diquat dibromide.
FL110008	62719	Milestone VM	Triisopropanolamine salt of aminopyralid.
GA080001	279	Brigade 2EC Insecticide/Miticide	Bifenthrin.
GA080008	59639	Chateau WDG Herbicide	Flumioxazin.
HI030002	66222	Thiodex 3 EC Insecticide	Endosulfan.
HI030007	352	Dupont Hyvar X Herbicide	Bromacil.
HI090003	62719	Goaltender	Oxyfluorfen.
IA090001	241	Respect EC Insecticide	Zeta-Cypermethrin.
IA100002	7969	Z-Cype 0.8 EC Insecticide	Zeta-Cypermethrin.
IA890002	59639	Cobra Herbicide	Lactofen.
ID030008	5481	Blocker (TM) 4F	Pentachloronitrobenzene.
ID080004	400	Temprano	Abamectin.
ID100001	279	Mustang Max Insecticide	Zeta-Cypermethrin.
ID910001	62719	Treflan TR–10	Trifluralin.
KS960001	59639	Select 2EC Herbicide	Clethodim.
KY100001	100	Dual Magnum Herbicide	S-Metolachlor.
KY120016	241	Prowl H2O Herbicide	Pendimethalin.
LA020002	62719	Goal 2XL Herbicide	Gas cartRidge (as a device for burrowing animal control); Oxyfluorfen.
LA020005	62719	Delta Goal	Oxyfluorfen.
LA050003	279	Mustang Insecticide	Zeta-Cypermethrin.
LA070003	53883	Bifen XTS Insecticide/termiticide	Bifenthrin.
LA070004	279	Brigade 2EC Insecticide/Miticide	Bifenthrin.
LA080008	53883	Bifen XTS	Bifenthrin.
LA080009	53883	Dominion 2L	Imidacloprid.
LA080010	53883	Bifenthrin I/T Insecticide/Termiticide	Bifenthrin.
LA140001	524	Mon 63410 Herbicide	Acetochlor.
MD080003	352	Dupont Vydate C–LV Insecticide/Nematicide.	Oxamyl.
MN010005	59639	Select 2EC Herbicide	Clethodim.
MN100001	279	Z-Cype 0.8 EC Insecticide	Zeta-Cypermethrin.
MN110004	62719	Milestone VM	Triisopropanolamine salt of aminopyralid.
MO000001	59639	Select 2EC Herbicide	Clethodim.
MO040001	62719	Strongarm	Diclosulam.
MO050005	264	Radius Herbicide	Isoxaflutole; Flufenacet.
MO140005	524	Mon 63410 Herbicide	Acetochlor.
MO140006	524	Mon 63410 Herbicide	Acetochlor.
MS010009	100	ZPP 1560 Herbicide	Gas cartRidge (as a device for burrowing animal control); Glyphosate.
MS020017	62719	Goal 2XL Herbicide	Oxyfluorfen.
MS040010	53883	Glyphosate 41%	Glyphosate-isopropylammonium.
MS040013	100	Touchdown Total	Glyphosate.
MS040014	100	Touchdown Hitech Herbicide	Glyphosate.
MS040015	100	Touchdown Pro Herbicide	Glyphosate.
MS050012	100	Caparol 4L	Prometryn.
MS050021	100	Gramoxone Inteon	Paraquat dichloride.
MS080001	279	Brigade 2EC Insecticide/Miticide	Bifenthrin.
MS090002	7969	Termidor 80 WG Termiticide/insecticide	Fipronil.
MS090003	7969	Termidor SC Termiticide/insecticide	Fipronil.
MS090008	62719	Milestone VM	Triisopropanolamine salt of aminopyralid.
MS140001	524	Mon 63410 Herbicide	Acetochlor.
MT100001	279	Mustang Max Insecticide	Zeta-Cypermethrin.
NC070002	279	Brigade 2EC	Bifenthrin.
ND020002	59639	Select 2EC Herbicide	Clethodim.
ND100003	279	Mustang Max Insecticide	Zeta-Cypermethrin.
ND110004	352	Dupont Express Herbicide with Totalsol Soluble Granules.	Tribenuron-methyl.
NE030002	62719	Propimax EC	Propiconazole.
NE040001	279	Mustang Max	Zeta-Cypermethrin.
NE080004	7969	Respect EC Insecticide	Zeta-Cypermethrin.
NE100004	7969	Respect Insecticide	Zeta-Cypermethrin.
NJ070002	70506	Devrinol 50–DF	Napropamide.
NM040003	62719	Lock-On	Chlorpyrifos.
NM100003	70506	Devrinol 50–DF Selective Herbicide	Napropamide.
NV010005	62719	Laredo EC	Myclobutanil.
NV080002	400	Temprano	Abamectin.

TABLE 1—PRODUCT CANCELLATIONS—Continued

Registration No.	Company No.	Product name	Chemical name
NV080004	62719	Lorsban Advanced	Chlorpyrifos.
NY080001	352	Dupont Vydate C–LV Insecticide/Nematicide.	Oxamyl.
NY110006	10163	GWN–3061	Halosulfuron-methyl.
OH100003	279	Mustang Max Insecticide	Zeta-Cypermethrin.
OK080001	279	Brigade 2EC Insecticide/Miticide	Bifenthrin.
OK080003	279	Spartan 4F Herbicide	Sulfentrazone.
OR030015	5481	Blocker (TM) 4F	Pentachloronitrobenzene.
OR070015	279	Brigade 2EC Insecticide/Miticide	Bifenthrin.
OR100001	279	Z-Cype 0.8 EC Insecticide	Zeta-Cypermethrin.
OR940049	10163	Imidan 70–WP Agricultural Insecticide	Phosmet.
OR970024	62719	Stinger	Clopyralid, monoethanolamine salt.
PA070002	352	Dupont Vydate C–LV Insecticide/Nematicide.	Oxamyl.
PA110002	352	Dupont Assure II Herbicide	Quizalofop-p-ethyl.
PR040006	50534	Bravo Weatherstik	Chlorothalonil.
SC080001	7969	G-Max Lite	Dimethenamide-P; Atrazine.
SC080003	279	Brigade 2EC Insecticide/Miticide	Bifenthrin.
SC090004	62719	Milestone VM	Triisopropanolamine salt of aminopyralid.
SC110004	8329	Natular 2EC	Spinosad.
SD090005	241	Journey Herbicide	Imazapic; Glyphosate-isopropylammonium.
SD100002	7969	Integrity Herbicide	Saflufenacil; Dimethenamide-P.
SD130006	524	Mon 63410 Herbicide	Acetochlor.
TN040005	62719	Strongarm	Diclosulam.
TN070005	62719	Dithane DF Rainshield	Mancozeb.
TN080001	279	Spartan 4F	Sulfentrazone.
TN080012	352	Dupont Accent Herbicide	Nicosulfuron.
TX060020	62719	Enable 2F	Fenbuconazole.
TX070001	279	Command 3ME Herbicide	Clomazone.
TX090001	10163	Imidan 70–W	Phosmet.
TX110002	62719	Milestone VM	Triisopropanolamine salt of aminopyralid.
TX140003	524	Mon 63410 Herbicide	Acetochlor.
TX930009	59639	Select 2EC Herbicide	Clethodim.
UT100001	59639	Chateau WDG Herbicide	Flumioxazin.
VA100004	62719	Milestone VM	Triisopropanolamine salt of aminopyralid.
VA110003	62719	Milestone VM	Triisopropanolamine salt of aminopyralid.
VA130001	5481	Vapam HL Soil Fumigant	Metam-sodium.
VA130002	5481	AMV 540	Metam-Potassium.
VA830012	5481	Stauffer Vapam 4–S Soil Fumigant Solution.	Metam-sodium.
WA010019	10163	Imidan 70–W Agricultural Insecticide	Phosmet.
WA010026	10163	Hexygon WDG	Hexythiazox.
WA020026	62719	Laredo EC	Myclobutanil.
WA030031	10163	Imidan 70–W Agricultural Insecticide	Phosmet.
WA040032	71711	Moncut 70–DF	Flutolanil.
WA070016	279	Brigade 2EC Insecticide/Miticide	Bifenthrin.
WA080002	66330	Iprodione 4L AG	Iprodione.
WA080005	66330	Iprodione 4L AG	Iprodione.
WA100003	59639	Chateau Herbicide WDG	Flumioxazin.
WA110009	66330	Dimethoate 4E	Dimethoate.
WA120003	71021	Formaldehyde Solution 37	Formaldehyde.
WI030003	62719	Stinger	Clopyralid.
WI050001	62719	Stinger	Clopyralid, monoethanolamine salt.
WI070005	352	Do Pont Vydate L Insecticide/Nematicide	Oxamyl.
WI080002	62719	Stinger	Clopyralid, monoethanolamine salt.
WV140001	62719	Enable 2F	Fenbuconazole.
WY040002	53883	Glyphosate 41%	Glyphosate-isopropylammonium.
WY100001	279	Mustang Max Insecticide	Zeta-Cypermethrin.
WY100005	59639	Chateau WDG Herbicide	Flumioxazin.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 of this unit.

TABLE 2—REGISTRANTS OF CANCELED PRODUCTS

EPA Company No.	Company name and address
100	Syngenta Crop Protection, LLC, PO Box 18300, Greensboro, NC 27419.
241	BASF Corporation, PO Box 13528, Research Triangle Park, NC 27709.
264	Bayer Cropscience LP, PO Box 12014, Research Triangle Park, NC 27709
279	FMC Corp. Agricultural Products Group, 1735 Market St., Rm 1978, Philadelphia, PA 19103.
352	E. I. Du Pont de Nemours and Company, 1007 Market Street, Wilmington, DE 19898.
400	MacDermid Agricultural Solutions, Inc., 245 Freight Street, Waterbury, CT 06702.
432	Bayer Environmental Science, A Division of Bayer Cropscience, LP, PO Box 12014, Research Triangle Park, NC 27709.
524	Monsanto Company, 1300 I Street, NW, Suite 450 East, Washington, DC 20005.
1021	Mclaughlin Gormley King Company, D/B/A MGK, 8810 Tenth Avenue North, Minneapolis, MN 55427.
1448	Buckman Laboratories, Inc., 1256 North McLean Blvd., Memphis, TN 38108.
1677	Ecolab, Inc., 370 North Wabasha Street, St. Paul, MN 55102.
1706	Ecolab, Inc., Agent for: Nalco Company, 370 North Wabasha Street, St. Paul, MN 55102.
2935	Wilbur-Ellis Company, 2903 S. Cedar Avenue, Fresno, CA 93725.
3282	Reckitt Benckiser, LLC, D/B/A Reckitt Benckiser, 399 Interpace Parkway, Parsippany, NJ 07054.
5481	Amvac Chemical Corporation, 4695 Macarthur Court, Suite 1200, Newport Beach, CA 92660.
5813	The Clorox Co., c/o PS&RC, PO Box 493, Pleasanton, CA 94566.
6836	Lonza, Inc, 90 Boroline Road, Allendale, NJ 07401.
7969	BASF Corporation, Agricultural Products, PO Box 13528, Research Triangle Park, NC 27709.
8329	Clarke Mosquito Control Products, Inc., 675 Sidwell Court, St. Charles, IL 60174.
10163	Gowan Company, PO Box 5569, Yuma, AZ 85366.
11556	Bayer Healthcare, LLC, Animal Health Division, PO Box 390, Shawnee Mission, KS 66201.
34704	Loveland Products, Inc., PO Box 1286, Greeley, Co 80632.
35935	Nufarm Americas Inc., 4020 Aerial Center Pkwy., Suite 101, Morrisville, NC 27560.
39967	Lanxess Corporation, 111 RIDC Park West Drive, Pittsburgh, PA 15275.
48273	Nufarm, Inc., Agent For: Marman Usa, Inc, 4020 Aerial Center Pkwy., Suite 101, Morrisville, NC 27560.
50534	GB Biosciences Corporation, PO Box 18300, Greensboro, NC 27419.
53883	Control Solutions, Inc., 5903 Genoa-Red Bluff Road, Pasadena, TX 77507.
56392	Clorox Professional Products Company, c/o PS&RC, PO Box 493, Pleasanton, CA 94566.
57787	Haviland Consumer Products, Inc., D/B/A Haviland Consumer Products, 421 Ann Street, NW, Grand Rapids, MI 49504.
59639	Valent U.S.A. Corporation, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596.
62719	Dow Agrosciences, LLC, 9330 Zionsville Road, Indianapolis, IN 46268.
66222	Makhteshim Agan of North America, Inc., D/B/A Adama, 3120 Highwoods Blvd., Suite 100, Raleigh, NC 27604.
66330	Arysta Lifescience North America, LLC, 15401 Weston Parkway, Suite 150, Cary, NC 27513.
67619	Clorox Professional Products Company, c/o PS&RC, PO Box 493, Pleasanton, CA 94566.
69129	The Scotts Company, Agent for: Celaflor GMBH, 14111 Scottslawn Road, Marysville, OH 43041.
69681	Allchem Performance Products, 6010 NW First Place, Gainesville, FL 32607.
70506	United Phosphorus, Inc., 630 Freedom Business Center, Suite 402, King Of Prussia, PA 19406.
71021	Ecolab, Inc., Agent for: Corsicana Technologies, Inc., 370 North Wabasha Street, St. Paul, MN 55102.
71654	The Chemours Company FC, LLC, 1007 Market Street, Wilmington, DE 19898.
71711	Nichino America, Inc., 4550 New Linden Hill Road, Suite 501, Wilmington, DE 19808.
81927	Pyxis Regulatory Consulting, Inc., Agent for: Alligare, LLC, 4110 136th St., NW, Gig Harbor, WA 98332.

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period, EPA received one comment. The comment was from AMVAC Chemical Corporation requesting that EPA Reg. No. WA090021 be retained because the voluntary cancellation request was made in error. As a result of this comment, the Agency is retaining the registration of EPA Reg. No. WA090021.

IV. Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)), EPA hereby approves the requested cancellations of the registrations identified in Table 1 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Table 1 of Unit II. are canceled. The effective date of the cancellations that are the subject of this notice is January 22, 2016. Any distribution, sale, or use of existing stocks of the products identified in Table 1 of Unit II. in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI. will be a violation of FIFRA.

V. What is the agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** of June 16, 2015 (80 FR 34408) (FRL–9928–13). The comment period closed on December 14, 2015.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The existing stocks provisions for the products subject to this order are as follows.

The registrants may continue to sell and distribute existing stocks of products listed in Table 1 of Unit II. until January 15, 2016 or the date of publication of this **Federal Register** notice, whichever is later. Thereafter, the registrants are prohibited from selling or distributing products listed in

Table 1, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o), or proper disposal. Persons other than the registrants may sell, distribute, or use existing stocks of products listed in Table 1 of Unit II. until existing stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

Authority: 7 U.S.C. 136 *et seq.*

Dated: January 7, 2016.

Mark A. Hartman,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2016–01310 Filed 1–21–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9025–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www2.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EISs)
Filed 01/11/2016 Through 01/15/2016
Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-nepa-public/action/eis/search.*

EIS No. 20160011, Final, USFS, WV, 2016–2020 Fernow Experimental Forest, Review Period Ends: 02/22/2016, Contact: Thomas M. Schuler 304–478–2000.

EIS No. 20160012, Final, FHWA, LA, Baton Rouge Loop Tier 1, Review Period Ends: 02/22/2016, Contact: Todd Jeter 225–757–7612.

EIS No. 20160013, Final Supplement, USACE, MS, Mississippi Coastal Improvements Program, Comprehensive Barrier Island Restoration, Review Period Ends: 02/22/2016, Contact: Dr. Susan Rees 251–694–4141.

EIS No. 20160014, Final, USACE, CA, American River Common Features General Reevaluation, Review Period Ends: 02/22/2016, Contact: Anne Baker 916–557–7277.

EIS No. 20160015, Final, USACE, CA, West Sacramento Project, Review Period Ends: 02/22/2016, Contact: Sarah Ross Arrouzet 916–557–5256.

Dated: January 19, 2016.

Dawn Roberts,

Management Analyst, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2016–01287 Filed 1–21–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1155]

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 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 PRA comments should be submitted on or before March 22, 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 to *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: 3060–1155.

Title: Sections 15.713, 15.714, 15.715 15.717, and 27.1320, TV White Space Broadcast Bands.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 2,010 respondents; 4,000 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

Total Annual Burden: 8,000 hours.

Total Annual Cost: $200,000.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. Sections 154(i), 302, 303(c), 303(f), and 307 of the Communications Act of 1934, as amended.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission. Respondents may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: On August 11, 2015, the Federal Communications Commission adopted a Report and Order (R&O), ET Docket No. 14–165 and GN Docket No. 12–268, FCC 15–99. This R&O made certain changes to the rules for unlicensed device operations in the frequency bands that are now and will continue to be allocated and assigned to broadcast television services (TV bands), including fixed and personal/portable white space devices and unlicensed wireless microphones. It also adopted rules for fixed and personal/portable white space devices and wireless microphones in the 600 MHz guard bands, including the duplex gap, and the 600 MHz band that will be repurposed for new wireless services, and for fixed and personal/portable white space devices on channel 37.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2016–01183 Filed 1–21–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0668]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

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 22, 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: 3060–0668.

Title: Section 76.936, Written Decisions.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit entities; State or Local, or Tribal government.

Number of Respondents and Responses: 600 respondents; 600 responses.

Estimated Hours per Response: 1 hour.

Frequency of Response: Third party disclosure requirement; On occasion reporting requirement.

Total Annual Burden: 600 hours.

Total Annual Cost: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 4(i) of the Communications Act of 1934, as amended. Nature and Extent of Confidentiality: There is no need for confidentiality required with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 76.936 states that a franchising authority must issue a written decision in a rate-making proceeding whenever it disapproves an initial rate for the basic service tier or associated equipment in whole or in part, disapproves a request for a rate increase in whole or in part, or approves a request for an increase whole or in part over the objection of interested parties. Franchising authorities are required to issue a written decision in rate-making proceedings pursuant to Section 76.936 so that cable operators and the public are made aware of the proceeding.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2016–01283 Filed 1–21–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0016 and 3060–0027]

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 22, 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.: 3060–0016.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule C (Former FCC Form 346); Sections 74.793(d) and 74.787; LPTV Out-of-Core Digital Displacement Application; Section 73.3700(g)(1)–(3), Post-Incentive Auction Licensing and Operations.

Form No.: FCC Form 2100, Schedule C.

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: 4,250 respondents and 4,250 responses.

Estimated Time per Response: 2.5–7 hours (total of 9.5 hours).

Frequency of Response: One-time reporting requirement; on occasion reporting requirement; third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 154(i), 303, 307, 308 and 309 of the Communications Act of 1934, as amended.

Total Annual Burden: 40,375 hours.

Annual Cost Burden: $23,579,000.

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 Low Power television stations and TV Translator stations that are displaced as a result of the Federal Communications Commission's Incentive Auction to submit an application for displacement relief during a restricted filing window. Form 2100, Schedule C is also used to apply for authority to construct or make changes to a Low Power Television, TV Translator or TV Booster broadcast station.

OMB Control No.: 3060–0027.

Title: Application for Construction Permit for Commercial Broadcast *71795 Station, FCC Form 301; FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule A; 47 CFR 73.3700(b)(1) and (2), Post Auction Licensing.

Form No.: FCC Form 2100, Schedule A.

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: 3,080 respondents and 6,516 responses.

Estimated Time per Response: 1–6.25 hours.

Frequency of Response: One-time reporting requirement; On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 15,287 hours.

Annual Cost Burden: $62,775,788.

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 that are relocated to a new channel following the Federal Communications Commission's Incentive Auction to submit a construction application to build new facilities to operate on their post-auction channel. Form 2100, Schedule A is also used to apply for authority to construct a new commercial AM, FM, or TV broadcast station and to make changes to existing facilities of such a station.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2016–01184 Filed 1–21–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting; Notice of a Matter To Be Added to the Agenda for Consideration at an Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the following matter will be added to the ''Discussion Agenda'' for consideration at the open meeting of the Board of Directors of the Federal Deposit Insurance Corporation scheduled to be held at 10:00 a.m. on Thursday, January 21, 2016, in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street NW., Washington, DC:

Memorandum and resolution re: Interim Final Rule with Request for Comments: Expanded Exam Cycle for Certain Small Insured Depository Institutions and U.S. Branches and Agencies of Foreign Banks.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at 202–898–7043.

Dated: January 20, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–01345 Filed 1–20–16; 4:15 pm]

BILLING CODE 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 8, 2016.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Theodore E. Dimmitt, Fremont, Nebraska, individually, and Phyllis J. Monke, Fremont, Nebraska; Thomas L. Monke, Arlington, Nebraska; Cynthia J. Lingren, Eryaman, Ankara, Turkey; Jean M. Katt, Herman, Nebraska;* as members of the Monke Family Group, to collectively acquire voting shares of Arlington State Banc Holding Company, and thereby indirectly acquire voting shares of Two Rivers State Bank, both in Blair, Nebraska.

Board of Governors of the Federal Reserve System, January 19, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–01250 Filed 1–21–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 4, 2016.

A. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Notice by Michael D. Yingling, Mt. Sterling, Illinois;* to acquire additional voting shares of Mt. Sterling Bancorp, Inc., Mt. Sterling, Illinois and thereby acquire shares of Farmers State Bank & Trust Company, Mount Sterling Illinois.

Board of Governors of the Federal Reserve System, January 15, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–01191 Filed 1–21–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 18, 2016.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *Charter Financial Corporation,* West Point, Georgia; to become a bank holding company by merging with CBS Financial Corporation, and thereby indirectly acquire Community Bank of the South, both in Smyrna, Georgia.

Board of Governors of the Federal Reserve System, January 19, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–01249 Filed 1–21–16; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Subcommittee for Dose Reconstruction Reviews (SDRR), Advisory Board on Radiation and Worker Health (ABRWH or the Advisory Board), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting for the aforementioned subcommittee:

Time and Date: 10:30 a.m.–5:00 p.m., EST, February 10, 2016.

Place: Audio Conference Call via FTS Conferencing.

Status: Open to the public, but without a public comment period. The public is welcome to submit written comments in advance of the meeting, to the contact person below. Written comments received in advance of the meeting will be included in the official record of the meeting. The public is also welcome to listen to the meeting by joining the teleconference at the USA toll-free, dial-in number at 1–866–659–0537 and the pass code is 9933701.

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines that have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction, which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, and will expire on August 3, 2017.

Purpose: The Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class. The Subcommittee for Dose Reconstruction Reviews was established to aid the Advisory Board in carrying out its duty to advise the Secretary, HHS, on dose reconstruction.

Matters for Discussion: The agenda for the Subcommittee meeting includes the following dose reconstruction program quality management and assurance activities: Current findings from NIOSH dose reconstruction blind reviews; dose reconstruction cases under review from Sets 14–18, including the Oak Ridge sites (Y–12, K–25, Oak Ridge National Laboratory, and Savannah River Site; preparation of the Advisory Board's next report to the Secretary, HHS, summarizing the results of completed dose reconstruction reviews.

The agenda is subject to change as priorities dictate.

Contact Person for More Information: Theodore Katz, Designated Federal Officer, NIOSH, CDC, 1600 Clifton Road NE., Mailstop E–20, Atlanta, Georgia 30333, Telephone (513) 533–6800, Toll Free 1(800) CDC–INFO, Email *ocas@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2016–01223 Filed 1–21–16; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–5105]

Postmarket Management of Cybersecurity in Medical Devices; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled ''Postmarket Management of Cybersecurity in Medical Devices.'' This draft guidance informs industry and FDA staff of the Agency's recommendations for identifying, addressing, and monitoring cybersecurity vulnerabilities and exploits for postmarket management of medical devices. This draft guidance is neither final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment of this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by April 21, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–D–5105 for ''Postmarket Management of Cybersecurity in Medical Devices.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this

information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the guidance to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002 or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Suzanne Schwartz, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5418, Silver Spring, MD 20993–0002, 301–796–6937; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

This draft guidance proposes to inform industry and FDA staff of the Agency's recommendations as it relates to monitoring, identifying, and addressing cybersecurity vulnerabilities and exploits as part of manufacturers' postmarket management of medical devices. A growing number of medical devices are designed to be networked to facilitate patient care. Networked medical devices, like other networked computer systems, incorporate software that may be vulnerable to cybersecurity threats. The exploitation of vulnerabilities may represent a risk to the safety and effectiveness of medical devices and typically requires continual maintenance throughout the product life cycle to assure an adequate degree of protection against such exploits. Proactively addressing cybersecurity risks in medical devices reduces the patient safety impact and the overall risk to public health.

For the majority of cases, actions taken by manufacturers to address cybersecurity vulnerabilities and exploits are considered ''cybersecurity routine updates and patches,'' for which the FDA does not require advance notification or reporting under 21 CFR part 806. For a small subset of cybersecurity vulnerabilities and exploits that may compromise the essential clinical performance of a device and present a reasonable probability of serious adverse health consequences or death, the FDA would require medical device manufacturers to notify the Agency.

In February 2013, the President issued Executive Order 13636 (E.O. 13636), ''Improving Critical Infrastructure Cybersecurity,'' which recognized that resilient infrastructure is essential to preserving national security, economic stability, and public health and safety in the United States. Furthermore, Presidential Policy Directive-21 (PPD–21) tasks Federal Government entities to strengthen the security and resilience of critical infrastructure against physical and cyber threats such that these efforts reduce vulnerabilities, minimize consequences, and identify and disrupt threats.

In addition, Executive Order 13691, released in February 2015, encourages the development of Information Sharing Analysis Organizations (ISAOs) to serve as focal points for cybersecurity information sharing and collaboration within the private sector and between the private sector and the government.

FDA believes that, in alignment with E.O. 13636 and PPD–21, stakeholders should collaborate to leverage available resources and tools to establish a common framework among the information technology community, healthcare delivery organizations (HDOs), clinical user community, and medical device community. These collaborations can lead to the consistent assessment and mitigation of cybersecurity threats, and their impact on medical device safety and effectiveness.

FDA plans to hold a public workshop entitled ''Moving Forward: Collaborative Approaches to Medical Device Cybersecurity'' on January 20–21, 2016 (80 FR 76022, December 7, 2015). FDA, in collaboration with the National Health Information Sharing Analysis Center, the Department of Health and Human Services, and the Department of Homeland Security, seek to bring together diverse stakeholders to discuss complex challenges in medical device cybersecurity that impact the medical device ecosystem. The purpose of this workshop is to highlight past collaborative efforts; increase awareness of existing maturity models (*i.e.,* frameworks leveraged for benchmarking an organization's processes) which are used to evaluate cybersecurity status, standards, and tools in development; and to engage the multi-stakeholder community in focused discussions on unresolved gaps and challenges that have hampered progress in advancing medical device cybersecurity.

In the last few years, Healthcare and Public Health Critical Infrastructure Sector stakeholders have been engaged in many collaborative activities that seek to strengthen medical device cybersecurity and, therefore, enhance patient safety. FDA has contributed to these efforts through guidance, multistakeholder engagement, outreach, and by hosting a 2014 public workshop on cybersecurity entitled ''Collaborative Approaches for Medical Device and Healthcare Cybersecurity'' (79 FR 56814, September 23, 2014). The 2016 public workshop will build upon previous work by featuring some of the collaborative efforts that address medical device cybersecurity through education and training, information sharing, standards, risk assessment, and tools development.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on postmarket management of cybersecurity in medical devices. It neither creates nor confers any rights for or on any person and is not binding on FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/*

GuidanceDocuments/default.htm. Guidance documents are also available at *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.* Persons unable to download an electronic copy of ''Postmarket Management of Cybersecurity in Medical Devices'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1400044 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 803 (medical device reporting) have been approved under OMB control number 0910–0437; the collections of information in 21 CFR part 806 (reports of corrections and removals) have been approved under OMB control number 0910–0359; the collections of information in 21 CFR part 810 (medical device recall authority) have been approved under OMB control number 0910–0432; the collections of information in 21 CFR part 814 (premarket approval) have been approved under OMB control number 0910–0231; the collections of information in 21 CFR part 820 (quality system regulations) have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR part 822 (postmarket surveillance of medical devices) have been approved under OMB control number 0910–0449.

V. Other Issues for Consideration

The Agency invites comments on the ''Postmarket Management of Cybersecurity in Medical Devices'' draft guidance, in general, and on the following questions, in particular:

- What factors contribute to a manufacturer's decision whether or not to participate in an ISAO?
- In the draft guidance, the FDA is proposing its intention to not enforce certain regulatory requirements for manufacturer's that are ''participating members '' of an ISAO. Should FDA define what it means to be a ''participating member'' of an ISAO and if so, how should such participation be verified?
- What are the characteristics (participation, expertise, policies, and practices) of an ISAO that would make it qualified to participate in the sharing and analysis of medical device cybersecurity vulnerabilities? What are the benefits and disadvantages of FDA ''recognizing'' specific ISAOs as possessing specialized expertise relevant to sharing and analysis of medical device vulnerabilities and what should such recognition entail?
- When cybersecurity vulnerability information is not reported to FDA, what information should be reported to the ISAO, and when?
- How should the FDA interact with ISAOs, manufacturers, HDOs, security researchers and other stakeholders to maximize the sharing of information concerning cybersecurity threats while maintaining confidentiality and protecting commercial confidential information?

Dated: January 15, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–01172 Filed 1–21–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0001]

Arthritis Advisory Committee; Notice of Meeting; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** on January 19, 2016 (81 FR 2873). The document announced an ''Arthritis Advisory Committee'' meeting and contained an incorrect date for individuals requesting oral presentations, and for FDA notifying individuals regarding their request to speak at the meeting. This document corrects those errors.

FOR FURTHER INFORMATION CONTACT: Stephanie L. Begansky, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533.

SUPPLEMENTARY INFORMATION: In FR Doc. 2016–00823, appearing on page 2873 in the **Federal Register** of Tuesday, January 19, 2016, the following corrections are made:

1. On page 2873, in the third column, in the ''*Procedure*'' paragraph, the fourth sentence is corrected to read ''Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before January 28, 2016.''

2. On page 2873, in the third column, in the ''*Procedure*'' paragraph, the last sentence is corrected to read ''The contact person will notify interested persons regarding their request to speak by January 29, 2016.''

Dated: January 19, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–01248 Filed 1–21–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0001]

Advisory Committee; Pharmaceutical Science and Clinical Pharmacology Advisory Committee (Formerly Known as the Advisory Committee for Pharmaceutical Science and Clinical Pharmacology), Renewal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the renewal of the Pharmaceutical Science and Clinical Pharmacology Advisory Committee (formerly known as the Advisory Committee for Pharmaceutical Science and Clinical Pharmacology) by the Commissioner of Food and Drugs (the Commissioner). The Commissioner has determined that it is in the public interest to renew the Pharmaceutical Science and Clinical Pharmacology Advisory Committee for an additional 2 years beyond the charter expiration date. The new charter will be in effect until the January 22, 2018.

DATES: Authority for the Pharmaceutical Science and Clinical Pharmacology Advisory Committee will expire on January 22, 2018, unless the Commissioner formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Jennifer Shepherd, Center for Drug Evaluation and Research, Food and

Drug Administration, 10903 New Hampshire Avenue, Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, *ACPS–CP@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to 41 CFR 102–3.65 and approval by the Department of Health and Human Services pursuant to 45 CFR part 11 and by the General Services Administration, FDA is announcing the renewal of the Pharmaceutical Science and Clinical Pharmacology Advisory Committee. The committee is a discretionary Federal advisory committee established to provide advice to the Commissioner. The Pharmaceutical Science and Clinical Pharmacology Advisory Committee advises the Commissioner or designee in discharging responsibilities as they relate to helping to ensure safe and effective drugs for human use and, as required, any other product for which the Food and Drug Administration has regulatory responsibility.

The Committee reviews and evaluates scientific, clinical, and technical issues related to the safety and effectiveness of drug products for use in the treatment of a broad spectrum of human diseases; the quality characteristics which such drugs purport or are represented to have, and as required, any other product for which the Food and Drug Administration has regulatory responsibility; and makes appropriate recommendations to the Commissioner of Food and Drugs. The Committee may also review Agency sponsored intramural and extramural biomedical research programs in support of FDA's drug regulatory responsibilities and its critical path initiatives related to improving the efficacy and safety of drugs and improving the efficiency of drug development.

The Committee shall consist of a core of 14 voting members including two Chairpersons. Members and Chairpersons are selected by the Commissioner or designee from among authorities knowledgeable in the fields of pharmaceutical sciences (pharmaceutical manufacturing, bioequivalence research, laboratory analytical techniques, pharmaceutical chemistry, physiochemistry, biochemistry, molecular biology, immunology, microbiology); clinical pharmacology (dose-response, pharmacokinetics-pharmacodynamics, modeling and simulation, pharmacogenomics, clinical trial design, pediatrics and special populations and innovative methods in drug development); biostatistics, related biomedical and pharmacological specialties, current good manufacturing practices, and quality systems implementation. Almost all non-Federal members of this committee serve as Special Government Employees. The core of voting members may include one technically qualified member, selected by the Commissioner or designee, who is identified with consumer interests and is recommended by either a consortium of consumer-oriented organizations or other interested persons. In addition to the voting members, the Committee may include up to three non-voting members who are identified with industry interests.

Further information regarding the most recent charter and other information can be found at: *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/Drugs/AdvisoryCommitteeforPharmaceuticalScienceandClinicalPharmacology/ucm107524.htm* or by contacting the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**). Due to a change in the committee name, FDA will publish a final rule will in the **Federal Register** amending 21 CFR 14.100.

This document is issued under the Federal Advisory Committee Act (5 U.S.C. app.). For general information related to FDA advisory committees, please visit us at *http://www.fda.gov/AdvisoryCommittees/default.htm.*

Dated: January 15, 2016.

Jill Hartzler Warner,

Associate Commissioner for Special Programs.

[FR Doc. 2016–01181 Filed 1–21–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Request for Public Comment: 60 Day Information Collection: Indian Health Service Forms To Implement the Privacy Rule

AGENCY: Indian Health Service, HHS.

ACTION: Notice and request for comments. Request for extension of approval.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Indian Health Service (IHS) invites the general public to comment on the information collection titled, ''IHS Forms to Implement the Privacy Rule (45 CFR parts 160 and 164),'' Office of Management and Budget (OMB) Control Number 0917–0030.

DATES: *Comment Due Date:* March 22, 2016. Your comments regarding this information collection are best assured of having full effect if received within 60 days of the date of this publication.

ADDRESSES: Send your written comments, requests for more information on the collection, or requests to obtain a copy of the data collection instrument and instructions to Tamara Clay by one of the following methods:

- *Mail:* Tamara Clay, Information Collection Clearance Officer, Indian Health Service, Office of Management Services, Division of Regulatory Affairs, 5600 Fishers Lane, Mail Stop 09E70, Rockville, MD 20857.
- *Phone:* 301–443–4750.
- *Email: tamara.clay@ihs.gov.*
- *Fax:* 301–443–2316.

SUPPLEMENTARY INFORMATION: This previously approved information collection project was last published in the **Federal Register** (78 FR 2412) on January 11, 2013, and allowed 30 days for public comment. No public comment was received in response to the notice. This notice announces our intent to submit the collection, which expires April 30, 2016, to OMB for approval of an extension, and to solicit comments on specific aspects of the information collection. A copy of the supporting statement is available at *www.regulations.gov* (see Docket ID IHS–2016–1).

Title of Collection: 0917–0030, IHS Forms to Implement the Privacy Rule (45 CFR parts 160 and 164). *Type of Information Collection Request:* Extension of the currently approved information collection, 0917–0030, IHS Forms to Implement the Privacy Rule (45 CFR parts 160 and 164). *Form(s):* IHS–810, IHS–912–1, IHS–912–2, IHS–913, and IHS–917. *Need and Use of Information Collection:* This collection of information is made necessary by the Department of Health and Human Services Rule entitled ''Standards for Privacy of Individually Identifiable Health Information'' (Privacy Rule) (45 CFR parts 160 and 164). The Privacy Rule implements the privacy requirements of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996, creates national standards to protect individual's personal health information, and gives patients increased access to their medical records. 45 CFR 164.508, 164.522, 164.526 and 164.528 of the Rule require the collection of information to implement these protection standards and access requirements. The IHS will continue to use the following data collection instruments to meet the

information collection requirements contained in the Rule.

45 CFR 164.508: This provision requires covered entities to obtain or receive a valid authorization for its use or disclosure of protected health information for other than for treatment, payment and healthcare operations. Under the provision individuals may initiate a written authorization permitting covered entities to release their protected health information to entities of their choosing. The form IHS–810 ''Authorization for Use or Disclosure of Protected Health Information'' is used to document an individual's authorization to use or disclose their protected health information.

45 CFR 164.522: Section 164.522(a)(1) requires a covered entity to permit individuals to request that the covered entity restrict the use and disclosure of their protected health information. The covered entity may or may not agree to the restriction. The form IHS–912–1 ''Request for Restrictions(s)'' is used to document an individual's request for restriction of their protected health information, and whether IHS agreed or disagreed with the restriction. Section 164.522(a)(2) permits a covered entity to terminate its agreement to a restriction if the individual agrees to or requests the termination in writing. The form IHS–912–2 ''Request for Revocation of Restriction(s)'' is used to document the agency or individual request to terminate a formerly agreed to restriction regarding the use and disclosure of protected health information.

45 CFR 164.528 and 45 CFR 5b.9(c): This provision requires covered entities to permit individuals to request that the covered entity provide an accounting of disclosures of protected health information made by the covered entity. The form IHS–913 ''Request for an Accounting of Disclosures'' is used to document an individual's request for an accounting of disclosures of their protected health information and the agency's handling of the request.

45 CFR 164.526: This provision requires covered entities to permit an individual to request that the covered entity amend protected health information. If the covered entity accepts the requested amendment, in whole or in part, the covered entity must inform the individual that the amendment is accepted. If the covered entity denies the requested amendment, in whole or in part, the covered entity must provide the individual with a written denial. The form IHS–917 ''Request for Correction/Amendment of Protected Health Information'' will be used to document an individual's request to amend their protected health information and the agency's decision to accept or deny the request. Completed forms used in this collection of information are filed in the IHS medical, health and billing record, a Privacy Act System of Records Notice. *Affected Public:* Individuals and households. *Type of Respondents:* Individuals. *Burden Hours:* The table below provides for this information collection: Types of data collection instruments, estimated number of respondents, number of responses per respondent, average burden hour per response, and total annual burden hour(s).

Data collection instrument	Number of respondents	Number of responses per respondent	Average burden hour per response *	Total annual burden hours
Authorization for Use or Disclosure of Protected Health Information (OMB Form No. 0917–0030, IHS–810)	210,954	1	10/60	35,159
Request for Restriction(s) (OMB Form No. 0917–0030, IHS–912–1)	214	1	10/60	36
Request for Revocation of Restriction(s) (OMB Form No. 0917–0030, IHS–912–2)	3	1	10/60	.5
Request for Accounting of Disclosures (OMB Form No. 0917–0030, IHS–913)	39	1	10/60	6.5
Request for Correction/Amendment of Protected Health Information (OMB Form No. 0917–0030, IHS–917)	54	1	10/60	9
Total Annual Burden	211,264	.....	.....	35,211

* For ease of understanding, burden hours are provided in actual minutes.

The total estimated burden for this collection of information is 35,211 hours. There are no capital costs, operating costs and/or maintenance costs to respondents.

Requests for Comments: Your written comments and/or suggestions are invited on one or more of the following points:

(a) Whether the information collection activity is necessary to carry out an agency function;

(b) whether the agency processes the information collected in a useful and timely fashion;

(c) the accuracy of the public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information);

(d) whether the methodology and assumptions used to determine the estimates are logical;

(e) ways to enhance the quality, utility, and clarity of the information being collected; and

(f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: January 13, 2016.

Robert G. McSwain,

Principal Deputy Director, Indian Health Service.

[FR Doc. 2016–01208 Filed 1–21–16; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Developmental Brain Disorders Study Section.
Date: February 4–5, 2016.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Westgate Hotel, 1055 Second Avenue, San Diego, CA 92101.
Contact Person: Pat Manos, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–408–9866, *manospa@csr.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Neural Basis of Psychopathology, Addictions and Sleep Disorders Study Section.
Date: February 4–5, 2016.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Sheraton La Jolla Hotel, 3299 Holiday Court, La Jolla, CA 92037.
Contact Person: Julius Cinque, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892, *cinquej@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cellular Aspects of Diabetes and Obesity.
Date: February 9, 2016.
Time: 8:00 a.m. to 10:00 a.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Elaine Sierra-Rivera, Ph.D., Scientific Review Officer, EMNR IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6182 MSC 7892, Bethesda, MD 20892, 301 435–2514, *riverase@csr.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Pathophysiological Basis of Mental Disorders and Addictions Study Section.
Date: February 11–12, 2016.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: New Orleans Downtown Marriott at the Convention Center, 859 Convention Center Boulevard, New Orleans, LA 70130.
Contact Person: Boris P. Sokolov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–408–9115, *bsokolov@csr.nih.gov*.

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Cancer Etiology Study Section.
Date: February 11, 2016.
Time: 8:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Marriott—Bethesda North, 5701 Marinelli Road, North Bethesda, MD 20852.
Contact Person: Ola Mae Zack Howard, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr. Room 4192, MSC 7806, Bethesda, MD 20892, 301–451–4467, *howardz@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–15–276: Turkey-US Collaborative Program for Affordable Medical Technologies (R01).
Date: February 16, 2016.
Time: 1:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Careen K. Tang-Toth, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 435–3504, *tothct@csr.nih.gov*.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Cellular, Molecular and Integrative Reproduction Study Section.
Date: February 17–18, 2016.
Time: 8:00 a.m. to 1:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Gary Hunnicutt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, 301–435–0229, *hunnicuttgr@csr.nih.gov*.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Molecular and Cellular Endocrinology Study Section.
Date: February 17–18, 2016.
Time: 8:00 a.m. to 12:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: John Bleasdale, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170 MSC 7892, Bethesda, MD 20892, 301–435–4514, *bleasdaleje@csr.nih.gov*.

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Tumor Microenvironment Study Section.
Date: February 17–18, 2016.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.
Contact Person: Angela Y. Ng, Ph.D., MBA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804, Bethesda, MD 20892, 301–435–1715, *ngan@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Biophysical and Biomechanical Aspects of Embryonic Development.
Date: February 17–18, 2016.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Charles Selden, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 5187 MSC 7840, Bethesda, MD 20892, 301–451–3388, *seldens@mail.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Chronic Dysfunction and Integrative Neurodegeneration Study Section.
Date: February 18–19, 2016.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Marriott at the Convention Center, 859 Convention Center Boulevard, New Orleans, LA 70130.
Contact Person: Alexei Kondratyev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–435–1785, *kondratyevad@csr.nih.gov*.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Clinical Research and Field Studies of Infectious Diseases Study Section.
Date: February 18, 2016.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Soheyla Saadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–0903, *saadisoh@csr.nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Synapses, Cytoskeleton and Trafficking Study Section.
Date: February 18–19, 2016.
Time: 8:00 a.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Row Hotel, 2015 Massachusetts Avenue, Washington, DC 20036.
Contact Person: Christine A. Piggee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7850, Bethesda, MD 20892, 301–435–0657, *christine.piggee@nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neurotransporters, Receptors, and Calcium Signaling Study Section.
Date: February 18–19, 2016.
Time: 8:00 a.m. to 12:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.
Contact Person: Peter B. Guthrie, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7850, Bethesda, MD 20892, (301) 435–1239, *guthriep@csr.nih.gov*.

Name of Committee: Cell Biology Integrated Review Group; Molecular and Integrative Signal Transduction Study Section.

Date: February 18–19, 2016.

Time: 8:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Raya Mandler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5134, MSC 7840, Bethesda, MD 20892, (301) 402–8228, *rayam@csr.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Myocardial Ischemia and Metabolism Study Section.

Date: February 18–19, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Riverwalk Marriott, 207 N. St. Mary's Street, San Antonio, TX 78205.

Contact Person: Kimm Hamann, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118A, MSC 7814, Bethesda, MD 20892, 301–435–5575, *hamannkj@csr.nih.gov*.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Pathogenic Eukaryotes Study Section.

Date: February 18–19, 2016.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Best Western Tuscan Inn, 425 North Point Street, San Francisco, CA 94133.

Contact Person: Tera Bounds, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, (301) 435–2306, *boundst@csr.nih.gov*.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Molecular Genetics A Study Section.

Date: February 18–19, 2016.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance M Street Hotel, 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: Michael M. Sveda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1114, MSC 7890, Bethesda, MD 20892, 301–435–3565, *svedam@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 15, 2016.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–01196 Filed 1–21–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NIMH Pathway to Independence Awards (K99).

Date: February 17, 2016.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: David W. Miller, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–9734, *millerda@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Developmental/Early Phase Clinical Trials.

Date: February 18, 2016.

Time: 9:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: David I. Sommers, Ph.D., Scientific Review Officer Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Longitudinal Study—PTSD.

Date: February 23, 2016.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: David I. Sommers, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Pilot Effectiveness Trials for Treatment, Preventive and Services Interventions (R34).

Date: February 23, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Dupont Hotel, 1500 New Hampshire Avenue NW., Washington, DC 20036.

Contact Person: Aileen Schulte, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–1225, *aschulte@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: January 14, 2016.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–01197 Filed 1–21–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Initial Review Group; Mental Health Services Research Committee.

Date: February 23, 2016.

Time: 8:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Dupont Hotel, 1500 New Hampshire Avenue NW., Washington, DC 20036.

Contact Person: Aileen Schulte, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH Neuroscience Center, 6001 Executive Blvd., Room 6136, MSC 9606, Bethesda, MD 20852, 301–443–1225, *aschulte@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Grants; National Institutes of Health, HHS)

Dated: January 14, 2016.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–01198 Filed 1–21–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3374–EM; Docket ID FEMA–2016–0001]

Missouri; Amendment No. 2 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Missouri (FEMA–3374–EM), dated January 2, 2016, and related determinations.

DATES: *Effective Date:* January 9, 2016.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this emergency is closed effective January 9, 2016.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2016–01260 Filed 1–21–16; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4248–DR; Docket ID FEMA–2016–0001]

Mississippi; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Mississippi (FEMA–4248–DR), dated January 4, 2016, and related determinations.

DATES: *Effective Date:* January 15, 2016.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Mississippi is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of January 4, 2016.

Panola County for Public Assistance.

Coahoma and Quitman Counties for Public Assistance (already designated for Individual Assistance).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2016–01276 Filed 1–21–16; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2007–0008]

National Advisory Council; Meeting

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Federal Emergency Management Agency (FEMA) National Advisory Council (NAC) will meet in person on February 9, 10, and 11, 2016 in Raleigh, N.C. The meeting will be open to the public.

DATES: The NAC will meet on Tuesday, February 9, 2016, from 8:30 a.m. to 2:45 p.m., on Wednesday, February 10, 2016 from 8:30 a.m. to 5:30 p.m., and on Thursday, February 11 from 8:30 a.m. to 12:00 p.m. Eastern Standard Time (EST). Please note that the meeting may close early if the NAC has completed its business.

ADDRESSES: The meeting will be held at the North Carolina Office of Emergency Management located at 1636 Gold Star Drive in Raleigh, NC, 27607. All attendees must provide a valid government I.D., such as a driver's license, to access the building. It is recommended that attendees register with FEMA prior to the meeting by providing your name, telephone number, email address, title, and organization to the person listed in **FOR FURTHER INFORMATION CONTACT** below.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the person listed in **FOR FURTHER INFORMATION CONTACT** below as soon as possible.

To facilitate public participation, members of the public are invited to provide written comments on the issues to be considered by the NAC. The ''Agenda'' section below outlines these issues. Written comments must be submitted and received by 5:00 p.m. EST on February 8, 2016, identified by Docket ID FEMA–2007–0008, and submitted by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Email: FEMA-RULES@fema.dhs.gov.* Include the docket number in the subject line of the message.

• *Fax:* (540) 504–2331.

• *Mail:* Regulatory Affairs Division, Office of Chief Counsel, FEMA, 500 C Street SW., Room 8NE, Washington, DC 20472–3100.

Instructions: All submissions received must include the words ''Federal Emergency Management Agency'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read comments received by the NAC, go to *http://www.regulations.gov,* and search for the Docket ID listed above.

A public comment period will be held on Wednesday, February 10 from 4:00 p.m. to 4:15 p.m. EST. All speakers must limit their comments to 3 minutes. Comments should be addressed to the committee. Any comments not related to the agenda topics will not be considered by the NAC. To register to make remarks during the public comment period, contact the individual listed below by February 8, 2016. Please note that the public comment period may end before the time indicated, following the last call for comments.

FOR FURTHER INFORMATION CONTACT: Alexandra Woodruff, Designated Federal Officer, Office of the National Advisory Council, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472–3184, telephone (202) 646–2700, fax (540) 504–2331, and email *FEMA-NAC@fema.dhs.gov.* The NAC Web site is:*http://www.fema.gov/national-advisory-council.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. Appendix.

The NAC advises the FEMA Administrator on all aspects of emergency management. The NAC incorporates state, local, and tribal government, and private sector input in the development and revision of FEMA plans and strategies. The NAC includes a cross-section of officials, emergency managers, and emergency response providers from state, local, and tribal governments, the private sector, and nongovernmental organizations.

Agenda: On Tuesday, February 9, the NAC will review FEMA's response from the NAC's September 2015 Meeting Recommendations, receive briefings from FEMA Executive Staff (FEMA Office of Response and Recovery, FEMA National Preparedness Directorate, and FEMA Federal Insurance and Mitigation Administration), and engage in a facilitated group discussion on the Cascadia Subduction Zone.

On Wednesday, February 10, the NAC will hear from a FEMA Regional Administrator about activities in the FEMA Regions and engage in an open discussion with the FEMA Administrator. The three NAC subcommittees: Federal Insurance and Mitigation Subcommittee, Preparedness and Protection Subcommittee, and Response and Recovery Subcommittee, will then provide reports to the NAC about their work, whereupon the NAC will deliberate on any recommendations presented in the subcommittees' reports, and, if appropriate, vote on recommendations for the FEMA Administrator. The subcommittee reports will be posted on the NAC Web page by 8:30 a.m. on Wednesday, February 10. The NAC will receive a briefing about the FEMA Youth Preparedness Council and engage in a facilitated discussion of the status of previously submitted NAC recommendations.

On Thursday, February 11, the NAC will hear remarks from the NAC Chair and Vice Chair, review agreed upon recommendations and confirm charges for the subcommittees, and engage in an open discussion with the FEMA Deputy Administrator. The meeting will conclude with two NAC member presentations.

The full agenda and any related documents for this meeting will be posted by Friday, February 5 on the NAC Web site at *http://www.fema.gov/national-advisory-council.*

Dated: January 15, 2015.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2016–01247 Filed 1–21–16; 8:45 am]

BILLING CODE 9111–48–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2016–0002]

Privacy Act of 1974; Department of Homeland Security/ALL–030 Use of the Terrorist Screening Database System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security (DHS) proposes to update and reissue a current Department-wide system of records titled, ''Department of Homeland Security(DHS)/ALL–030 Use of the Terrorist Screening Database (TSDB) System of Records,'' 76 FR 39408, July 6, 2011. This system of records allows the DHS to maintain a synchronized copy of the Department of Justice's (DOJ) Federal Bureau of Investigation's (FBI) Terrorist Screening Database (TSDB), which includes categories of individuals covered by DOJ/FBI–019, ''Terrorist Screening Records Center System,'' 72 FR 77846, Dec. 14, 2011. DHS maintains a synchronized copy to automate and simplify the transmission of information in the Terrorist Screening Database to DHS and its components. With this updated notice, DHS is adding two new consumers, Customs and Border Protection (CBP) Automated Targeting System (ATS) and U.S. Citizenship and Immigration Services (USCIS) Fraud Detection and National Security (FDNS) Directorate, to the ''DHS Watchlist Service.'' The DHS Watchlist Service is the technological mechanism used to transmit Terrorist Screening Database information from the Department of Justice to the Department of Homeland Security, and to DHS components thereafter. DHS is also clarifying an existing category of individuals, adding two new categories of individuals, and clarifying the categories of records maintained in this system. Additionally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice.

DHS is also issuing a new notice of proposed rulemaking to cover the exemptions applied to these new categories of individuals covered by this system of records notice. The notice of proposed rulemaking will be published concurrently with this notice. The existing Final Rule for Privacy Act exemptions will continue to apply until the new Final Rule is published. This updated system will be included in DHS's inventory of record systems.

DATES: Submit comments on or before February 22, 2016. This updated system will be effective February 22, 2016.

ADDRESSES: You may submit comments, identified by docket number DHS–2016–0002 by one of the following methods:

• *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

- *Fax:* 202–343–4010.
- *Mail:* Karen L. Neuman, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, please visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions and privacy issues please contact: Karen L. Neuman (202–343–1717), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) proposes to update and reissue the current system of records titled, ''Department of Homeland Security (DHS)/ALL–030 Use of the Terrorist Screening Database (TSDB) System of Records.'' DHS maintains a synchronized copy of the Department of Justice's (DOJ) Federal Bureau of Investigation's (FBI) Terrorist Screening Database (TSDB), which includes individuals covered by DOJ/FBI–019, ''Terrorist Screening Records Center System,'' 72 FR 77846, Dec. 14, 2011, via a technological mechanism called the ''DHS Watchlist Service (WLS).'' The DHS WLS disseminates received TSDB records to authorized DHS components.

Homeland Security Presidential Directive 6 (HSPD–6), issued in September 2003, called for the establishment and use of a single, consolidated watchlist to improve the identification and screening of known or suspected terrorists and their supporters. The FBI's Terrorist Screening Center (TSC) maintains and distributes TSDB as the U.S. Government's consolidated terrorist watchlist system. DHS and the FBI/TSC developed the WLS in order to automate and simplify the method for transmitting TSDB records from the FBI/TSC to DHS and its authorized components.

The WLS supports an automated and centralized data transmission of TSDB data to DHS and its components. The WLS replaced multiple data feeds from the FBI/TSC to DHS and its components, which were documented by information sharing agreements. The WLS is a system-to-system secure connection with no direct user interface.

DHS and its components are authorized to access TSDB records via the WLS pursuant to the terms of information sharing agreements with FBI/TSC. DHS is updating this SORN and has published privacy impact assessments to provide additional transparency into how DHS has implemented WLS. DHS will review and update this SORN no less than every two years as new DHS systems are interconnected with the WLS and are approved, consistent with the terms of agreements with FBI/TSC. There are currently six DHS systems authorized to receive TSDB data directly from the FBI/TSC via WLS, including two systems new to this SORN. The following systems have existing SORNs that permit the use of the TSDB:

(1) Transportation Security Administration (TSA): ''DHS/TSA–002 Transportation Security Threat Assessment System (T–STAS),'' 79 FR 46862, Aug. 11, 2014;

(2) TSA Secure Flight Program: ''DHS/TSA–019 Secure Flight Records,'' 80 FR 233 Jan. 5, 2015;

(3) U.S. Customs and Border Protection (CBP) Passenger Systems Program, as included in TECS: ''DHS/CBP–011 TECS'', 73 FR 77778, Dec. 19, 2008;

(4) Office of Biometric Identity Management (OBIM), as included in the DHS Automated Biometric Identification System (IDENT): DHS/US–VISIT–004, ''DHS Automated Biometric Identification System (IDENT),'' 72 FR 31080, June 5, 2007.

DHS is expanding the use of the WLS within the Department to include two new systems with existing SORNs that cover the use of the TSDB:

(5) CBP, DHS/CBP–006, ''Customs and Border Protection Automated Targeting System'', 77 FR 30297, May 22, 2012;

(6) U.S. Citizenship and Immigration Services (USCIS) Fraud Detection and National Security (FDNS) Directorate, as included in the FDNS-Data System, ''DHS/USCIS–006 Fraud Detection and National Security Records'' 77 FR 47411, Aug. 8, 2012.

Two other DHS components are authorized to receive TSDB data via the WLS in the form of a computer readable extract. The components' use of the TSDB data is covered by existing SORNs:

(1) DHS/IA–001, ''Office of Intelligence and Analysis (I&A) Enterprise Records System,'' 73 FR 28128, May 15, 2008; and

(2) DHS/ICE–009, U.S. Immigration and Customs Enforcement's (ICE) ''ICE External Investigations,'' 75 FR 404, Jan. 5, 2010.

Transactional Information stored in the WLS may be shared with the FBI/TSC in order to ensure that DHS and the FBI/TSC can reconcile any differences in the database and ensure DHS has the most up-to-date and accurate version of TSDB records, such as through automated response messages from WLS to TSC. All other sharing will be conducted pursuant to the programmatic system of records notices.

DHS is also updating this system of records to clarify one category of individuals and add two new categories of individuals whose information is currently included in, or is contemplated for inclusion in, the TSDB. These categories of information have been included in the TSDB to in support of the White House's ''Strategy to Combat Transnational Organized Crime'' (July 19, 2011), and National Security Presidential Directive-59/Homeland Security Presidential Directive-24, ''Biometrics for Identification and Screening to Enhance National Security'' (June 5, 2008). These executive strategies are relevant to DHS's vetting and screening operations.

DHS is clarifying the category of individuals to explicitly include relatives, associates, or others closely connected with a known or suspected terrorist who are excludable from the United States based on these relationships by virtue of Section 212(a)(3)(B) of the Immigration and Nationality Act, as amended, and do not otherwise satisfy the requirements for inclusion in the TSDB.

DHS is adding two new categories of individuals to include: (1) Individuals who were officially detained during military operations, but not as enemy prisoners of war, and who have been identified as possibly posing a threat to national security, and who do not otherwise satisfy the requirements for inclusion in the TSDB (''military detainees''), consistent with E.O. 12333 (or successor order) and the DOJ/FBI–019; and (2) individuals who may pose a threat to national security because they are (a) known or suspected to be or have been engaged in conduct constituting, in aid of, or related to transnational organized crime, thereby posing a possible threat to national security, and (b) do not otherwise satisfy the requirements for inclusion in the TSDB (''transnational organized crime actors''), consistent with E. O. 12333 (or successor order) (''national security threats'') and in support of the White House's ''Strategy to Combat

Transnational Organized Crime'' (July 19, 2011), and National Security Presidential Directive-59/Homeland Security Presidential Directive-24, ''Biometrics for Identification and Screening to Enhance National Security'' (June 5, 2008).

DHS is updating this system of records to clarify and expand the categories of records maintained by the Department. These categories of records are types of data elements included in the TSDB and are shared with DHS and have been deemed relevant to supporting DHS's vetting and screening operations.

1. Identifying biographic information, such as name, date of birth, place of birth, passport or driver's license information, and any other available identifying particulars used to compare the identity of an individual being screened with a subject in the TSDB;

2. Biometric information, such as photographs, fingerprints, or iris images, and associated biographic and contextual information;

3. References to, or information from, other government law enforcement and intelligence databases, or other relevant databases that may contain terrorism and/or national security information, such as unique identification numbers used in other systems;

4. Information collected and compiled to maintain an audit trail of the activity of authorized users of WLS information systems; and

5. System-generated information, including metadata, archived records and record histories from WLS.

DHS is planning future enhancements to the WLS that will provide for a central mechanism to receive information from DHS components when they encounter a potential match to the TSDB and send this information to the FBI/TSC. DHS will update this SORN to reflect such enhancements to the WLS once that capability is implemented. All encounter-related information sharing from DHS to the FBI/TSC will be conducted pursuant to the programmatic system of records notices outlined above.

DHS previously published a Final Rule in the **Federal Register** to exempt this system of records from certain provisions of the Privacy Act at 75 FR 55335, Dec. 29, 2011. DHS is publishing a new notice of proposed rulemaking to cover the exemptions that will now be applied to these new categories of individuals covered within this system of records. The existing Final Rule for Privacy Act exemptions continues to apply until the new Final Rule is published. This updated system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals when systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

Below is the description of the DHS/ALL–030 Use of the Terrorist Screening Database (TSDB) System of Records.

In accordance with 5 U.S.C. § 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

System of Records

Department of Homeland Security (DHS)/ALL–030.

SYSTEM NAME:

DHS/ALL–030 Use of the Terrorist Screening Database (TSDB) System of Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at DHS and Component Headquarters in Washington, DC and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include:

(a) Individuals known or suspected to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism (''known or suspected terrorists'');

(b) Individuals who are foreign nationals or lawful permanent resident aliens and who are excludable from the United States based on their familial relationship, association, or connection with a known or suspected terrorist as described in Section 212(a)(3)(B) of the Immigration and Nationality Act of 1952 (''INA exceptions'');

(c) Individuals who were officially detained during military operations, but not as Enemy Prisoners of War, and who have been identified to pose an actual or possible threat to national security (''military detainees''); and

(d) Individuals known or suspected to be or have been engaged in conduct constituting, in aid of, or related to transnational organized crime, thereby posing a possible threat to national security (''transnational organized crime actors.'')

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system include:

1. Identifying biographic information, such as name, date of birth, place of birth, passport and/or driver's license information, and other available identifying particulars used to compare the identity of an individual being screened with a subject in the TSDB;

2. Biometric information, such as photographs, fingerprints, or iris images, and associated biographic and contextual information;

3. References to or information from other government law enforcement and intelligence databases, or other relevant databases that may contain terrorism or national security information, such as unique identification numbers used in other systems;

4. Information collected and compiled to maintain an audit trail of the activity of authorized users of WLS information systems; and

5. System-generated information, including metadata, archived records and record histories from WLS.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135; The Tariff Act of 1930, Public Law 71–361, 46 Stat. 741, as amended; The Immigration and Nationality Act; 49 U.S.C. 114, 5103a, 40113, ch. 49 and 46105; Homeland Security Presidential Directive/HSPD–6, ''Integration and Use of Screening Information to Protect Against Terrorism'' (Sept. 16, 2003); Homeland Security Presidential Directive/HSPD–11, ''Comprehensive Terrorist-Related Screening Procedures'' (Aug. 27, 2004); National Security Presidential Directive/NSPD–59/Homeland Security Presidential Directive/HSPD–24, ''Biometrics for Identification and Screening to Enhance National Security'' (June 5, 2008); E.O. 13388, ''Further Strengthening the Sharing of Terrorism Information to Protect Americans,'' 70 FR 62023 (Oct. 25, 2005); Intelligence Reform and

Terrorism Prevention Act of 2004, Public Law 108–458, 118 Stat 3638; National Security Act of 1947, Public Law 235, 61 Stat. 495, as amended; and 28 U.S.C. 533.

PURPOSE(S):

DHS and its components collect, use, maintain, and disseminate information in the DHS Watchlist Service (WLS) to facilitate DHS mission-related functions, such as counterterrorism, law enforcement, border security, and inspection activities. TSDB data, which includes personally identifiable information (PII), is necessary for DHS to effectively and efficiently assess the risk or threat posed by a person for the conduct of its mission.

The Federal Bureau of Investigation's (FBI) Terrorist Screening Center (TSC) provides a near real time, synchronized version of the TSDB to DHS in order to improve the timeliness and governance of watchlist data exchanged between the FBI's TSC and DHS and its component systems that currently use TSDB data.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ)/FBI/TSC in order to receive confirmations that the information has been appropriately transferred and any other information related to the reconciliation process so that DHS is able to maintain a synchronized copy of the TSDB.

DHS will share information contained in this system to components internal to DHS pursuant to subsection 552a(b)(1) of the Privacy Act, and subsequently may be shared externally outside DHS at the programmatic level pursuant to routine uses described in the following published system of records notices:

(1) DHS/TSA–002 Transportation Security Threat Assessment System (T–STAS), 79 FR 46862, Aug. 11, 2014;

(2) DHS/TSA–019 Secure Flight Records, 80 FR 223, Jan. 5, 2015;

(3) DHS/CBP–011 TECS, 73 FR 77778, Dec. 19, 2008;

(4) DHS/CBP–006, Customs and Border Protection Automated Targeting System, 77 FR 30297, May 22, 2012;

(5) DHS/US–VISIT–004, DHS Automated Biometric Identification System (IDENT), 72 FR 31080, June 5, 2007;

(6) DHS/IA–001, Office of Intelligence and Analysis (I&A) Enterprise Records System, 73 FR 28128, May 15, 2008;

(7) DHS/ICE–009, ICE External Investigations, 75 FR 404, Jan. 5, 2010; and

(8) DHS/USCIS–006 Fraud Detection and National Security Records, 77 FR 47411, Aug. 8, 2012.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

DHS stores records in this system electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on servers, magnetic disc, tape, digital media, and CD–ROM.

RETRIEVABILITY:

DHS may retrieve records by name or other personal identifier.

SAFEGUARDS:

DHS safeguards records in this system in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RETENTION AND DISPOSAL:

The WLS maintains a near real time feed of the TSDB, and does not retain historical copies of the TSDB. The WLS is synchronized with the TSDB. When the FBI/TSC adds, modifies, or deletes data from the TSDB, the WLS duplicates these functions almost simultaneously, and that information is then passed to DHS and its authorized component systems. DHS does not manipulate the data within the TSDB feed received by WLS. The authorized DHS component that is screening individuals will maintain, separate from the WLS, a record of a match or possible match with the TSDB and DHS will retain this information in accordance with the DHS component specific SORNs identified in this notice.

SYSTEM MANAGER AND ADDRESS:

Executive Director, Passenger Systems Program Directorate, Office of Information and Technology, U.S. Customs and Border Protection, 7400 Fullerton Rd, Springfield, VA 22153.

NOTIFICATION PROCEDURE:

The Secretary of Homeland Security has exempted this system from the notification, access, and amendment procedures of the Privacy Act because it is a law enforcement system. However, DHS and its components will consider individual requests to determine whether or not information may be released. Thus, individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Headquarters or component FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''contacts.'' If an individual believes more than one component maintains Privacy Act records concerning him or her the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, 245 Murray Drive SW., Building 410, STOP–0655, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov/foia* or 1–866–431–0486. In addition, you should:

- Explain why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records.

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without the above information, the component(s) may not be able to

conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

In addition, if individuals are uncertain what agency handles the information, they may seek redress through the DHS Traveler Inquiry Redress Program (DHS TRIP), 72 FR 2294, Jan. 18, 2007. Individuals who believe they have been improperly denied entry, refused boarding for transportation, or identified for additional screening by DHS may submit a redress request through DHS TRIP. The DHS TRIP is a single point of contact for individuals who have inquiries or seek resolution regarding difficulties they experienced during their travel screening at transportation hubs such as airports and train stations or crossing U.S. borders. Redress requests should be sent to: DHS Traveler Redress Inquiry Program, 601 South 12th Street, TSA–901, Arlington, VA 20598 or online at *http://www.dhs.gov/trip* and at *http://www.dhs.gov.*

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Records are received from the FBI's Terrorist Screening Center, specifically records covered by DOJ/FBI–019 Terrorist Screening Records System, 72 FR 47073, Aug. 22, 2007.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act, subject to the limitations set forth in 5 U.S.C. 552a(c)(3) and (c)(4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8); (f); and (g) pursuant to 5 U.S.C. 552a(j)(2). Additionally, the Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act, subject to the limitation set forth in 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f) pursuant to 5 U.S.C. 552a(k)(1) and (k)(2).

Dated: January 12, 2016.

Karen L. Neuman,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2016–01167 Filed 1–21–16; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–01]

30-Day Notice of Proposed Information Collection: Notice of Application for Designation as a Single Family Foreclosure Commissioner

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: Comments Due Date: February 22, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5533. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on November 17, 2015 at 80 FR 71823.

A. Overview of Information Collection

Title of Information Collection: Notice of Application for Designation As a Single Family Foreclosure Commissioner (SF Mortgage Foreclosure Act of 1994).

OMB Control Number: 2510–0012.

Type of Request: Extension without change of a currently approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: Under the Single Family Mortgage Foreclsoure Act of 1994, HUD may exercise a nonjudicial Power of Sale of single family HUD-held mortgages and may appoint Foreclsoure Commissioners to do this. HUD needs the Notice and resulting appliations for compliance with the Act's requirements that commissioners be qualified. Most respondents will be attorneys, but anyone may apply.

Members of affected public: Business or Other For-Profit and Individuals or Households.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Number of respondents	Frequency of response	Hours per response	Total burden hours
30	1	.5	15

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: January 13, 2016.

Anna P. Guido,

Department Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 2016–01166 Filed 1–21–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5907–N–04]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: January 14, 2016.

Brian P. Fitzmaurice,

Director, Division of Community Assistance, Office of Special Needs Assistance Programs.

[FR Doc. 2016–01081 Filed 1–21–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–03]

30-Day Notice of Proposed Information Collection: Request for Acceptance of Changes in Approved Drawings and Specifications

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* February 22, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on October 9, 2015 at 80 FR 61225.

A. Overview of Information Collection

Title of Information Collection: Request for Acceptance of Changes in Approved Drawings and Specifications.

OMB Approval Number: 2502–0117.

Type of Request: Revision.

Form Number: HUD–92577.

Description of the need for the information and proposed use: Contractors request approval for changes to accepted drawings and specifications of rehabilitation properties as required by homebuyers, or determined by the contractor to address previously unknown health and safety issues. Contractors submit the forms to lenders, who review them and submit them to HUD for approval.

Respondents (*i.e.* affected public): Business.

Estimated Number of Respondents: 7,500.

Estimated Number of Responses: 7,500.

Frequency of Response: On Occasion.

Average Hours per Response: 0.50.

Total Estimated Burdens: 3,750.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: January 13, 2016.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2016–01171 Filed 1–21–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–02]

30-Day Notice of Proposed Information Collection: Renewable Energy Commitment Form

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* February 22, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on November 18, 2015 at 80 FR 72099.

A. Overview of Information Collection

Title of Information Collection: Renewable Energy Commitment Form.

OMB Approval Number: 2506–0208.

Type of Request: Extension of currently approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: Currently there is no vehicle available to allow program partners to make a public commitment toward the Administration's Federal Renewable Energy Target. For owners or managers of federally assisted housing (including Public Housing Authorities) to make a pledge, the must provide the amount of on-site renewable energy capacity they have already installed or intent to install by 2020. The information collected to make these organizations eligible for technical assistance funds, if available.

Respondents (*i.e.* affected public): Organizations 9 owners or managers of federally assisted housing) that make a voluntary public commitment to the Administration's Federal Renewable Energy Target.

Estimated Number of Respondents: 50.

Estimated Number of Responses: 50.

Frequency of Response: Once per year.

Average Hours per Response: .5.

Total Estimated Burdens: 25 burden hours.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Total	50	1	1	.5	25	N/A	N/A

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: January 13, 2016.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2016–01170 Filed 1–21–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2015–0157; FXIA16710900000–156–FF09A300000]

Draft Environmental Assessment; Dallas Zoo Management; Dallas, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service, are making available the final environmental assessment and finding of no significant impact under the National Environmental Policy Act regarding a permit application submitted by Dallas Zoo Management, on behalf of the Dallas Zoo, Sedgwick County Zoo, and Omaha's Henry Doorly Zoo. The three zoos have requested authorization under the Convention on International Trade in Endangered Species of Wild Fauna and Flora to import up to 18 live African elephants from Swaziland.

ADDRESSES:

Availability of Documents

Internet: You may obtain copies of the final environmental assessment and finding of no significant impact by going to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–HQ–IA–2015–0157, which is the docket number for this notice. Click the ''Open Docket Folder'' link.

In-Person: Copies of the final environmental assessment and finding of no significant impact are also available for public inspection and review at the following location, by appointment and written request only, 8 a.m. to 4:30 p.m.: U.S. Fish and Wildlife Service, Division of Management Authority, 5275 Leesburg Pike, Falls Church, VA 22041.

FOR FURTHER INFORMATION CONTACT: Timothy Van Norman, Chief, Branch of Permits, Division of Management Authority, 5275 Leesburg Pike, MS–IA, Falls Church, VA 22041; or by phone at (703) 358–2350.

SUPPLEMENTARY INFORMATION:

We are making available the final environmental assessment (EA) and finding of no significant impact (FONSI) under the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) for an application submitted by Dallas Zoo Management for a permit to import up to 18 live African elephants (*Loxadonta africana*) from Swaziland. The elephants will be housed at the Dallas Zoo, Dallas, Texas; Sedgwick County Zoo, Wichita, Kansas; and Omaha's Henry Doorly Zoo, Omaha, Nebraska. The requested permit would authorize the importation, under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (27 U.S.T. 1087), of up to 3 adult females, 3 subadult males, and 12 subadult females. CITES is an international treaty designed to regulate international trade in certain animal and plant species that are affected by trade and are now, or potentially may become, threatened with extinction. These species are listed in the Appendices to CITES, which are available on the CITES Secretariat's Web site at *http://www.cites.org.* African elephants in Swaziland are listed in CITES Appendix I. The Service's regulations implementing CITES are found at title 50 of the Code of Federal Regulations (CFR) in part 23.

The African elephant is also classified as threatened under the U.S. Endangered Species Act (ESA) (16 U.S.C. 1531 *et seq.*), with a rule under section 4(d) of the ESA at 50 CFR 17.40(e). To import African elephants into the United States, ESA and CITES requirements must be met. Pursuant to the ESA section 4(d) rule for the African elephant (50 CFR 17.40(e)(3)(i)), live elephants may be imported if all requirements under Service regulations at 50 CFR part 13 (general permitting) and 50 CFR part 23 (CITES) are met.

Issuance of a CITES import permit is categorically excluded under Department of the Interior internal agency policy and procedures from requiring completion of an EA under NEPA (Departmental Manual Part 516, Chapter 8.5(C)(1)). However, we decided to prepare an EA in this case to help ensure that we have conducted a thorough review of all relevant factors and potential impacts on the quality of the human environment as envisioned under NEPA.

We announced the availability of the draft EA in a notice published in the **Federal Register** on October 22, 2015 (80 FR 64008). The EA considered the direct, indirect, and cumulative effects of the importation of up to 18 live elephants from Swaziland, including the measures that would be implemented to minimize and mitigate the impacts of the importation and housing of these animals. We received more than 8,000 comments on the draft EA; they may be found at *http://www.regulations.gov* in Docket No. FWS–HQ–IA–2015–0157.

Proposed Action

The proposed action is the issuance of a CITES permit by the Service for the importation of up to 18 African elephants from Swaziland. The elephants are currently housed in an enclosure at the Mkhaya Game Reserve, Swaziland. The elephants were removed from Mkhaya Game Reserve and Hlane National Park, Swaziland, due to overpopulation of elephants within the two protected areas and the negative impact the elephants were having on the vegetation and other wildlife species. Big Game Parks (BPG), the delegated authority responsible for implementation of Swaziland's Game Act of 1953, has determined that the number of elephants in the two protected areas must be reduced. Further, the reduction in the number of elephants within each of the protected areas will facilitate BGP's efforts to increase the population of black rhinoceros (*Diceros bicornis*), a critically endangered species, within the two protected areas.

Alternatives

We also considered two alternatives to the proposed action:

1. No Action—No CITES import permit would be issued. According to the applicant and BGP, the 18 elephants will not be returned to the two protected areas. Instead, if importation is not authorized, BGP has stated that they have no option but to cull the animals.

2. Issue a CITES import permit for a reduced number of elephants—This alternative is similar to the Proposed Action, in that the Service would issue an import permit, but the number of elephants authorized for import would be reduced. This alternative could result in some elephants being imported into the United States and housed at one or more of the three zoos. However, according to the applicant and BGP, the elephants that are not imported into the United States would be culled.

Finding of No Significant Impact

The proposed action of issuing the import permit for the 18 elephants is the preferred action. As evaluated in the EA, the proposed action is not expected to result in significant effects to the human environment within the meaning of NEPA and the regulations of the Council on Environmental Quality. Although we describe potential actions and consequences that could flow from each of the alternatives, we find there is no basis to infer that any such effects, even viewed broadly, will be significant. Therefore, based on a review and evaluation of the information contained in the EA, it is the Service's determination that the issuance of a permit authorizing the import of 18 African elephants from Swaziland will not have a significant effect on the quality of the human environment under the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (as amended). As such, an Environmental Impact Statement is not required.

Authority

We provide this notice under NEPA and its implementing regulations (40 CFR 1506.6).

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2016–01226 Filed 1–21–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCA930000 L14400000.ET0000; CACA 032220]

Public Land Order No. 7848; Extension of Public Land Order No. 7179, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order extends the duration of the withdrawal created by Public Land Order No. 7179 for an additional 20-year period. The extension is necessary to continue protection of the seismic integrity of the University of California–Berkeley Seismic Observatory located in the Klamath National Forest, Siskiyou County which will expire on January 24, 2016, unless extended.

DATES: This withdrawal extension is effective on January 25, 2016.

FOR FURTHER INFORMATION CONTACT: Nathan Price, United States Forest Service, Regional Office, R5, 1323 Club Drive, Vallejo, California 94592, 707–562–8963, or Elizabeth Easley, Bureau of Land Management California State Office (CA–930), Federal Building (Room W–1928), 2800 Cottage Way, Sacramento, California 95825–1886; 916–979–4673. 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 of the above individuals. 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 purpose for the extension of the duration of the withdrawal created by Public Land Order No. 7179 is to continue protecting seismic monitoring instruments and the seismic integrity of the University of California–Berkeley Seismic Observatory, located on 45 acres of National Forest System land, from future mining activities that either disturb the seismic equipment or create seismic noise in the general area that would interfere with the accuracy of the seismograph.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is hereby ordered as follows:

Public Land Order No. 7179 (61 FR 2137 (1996)) which withdrew 45 acres of National Forest System land from location and entry under the United States mining laws, but not from leasing under the mineral leasing laws to protect the seismic integrity of the University of California–Berkeley Seismic Observatory, is hereby extended for an additional 20-year period. This withdrawal will expire on January 24, 2036, unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be further extended.

Dated: January 10, 2016.

Janice M. Schneider,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 2016–01295 Filed 1–21–16; 8:45 am]

BILLING CODE 3411–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–556]

Generalized System of Preferences: Possible Modifications, 2015 Review

AGENCY: United States International Trade Commission.

ACTION: Expansion of scope of the investigation.

SUMMARY: Following receipt of an amended request on January 12, 2016, from the United States Trade Representative (USTR), the U.S. International Trade Commission (Commission) has expanded the scope of investigation No. 332–556, *Generalized System of Preferences: Possible Modifications, 2015 Review,* to include five additional HTS statistical reporting numbers relating to certain handbags and travel goods products: 4202.92.30.20; 4202.92.30.31; 4202.92.30.91; 4202.92.90.26; and 4202.92.90.60. The USTR asked that the Commission provide its advice as to the probable economic effect on total U.S. imports, U.S. industries producing like or directly competitive articles, and on U.S. consumers of the elimination of U.S. import duties on these five articles for all beneficiary developing countries under the GSP program, least-developed beneficiary developing countries (LDBDCs), beneficiary developing countries of the African Growth and Opportunity Act (AGOA), and both LDBDCs and AGOA beneficiary developing countries combined under the GSP program. In his January 12, 2016 letter, the USTR also requested that the Commission provide its advice with respect to whether like or directly competitive products were being produced in the United States on January 1, 1995 for these additional 5 articles as well as for all of the products being considered for addition to and removal from the list of GSP-eligible products listed in Tables A and B of the Annex to the December 30, 2015 request letter.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://www.usitc.gov/secretary/edis.htm.*

FOR FURTHER INFORMATION CONTACT: Information specific to this investigation may be obtained from Mahnaz Khan, Project Leader, Office of Industries (202–205–2046 or *mahnaz.khan@usitc.gov*), Jessica Pugliese, Deputy Project Leader, Office of Industries (202–205–3064 or *jessica.pugliese@usitc.gov*), or Cynthia Foreso, Technical Advisor, Office of Industries (202–205–3348 or *cynthia.foreso@usitc.gov*). For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Web site (*http://www.usitc.gov*). 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.

Background

The Commission initially instituted this investigation in response to a request letter from the USTR dated December 30, 2015. The Commission published notice of institution of this investigation and the scheduling of a public hearing in the **Federal Register** on January 19, 2016 (81 FR 2904). As previously announced, the public hearing in this investigation will be held on February 24, 2016, and it will include the articles covered by the five additional HTS statistical reporting numbers as well as the articles described in the January 19, 2016 notice. The deadlines for filing requests to appear at the public hearing (February 1, 2016), pre-hearing briefs and statements (February 3, 2016), post-hearing briefs and all other written submissions in this investigation (February 29, 2016) remain the same as previously announced. All other information in the January 19, 2016, notice remains the same, including with respect to the procedures relating to the filing of written submissions and the submission of confidential business information.

The Commission expects to transmit its report to the USTR by April 28, 2016, the date indicated in the earlier notice).

By order of the Commission.

Issued: January 19, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–01267 Filed 1–21–16; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Consortium Management Group, Inc. on Behalf of Medical Countermeasure Systems Consortium

Notice is hereby given that, on December 8, 2015, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Consortium Management Group, Inc. on behalf of Medical Countermeasure Systems Consortium (''CMG–MCSC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: Consortium Management Group, Inc. on behalf of Medical Countermeasure Systems Consortium, Washington, DC; ABL, Inc., Rockville, MD; Altimmune, Inc., Gaithersburg, MD; AEQUOR, Inc., Oceanside, CA; Appili Therapeutics, Inc., Halifax, Nova Scotia; BalinBac Therapeutics, Inc., Princeton, NJ; Battelle, Columbus, OH; Bavarian Nordic, Kvistgard, DENMARK; Chemapotheca LLC, Delamar, NY; CONTINUUS Pharmaceuticals, Inc., Woburn, MA; Creare LLC, Hanover, NH; CUBRC, Inc., Buffalo, NY; Dyne Immune Institute for Translational Medicine and Research, Wurtsboro, NY; DynPort Vaccine Company LLC, a CSC Company, Frederick, MD; Elusys Therapeutics, Inc., Pine Brook, NJ; Emergent Biosolutions Inc., Gaithersburg, MD; First Line Technology, LLC, Chantilly, VA; GenArraytion, Inc., Rockville, MD; Ginkgo Bioworks, Boston, MA; IIT Research Institute, Chicago, IL; Institute for Therapeutic Innovation, University of Florida, Orlando, FL; InvivoSciences, Inc. Madison, WI; Lovelace Biomedical and Environmental Research Institute (LBERI), Albuquerque, NM; Luminex Corporation, Austin, TX; Maurer & Hutson Consulting, Seattle, WA; MediVector, Inc., Boston, MA; Mesa Science Associates, Inc., Frederick, MD; Molecular Engineering & Sciences Institute, Seattle, WA; Murtech, Inc., Glen Burnie, MD; Nanotherapeutics, Inc., Alachua, FL; Noninvasix, Inc., Galveston, TX; Philips Healthcare, Andover, MA; PnuVax Incorporated, Kingston, CANADA; The Preclinical Radiobiology Laboratory, Division of Translational Radiation Sciences, Department of Radiation Oncology, University of Maryland, School of Medicine, Baltimore, MD; Quintiles, Inc., Durham, NC; Science Applications International Corporation, McLean, VA; Smart Consulting Group, West Chester, PA; Southern Research, Birmingham, AL; Southwest Research Institute, San Antonio, TX; Spero Therapeutics, Cambridge, MA; Therabron Therapeutics, Inc., Rockville, MD; Trideum Biosciences LLC, Huntsville, AL; University of Pittsburgh Center for Military Medicine Research, Pittsburgh, PA; Vaxess Technologies, Inc., Cambridge, MA; and Washington to Washington Consulting, Seattle, WA.

The general area of the CMG–MCSC's planned activity is (a) to enter into an Other Transaction Agreement (''OTA'') with the U.S. Government (''Government'') for the funding of certain research, development, testing and evaluation of prototypes to be conducted as a collaboration between the Government and Consortium Members, to enhance the capabilities of the Government and its departments and agencies in the field of countermeasures against chemical, biological, radiological and nuclear threats; (b) to develop countermeasures, first response and resilient systems; (c) to participate in the establishment of sound technical and programmatic performance goals based on the needs and requirements of the Government's Technology Objectives; (d) to provide a unified voice to effectively articulate the global and strategically important role medical countermeasures play in current and future national security objectives; and (e) to maximize the utilization of the Government's and Members' capabilities to effectively develop critical technologies which can be deployed and transitioned.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–01265 Filed 1–21–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on December 29, 2015, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), IMS Global Learning Consortium, Inc. (''IMS Global'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Cobb County School District, Smyrna, GA; Duncanville ISD, Duncanville, TX; EdX Inc., Cambridge, MA; eSyncTraining, Irvine, CA; K12.com, Herndon, VA; Motivis Learning, Salem, NH; Otus, Highland Park, IL; and Southern New Hampshire University/College for America, Manchester, NH, have been added as parties to this venture.

Also, Saylor Foundation, Washington, DC; and Blue Canary, Chandler, AZ, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global intends to file additional written notifications disclosing all changes in membership.

On April 7, 2000, IMS Global filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on October 13, 2015. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 2015 (80 FR 69698).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–01251 Filed 1–21–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Allseen Alliance, Inc.

Notice is hereby given that, on December 18, 2015, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), AllSeen Alliance, Inc. (''AllSeen Alliance'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Midea Group Co., Ltd., Foshan City, Guangdong, PEOPLE'S REPUBLIC OF CHINA; Initial State, Nashville, TN; Dropbeats Technology Co., Ltd., Pudong New District, Shanghai, PEOPLE'S REPUBLIC OF CHINA; Rivetry, Portland, OR; Digital Concepts GmbH, Stuttgart, GERMANY; SoftAtHome, Nanterre, FRANCE; Evey Innovation, Montreal, Quebec City, CANADA; Hager Electro GmbH & Co. KG, Blieskastel, GERMANY; NXP B.V., Eindhoven, THE NETHERLANDS; Avempace, Nabeul, TUNISIA; ABHRIO LLC, Naperville, IL; Cozify Oy, Espoo, FINLAND, Elite Crest Technologies, Sammamish, WA; Argenox Technologies LLC, McKinney, TX; CastleOS Software, LLC, Johnston, RI; Netbeast, Munchen, Deutschland, GERMANY; and Ready for Sky LLP, Geylang, SINGAPORE, have been added as parties to this venture.

Also, Grid2Home, San Diego, CA; Ping Identity, Denver, CO; Quanta Computer Inc., Kuei Shan, Tao Yuan, TAIWAN; and Verisign Inc., Reston, VA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and AllSeen Alliance intends to file additional written notifications disclosing all changes in membership.

On January 29, 2014, AllSeen Alliance filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 4, 2014 (79 FR 12223).

The last notification was filed with the Department on September 23, 2015. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 23, 2015 (80 FR 64449).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–01257 Filed 1–21–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Network Centric Operations Industry Consortium, Inc.

Notice is hereby given that, on December 21, 2015, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Network Centric Operations Industry Consortium, Inc. (''NCOIC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Mukherji Consulting, Centerville, VA; Matthew Ragan (individual member), Fairfax, VA; and Intelligent Social Media, Louisville, KY, have been added as parties to this venture.

Also, Lockheed Martin Corporation, Arlington, VA; TeraLogics, LLC, Ashburn, VA; Paula Moss (individual member), Fort Wayne, IN; and Tom Forrest, LLC, Thousand Oaks, CA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NCOIC intends to file additional written notifications disclosing all changes in membership.

On November 19, 2004, NCOIC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 2, 2005 (70 FR 5486).

The last notification was filed with the Department on June 17, 2015. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 17, 2015 (80 FR 42538).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–01253 Filed 1–21–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—American Gap Association

Notice is hereby given that, on December 23, 2015, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), American Gap Association (''AGA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the Association ratified the 2016 version of Gap Year Standards; expanded the Board of Directors; expanded its six organizational committees, including the Standards & Accreditation committee; and merged with the 501(c)(3) American Gap Foundation (d/b/a American Gap Association) to better streamline its activities and further support the benefits of all Gap years in the U.S.

On June 6 2012, AGA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 6, 2012 (77 FR 40085).

The last notification was filed with the Department on August 12, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 10, 2013 (78 FR 55296).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–01263 Filed 1–21–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Opendaylight Project, Inc.

Notice is hereby given that, on January 6, 2016, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), OpenDaylight Project, Inc. (''OpenDaylight'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Alcatel-Lucent Enterprise, Calabasas, CA; Zenlayer, Diamond Bar, CA; Globe Telecom, Bonificio Global City, PHILIPPINES; and Hitachi, Ltd., Tokyo, JAPAN, have been added as parties to this venture.

Also, Contextream, Inc., Mountain View, CA; and 6Wind, Montigny-le-Bretonneux, FRANCE, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OpenDaylight intends to file additional written notifications disclosing all changes in membership.

On May 23, 2013, OpenDaylight filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 1, 2013 (78 FR 39326).

The last notification was filed with the Department on October 22, 2015. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 16, 2015 (80 FR 70836).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–01255 Filed 1–21–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Cyberspace Consortium

Notice is hereby given that, on December 3, 2015, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Cyberspace Consortium (''NCC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: Advanced Nuclear Devices Corporation, Hilton Head Island, SC; Alabama A&M University—RISE Foundation, Huntsville, AL; Alabama A&M University College of Engineering, Technology, and Physical Sciences, Huntsville, AL; Aleta Technologies, Inc., Madison, AL; ALION Science & Technology, McLean, VA; Altron, Inc., Mount Pleasant, SC; Alutiiq Business Services, LLC, North Charleston, SC; AMSEC LLC, Virginia Beach, VA; Auburn Research & Development Institute, Auburn, AL; Auburn University, Montgomery, AL; Binera, Inc., Yorktown, PA; Centurum Information Technology, Inc., North Charleston, SC; CGI Federal, Inc., Huntsville, AL; CKQ Technologies LLC, Charleston, SC; Clear Ridge Defense, LLC, Hanover, MD; Cognitio Corp., McLean, VA; deciBel Research, Huntsville, AL; Defense Engineering Services LLC, Daniel Island, SC; Deloitte & Touche LLP, Alexandria, VA; DESE Research, Inc., Huntsville, AL; Dilks—Simone Enterprises, Inc., Mount Pleasant, SC; Dispersive Technologies, Inc., Alpharetta, SC; Dynetics, Inc., Huntsville, AL; Emergent, Inc., North Charleston, SC; Enlogica Solutions, LLC, Huntsville, AL; Enterprise Integration, Inc., Huntsville, AL; EnVention LLC, Huntsville, AL; EOIR Technologies, Inc., Fredericksburg, VA; EpiQ, Inc., Huntsville, AL; Exodus Technology Corporation, Huntsville, AL; Forager Systems, Inc., Charleston, SC; GeoWireless Inc., North Charleston, SC; GPH Consulting, LLC., Charleston, SC; Honeywell Technology Solutions, Inc., North Charleston, SC; Imagine One, Hanahan, SC; Insight Through Analysis, LLC, McLean, VA; Integrated Technology Services, LLC, Summerville, SC; IronMountain Solutions, Huntsville, AL; IT Security, Inc., Pittsburgh, PA; Jacobs, Huntsville, AL; JB Management, Inc., Alexandria, VA; Lewis Innovative Technologies, Inc., Decatur, AL; LSINC Corporation, Huntsville, AL; Mission Multiplier Consulting, Huntsville, AL; Modulant, Inc., North Charleston, SC; Modus21, Mount Pleasant, SC; Network Security Systems Plus, Inc., Falls Church, VA; Northrop Grumman Corporation—Huntsville, Huntsville, AL; nou Systems, Inc., Huntsville, AL; On-Line Applications Research Corporation, Huntsville, AL; Open Source Systems, LLC, Charleston, SC; ORBIS Sibro, Inc. (dba ORBIS), Mount Pleasant, SC; Peregrine Technical Solutions, Yorktown, VA; Pillar Global Solutions, Inc., Stafford, VA; Prime Technical Services, Inc., Atlanta, GA; PROJECTXYZ, Inc., Huntsville, AL; ProModel Corporation, Allentown, PA; Quantam Dynamics, Macon, GA; Recorded Future, Charleston, SC; Rollout Systems LLC, California, MD; Science Applications International Corporation, McLean, VA; Sea Island Technical Service LLC, Charleston, SC; Secturion Systems, Inc., Clearfield, UT; SiloSmashers, Inc., Herndon, VA; Soteria LLC, Lorton, VA; South Central Tennessee Development, Mount Pleasant, TN; STIMULUS Engineering Services, Inc., Loogootee, IN; Systems Technology Forum, Ltd., Charleston, SC; The University of Alabama, Tuscaloosa, AL; Trideum Corporation, Huntsville, AL; Trinary Software, Ashland, OR; University of Alabama—Huntsville, Huntsville, AL; University of South Carolina, Columbia, SC; VarnerMiller, LLC, Mount Pleasant, SC; ViON Corporation, Herndon, VA.

The general area of NCC's planned activity is to assist in maturing Army Cyberspace Operations through re-use and augmenting existing cyber technologies and fostering relevant cyber weapons systems and awareness in the newly established Cyber domain.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–01259 Filed 1–21–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Media Workflow Association, Inc.

Notice is hereby given that, on December 23, 2015, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Advanced Media Workflow Association, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Aperi Corporation, Camarillo, CA; Atos, London, UNITED KINGDOM; Axon Digital Design, B.V., Gilze, THE NETHERLANDS; Barco Silex, Louvain-La-Neuve, BELGIUM; Embrionix Design, Inc., Laval, Quebec, CANADA; Evertz Microsystems, Burlington, Ontario, CANADA; Lawo AG, Rastati, GERMANY; Malooba, Launceston, UNITED KINGDOM; Matrox Electronic Systems, Dorval, Quebec, CANADA; Mellanox Technologies, Inc., Sunnyvale, CA; Nevion Unlimited, Theale, UNITED KINGDOM; NewTek, Inc., San Antonio, TX; NRK, Oslo, NORWAY; Panasonic Corporation, Osaka, JAPAN; Suitcase TV Ltd., Ipswich, UNITED KINGDOM; UR Sveriges Utbildningsradio AB, Stockholm, SWEDEN; and Christine MacNeill (individual member), Achnasheen, UNITED KINGDOM, have been added as parties to this venture.

Also, Rohde & Schwarz DVS GmbH, Hanover, GERMANY; and Savis Vietnam Corp., Hanoi, VIETNAM, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Advanced Media Workflow Association, Inc. intends to file additional written notifications disclosing all changes in membership.

On March 28, 2000, Advanced Media Workflow Association, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 29, 2000 (65 FR 40127).

The last notification was filed with the Department on September 24, 2015. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on October 23, 2015 (80 FR 64448).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–01261 Filed 1–21–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0040]

SGS North America, Inc.: Grant of Expansion of Recognition and Modification to the List of Appropriate NRTL Program Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces its final decision expanding the scope of recognition for SGS North America, Inc., as a Nationally Recognized Testing Laboratory (NRTL). Additionally, OSHA announces its final decision to add a new test standard to the NRTL list of appropriate test standards.

DATES: The expansion of the scope of recognition becomes effective on January 22, 2016.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; telephone: (202) 693–2110; email: *robinson.kevin@dol.gov.* OSHA's Web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html*).

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

The Occupational Safety and Health Administration hereby gives notice of the expansion of the scope of recognition of SGS North America, Inc. (SGS), as an NRTL. SGS's expansion covers the addition of five recognized testing and certification sites and fourteen additional test standards to its NRTL scope of recognition, including one test standard that will be added to the NRTL Program List of Appropriate Test Standards.

OSHA recognition of an NRTL signifies that the organization meets the requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification.

The Agency processes applications by an NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL that details its scope of recognition. These pages are available from the Agency's Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

SGS currently has one facility (site) recognized by OSHA for product testing and certification, with its headquarters located at: 620 Old Peachtree Road, Suwanee, Georgia 30024. A complete list of SGS's scope of recognition is available at: *https://www.osha.gov/dts/otpca/nrtl/sgs.html.*

II. General Background on the Application

SGS submitted an application, dated October 1, 2014 (OSHA–2006–0040–0023), to expand its recognition to include the addition of five recognized testing and certification sites located at: SGS–CSTC Standards Technical Services Co., Ltd. Guangzhou Branch, 198 Kezhu Road, Scientech Park Guangzhou Economic & Technology Development District, Guangzhou, Guangdong, China, 510663; SGS–CSTC Standards Technical Services Co., Ltd. Shunde Branch, 198 Kezhu Road,

Scientech Park Building 1, European Industrial Park, No. 1, Shunde South Road, Wusha, Daliang, Shunde District, Foshan, Guangdong, China; SGS–CSTC Standards Technical Services Co., Ltd Ningbo Branch, 1–5/F., West of Building 4, Lingyun Industry Park, No. 1177, Lingyun Road, Ningbo National Hi-Tech Zone, Ningbo, Zhejiang, China; SGS–CSTC Standards Services Co., Ltd. Shenzhen Branch, No. 1 Workshop, M–10, Middle Section, Science & Technology Park, Nan Shan District, Shenzhen, China 518057; SGS–CSTC Standards Technical Services (Shanghai) Co., Ltd., No 588 West Jindu Road, Xinqiao Town, Songjiang District 201612, Shanghai, China. SGS's application also requested the addition of fourteen additional test standards to its scope of recognition. OSHA staff performed a detailed analysis of the application and other pertinent information. OSHA staff also performed on-site reviews of SGS's testing and certification facilities on June 15, 2015 at SGS Shanghai, June 18, 2015 at SGS Ningbo, June 22, 2015 at SGS Shenzhen, June 24, 2015 at the two SGS Guangdong locations (Guangzhou and Shunde) and recommended expansion of SGS's recognition to include these five sites and these fourteen test standards.

OSHA published the preliminary notice announcing SGS's expansion application in the **Federal Register** on October 13, 2015 (80 FR 61472). The Agency requested comments by October 28, 2015, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of SGS's scope of recognition.

To obtain or review copies of all public documents pertaining to the SGS's application, go to *www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210. Docket No. OSHA–2006–0040 contains all materials in the record concerning SGS's recognition.

III. Final Decision and Order

OSHA staff examined SGS's expansion application, conducted a detailed on-site assessment, and examined other pertinent information. Based on its review of this evidence, OSHA finds that SGS meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitations and conditions listed below. OSHA, therefore, is proceeding with this final notice to grant SGS's scope of recognition expansion. OSHA limits the expansion of SGS's recognition to include the sites at Shanghai, China; Ningbo, China; Shenzhen, China; Guangzhou, China and Shunde, China as listed above. OSHA's recognition of these sites limits SGS to performing product testing and certifications only to the test standards for which the site has the proper capability and programs, and for test standards in SGS's scope of recognition. This limitation is consistent with the recognition that OSHA grants to other NRTLs that operate multiple sites. OSHA limits the expansion of SGS's recognition to testing and certification of products for demonstration of conformance to the test standards listed in Table 1 below.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN SGS'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 60745–2–18	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–18: Particular Requirements for Strapping Tools.
UL 60745–2–19	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–19: Particular Requirements for Jointers.
UL 60745–2–20	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–20: Particular Requirements for Band Saws.
UL 60745–2–21	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–21: Particular Requirements for Drain Cleaners.
UL 60745–2–22	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–22: Particular Requirements for Cut-Off Machines.
UL 60950–1	Information Technology Equipment Safety—Part 1: General Requirements.
UL 60950–22	Information Technology Equipment Safety—Part 22: Equipment to be Installed Outdoors.
UL 60335–2–24*	Safety Requirements for Household and Similar Electrical Appliances, Part 2: Refrigerating Appliances, Ice-Cream Appliances, and Ice-Makers.
UL 60335–2–40	Safety of Household and Similar Electrical Appliances, Part 2: Particular Requirements for Electrical Heat Pumps, Air-Conditioners and Dehumidifiers.
UL 60335–2–3	Standard for Safety of Household and Similar Electrical Appliances, Part 2: Particular Requirements for Electric Irons.
UL 60335–2–8	Standard for Safety for Household and Similar Electrical Appliances, Part 2: Shaver, Hair Clipper and Similar Appliances.
UL 1778	Uninterruptable Power Systems.
UL 2089	Vehicle Battery Adapters.
UL 1993	Self-Ballasted Lamps and Lamp Adapters.

*Test standard new to the NRTL Program.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, an NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standards listed above as American National Standards. However, for convenience, we may use the designation of the standards-developing organization for the standard as opposed to the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, SGS also must abide by the following conditions of the recognition:

1. SGS must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as an NRTL, and provide details of the change(s);
2. SGS must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and
3. SGS must continue to meet the requirements for recognition, including all previously published conditions on SGS's scope of recognition, in all areas for which it has recognition.

OSHA also is making a final determination to add a new standard to the NRTL Program's list of appropriate test standards. OSHA determines that this test standard is an appropriate test standard. Table 2 below lists the test standard that will be added to the NRTL Program's list of Appropriate Test Standards.

TABLE 2—TEST STANDARD OSHA IS ADDING TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 60335–2–24	Safety Requirements for Household and Similar Electrical Appliances, Part 2: Refrigerating Appliances, Ice-Cream Appliances, and Ice-Makers.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the recognition of SGS, subject to the limitations and conditions specified above.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on January 19, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–01285 Filed 1–21–16; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–T034–2006–0779]

New Jersey State Plan for State and Local Government Employees; Approval of Plan Supplements and Certification of Completion of Developmental Steps

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: The New Jersey Department of Labor and Workforce Development (LWD) submitted timely documentation attesting to the completion of all structural and developmental aspects of its State Plan for State and Local Government Employees as approved by the Occupational Safety and Health Administration (OSHA). After extensive review of the submissions and opportunity for correction, Plan supplements constituting an updated and revised State Plan were submitted. OSHA is approving the revised State Plan, which documents the satisfactory completion of all structural and developmental aspects of New Jersey's approved State Plan, and certifying this completion. This certification attests to the fact that New Jersey now has in place those structural components necessary for an effective State Plan for State and Local Government Employees. (Enforcement of occupational safety and health standards with regard to private sector employers and employees in the State of New Jersey remains the responsibility of the U.S. Department of Labor, OSHA).

DATES: *Effective Date:* January 22, 2016.

FOR FURTHER INFORMATION CONTACT: For general information and press inquiries, contact Frank Meilinger, Director, Office of Communications, Room N–3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1999; email: *meilinger.francis2@dol.gov.* For technical inquiries, contact Douglas Kalinowski, Director, Directorate of Cooperative and State Programs, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3700, Washington, DC 20210; telephone (202) 693–2244; email: *kalinowski.doug@dol.gov.* Electronic copies of this **Federal Register** notice, as well as all OSHA **Federal Register** notices mentioned in this document, are available on OSHA's Web site at *http://www.osha.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 18 of the Occupational Safety and Health Act of 1970 (the ''OSH Act;'' 29 U.S.C. 667) provides that a state which desires to assume responsibility for the development and enforcement of occupational safety and health standards may submit for OSHA review and approval a State Plan for such development and enforcement. Regulations at 29 CFR part 1956 provide that a state may voluntarily submit a State Plan for the development and enforcement of occupational safety and health standards applicable only to employers and employees of the state and its political subdivisions. State and local government employers are excluded from federal OSHA coverage under section 3(5) of the OSH Act.

Under these regulations, the Assistant Secretary of Labor for Occupational Safety and Health (''Assistant Secretary'') may approve a State Plan for State and Local Government Employees, if the Plan provides for the development and enforcement of standards relating to hazards in employment covered by the Plan which are or will be at least as effective in providing safe and healthful employment and places of employment for public employees as standards promulgated and enforced by federal OSHA under section 6 of the OSH Act, giving due consideration to differences between public and private sector employment. Following initial approval, the state may begin enforcement of its safety and health standards in the public sector and receive up to 50 percent federal funding for the cost of Plan operations.

A State Plan for State and Local Government Employees may receive initial approval even though at the time of submission not all essential components of the Plan are in place. Pursuant to 29 CFR 1956.2(b), the Assistant Secretary may initially approve the submission as a ''developmental plan,'' and a schedule within which the state must complete all ''developmental steps'' within a three year period is issued as part of the initial approval decision. 29 CFR part 1953 provides procedures for the review and approval of changes and progress in the development and implementation of the State Plan.

When the Assistant Secretary has reviewed and approved all developmental submissions and finds that the state has satisfactorily completed all developmental steps specified in the initial approval decision, a notice certifying such completion is published in the **Federal Register** (see 29 CFR 1956.23 and 1902.34). Certification attests to the structural completeness of the Plan but does not render judgment as to the adequacy or effectiveness of state performance.

II. State Plan History

In 1965, the Governor of the State of New Jersey issued Executive Order No. 20, establishing a safety and health program for state employees. In the early 1970s New Jersey developed a State Plan under the OSH Act. The Plan provided for a safety and health program which would cover state and local government employees and all employees in the private sector in the state. In 1975, New Jersey was preempted in the safety and health field by the federal program because state legislation was not provided as required by the federal program. In 1984, the New Jersey Public Employees Occupational Safety and Health Act (PEOSH Act) was signed into law by Thomas H. Kean, Governor of the State of New Jersey. This act empowered the Department of Labor and Workforce Development, the Department of Health, and the Department of Community Affairs to inspect and enforce the PEOSH Act. Because the PEOSH Act, as structured, presented several obstacles to receive federal funding for a State and Local Government Employees Plan, a revision was signed into law by Governor Whitman in 1995.

The New Jersey State Plan for State and Local Government Employees is operated by the New Jersey Department of Labor and Workforce Development, Public Employees Occupational Safety and Health (PEOSH) Program. This limited scope State Plan was initially approved as a developmental plan under section 18 of the OSH Act, and 29 CFR part 1956, on January 11, 2001 (66 FR 2265). After the initial approval of the State Plan for State and Local Government Employees in 2001, New Jersey successfully submitted all of its developmental plan change supplements.

In July 2013, PEOSH submitted a completely revised State Plan which provided updated documentation on all its developmental steps, including those previously approved, for OSHA review and consideration. After extensive review of those documents and opportunity for state correction, New Jersey submitted further revisions in December 2013, May 2014, and July 2014.

III. Description of the Revised State Plan

New Jersey submitted plan supplements constituting a revised State Plan document with subsequent revisions dated December 2013, May 2014 and July 2014. The revised State Plan updates and documents all structural components of the New Jersey program. This includes a revised narrative description of the current program, legislation, administrative rules, standards, a compliance manual, and current copies of all key documents relating to New Jersey's State Plan for State and Local Government Employees. These documents are described below and are being approved in this notice.

A. The Plan Narrative and Appendices

The Plan designates the New Jersey Department of Labor and Workforce Development (LWD), through the Public Employees Occupational Safety and Health (PEOSH) program, as the state agency responsible for administering the Plan throughout the state. The New Jersey PEOSH Act, N.J.S.A. 34:6A–25 *et seq.,* delegates certain responsibilities to the New Jersey Department of Health (DOH) in the implementation of the PEOSH Act. Major responsibilities delegated include: Inspection, investigation, and related activities in occupational health and environmental control; medical and first aid; toxic and hazardous substances; respiratory protective equipment, and sanitation.

The Plan narrative provides a general overview of PEOSH's legal authority, standards and variances, regulations, enforcement policies and procedures (the ''Field Operations Manual'' or ''FOM''), voluntary compliance activities (including consultative services and training and outreach programs), an occupational safety and health laboratory, personnel policies and procedures, recordkeeping and reporting requirements, budget, staffing and funding, all of which, together with the supporting documents contained in various appendices, have been determined to provide authority which is ''at least as effective as'' that of the OSH Act and to meet the criteria and indices for plan approval contained in 29 CFR part 1956.

The State Plan appendices contain a variety of state statutes and other documents related to the PEOSH program and its authority, contest procedures, and personnel policies, including: N.J. PEOSH Act—N.J.S.A.34:6A–25 thru 34:6A–50; 1995 N.J. Laws Chapter 186 (amendments to PEOSH Act); 1995 N.J. Laws Chapter 186—Governor's Signature; Memorandum of Understanding (MOU) between LWD & DOH; N.J. Admin. Code Title 1, Chapter 30—Rules for Agency Rulemaking; Administrative Procedures Act—N.J.S.A. 52:14B.

The appendices also contain the following regulations: Procedural Standards for N.J. State Plan—N.J.A.C.12:110; Safety & Health Standards for Public Employees—N.J.A.C.12:100; Standard for Hazard Communication—N.J.A.C.12:100 Chapter #7; Hazard Communication Alternative Std. Proposal; Hazard Communication Alternative Std. Adoption; Standards for Indoor Firing Ranges for Public Employees—N.J.A.C.12:100 Chapter 8; Standards for Firefighters—N.J.A.C.12:100 Chapter 10; Fire Brigade Std. Comparison; Indoor Air Quality Standard—N.J.A.C.12:100 Chapter 13; Review Commission Rules of Procedure—N.J.A.C.12:112; Discrimination against Employees—N.J.A.C.12:110 Chapter 7; Inspection Scheduling System; On-Site Consultations—N.J.A.C.12:110 Chapter 8.; Consultation Policies and Procedures Manual, Chapter 3, III; 5yr. Strategic Plan—2014–2019; and Informational, Educational, & Training Materials.

B. Legislation

The Plan includes legislation, the New Jersey PEOSH Act—N.J.S.A.34:6A–25 thru 34:6A–50 as enacted in 1984 and amended in 1995 and 1997. Pursuant to this law, the State Plan provides coverage for all state and local government employment in New Jersey. The PEOSH Act defines covered employers as ''public employer[s] and shall include any person acting directly on behalf of, or with the knowledge and ratification of: (1) The state, or any department, division, bureau, board, council, agency or authority of the state, except any bi-state agency; or (2) any county, municipality, or any department, division, bureau, board, council, agency or authority of any county or municipality, or of any school district or special purposes district created pursuant to law.'' N.J.S.A.34:6A–27(c). It defines covered employees as ''any public employee, any person holding a position by appointment or employment in the service of an 'employer' as that term is used in this act and shall include any individual whose work has ceased as a consequence of, or in connection with, any administrative or judicial action instituted under this act; provided, however, that elected officials, members of boards and commissions and managerial executives as defined in the 'New Jersey Employer-Employee Relations Act,' P.L.1941, c. 100, C. 34:13A–1 *et seq.* shall be excluded from the coverage of this act.'' N.J.S.A.34:6A–27(d). Thus, the PEOSH Act covers county, municipality, or any department, division, bureau, board, council, agency, or authority of any county or district created pursuant to law; and volunteer firefighters and emergency responders. The PEOSH Act contains authority for standards

adoption, right of entry, inspections, citations, proposed penalties for failure-to-abate violations, worker rights, variances, non-discrimination, recordkeeping and voluntary compliance programs, etc. The PEOSH Act contains three provisions which differ substantially from the federal OSH Act.

1. Penalties. Section 34:6A–41(d) of the PEOSH Act establishes a penalty structure which provides for failure-to-abate penalties of up to $7,000 per day for serious violations and other-than-serious violations. This authority, together with follow-up inspections and judicial enforcement, is the primary means of compelling the abatement of hazards by state and local government employers under the New Jersey State Plan.

2. Split Enforcement. Section 34:6A–35 of the PEOSH Act establishes enforcement by two departments: DOH, which conducts inspections under health regulations in the workplace; and LWD, which conducts inspections under safety regulations in the workplace; but it is LWD that issues Order to Comply.

3. Advisory Board. Section 34:6A–28 of the PEOSH Act establishes the Public Employees Occupational Safety and Health Advisory Board (''Advisory Board'') consisting of several New Jersey department Commissioners and 18 members who represent state and local government employers and employees. The Advisory Board assists the Commissioner of Labor and Workforce Development (''Commissioner of Labor'') in establishing standards for the occupational safety and health of public employees and receives information regarding matters of concern to public employees in the areas of occupational safety and health.

C. Standards

The PEOSH Act, section 34:6A–30(a) mandates that the Commissioner of Labor adopt all applicable safety and health standards promulgated under the OSH Act, which are in effect on the effective date of the PEOSH Act (January 17, 1984). The New Jersey Plan has adopted all federal OSHA standards since the inception of the OSH Act (N.J.A.C. 12:100) with the exception of Subpart L—Fire Protection, 29 CFR 1910.155 and 1910.156 (N.J.A.C. 12:100–10), and the Hazard Communication Standard, 29 CFR 1910.1200 (N.J.A.C.12:100–7). The New Jersey Plan assures the incorporation of any subsequent revisions or additions to standards in a timely manner, including in response to federal OSHA emergency temporary standards. The procedure for adoption of federal OSHA standards is provided in the New Jersey State Administrative Procedures Act, which requires submission of the standard to the New Jersey Office of Administrative Law and publication of the standard in the New Jersey State Register. Permanent standards adopted by OSHA will be adopted by the Commissioner of Labor within six (6) months from the federal promulgation date (N.J.A.C. 12:100–3A.1).

Public Employees Occupational Safety and Health Advisory Board. Section 34:6A–28 of the PEOSH Act establishes the Advisory Board consisting of the Commissioner of Education, the Commissioner of Health, the Commissioner of Environmental Protection, the Commissioner of Community Affairs, the State Treasurer, or their designees, and 18 members who represent state and local employers and employees, to be appointed by the governor. The Advisory Board has two primary functions: To assist the Commissioner of Labor in establishing standards for the occupational safety and health of public employees, and to receive information regarding matters of concern to public employees in the areas of occupational safety and health.

Under the Plan, the Commissioner of Labor, in consultation with the Commissioner of Health and the Commissioner of Community Affairs, and with the advice of the Advisory Board, on his/her own initiative, can propose additional or alternative occupational safety and health standards if no federal standards are applicable or where standards more stringent than the federal standards are deemed advisable (N.J.S.A. 34:6A–30). The Advisory Board can also, after public hearings, recommend such standards to the Commissioner of Labor. The State Plan provides for the development and consideration of expert technical information in the formulation of standards and allows interested persons to submit information requesting development or promulgation of any standard and to participate in any hearing for the development, modification or establishment of standards. In addition, the State Administrative Procedures Act requires public notice and comment for all proposed rules, and provides opportunity for public participation in related hearings. A notice of proposed rulemaking is published in the New Jersey Register. The notice shall invite comments from interested persons, and other such submissions, in accordance with N.J.A.C. 1:30–1, Rules for Agency Rulemaking. The Plan includes the state safety and health standards regulation, which codifies PEOSH's adoption by reference of all federal OSHA safety and health standards applicable to public employees. New Jersey standards are identical to the federal standards with the following exceptions and additions. The state promulgated and retained N.J.A.C. 12:100 Subchapter 8—Standard for Indoor Firing Ranges for Public Employees, N.J.A.C. 12:100 Subchapter 13—Indoor Air Quality Standard and N.J.A.C. 12:100 Subchapter 10—Standards for Firefighters. On May 3, 2004, New Jersey adopted a hazard communication standard with several additional provisions which are more stringent than OSHA's Hazard Communication Standard. These different or additional state requirements have been reviewed and determined to be ''at least as effective'' as the comparable federal standards.

D. Variances

Section 34:6A–39 of the PEOSH Act, the Administrative Procedure Act (N.J.S.A.52:14B–1 *et seq.*), and N.J.A.C. 12:110 subchapter 6 establish proceedings for the granting of permanent and temporary variances from state standards, which are equivalent to the federal requirements at 29 CFR part 1905. These provisions require employee notification of variance applications and provide for employee participation in hearings held on variance applications. Variances may not be granted unless it is established that adequate protection is afforded employees under the terms of the variance. Under the Plan, all variances granted have only future effect, and temporary variances are available only prior to the effective date of a standard. Temporary variances may not be renewed more than twice, and a renewal may not remain in effect longer than 180 days. The Commissioner of Labor may issue one interim order granting relief pending the hearing on permanent variance. The procedures allow for the modification or revocation of permanent variances at any time at least six months after issuance of the variance.

E. Employee Notice and Discrimination Protection

The Plan provides for notification to employees of their protections and obligations under the Plan by such means as the ''You Have the Right to a Safe and Healthful Workplace. It's the Law!'' poster (which is included in the Plan documents and also available electronically on the PEOSH Web site) and required posting of notices of violations. Section 34:6A–45 of the PEOSH Act provides for protection of employees against discharge or

discrimination resulting from exercise of their rights under the PEOSH Act in terms parallel to section 11(c) of the OSH Act. Complaints must be filed within 180 days after the alleged violation, and the complainant must be notified of the Commissioner of Labor's determination within 90 days of the receipt of the complaint. If the Commissioner of Labor determines that the provisions of Section 34:6A–45 have been violated, an order for all appropriate relief, including rehiring or reinstatement of the employee to his/her former position with back pay and reasonable legal costs will be issued. The notice shall become the Commissioner of Labor's final determination, unless, within 15 days of receipt of the notice, the employer or employee requests a hearing before the Commissioner of Labor or his designee, in which case the Commissioner of Labor shall issue his final determination not more than 45 days after the hearing report is issued.

F. Inspections and Enforcement

The Commissioner of Labor and the Commissioner of Health are charged with making inspections in their jurisdictional areas as specified in the PEOSH Act (N.J.S.A.34:6A–30, 35). The Commissioners may call on the professional staff of other departments whenever they deem their assistance necessary. Inspection and enforcement policies and procedures provided in the Plan are established by the PEOSH Act, 34:6A–35, and the PEOSH FOM. Each Commissioner obtains the right of immediate entry at reasonable hours and without advance notice into any workplace to conduct such investigations as he/she may deem necessary. The authority of each Commissioner to inspect any premises for purposes of investigating an alleged violation under his/her jurisdiction is not limited to the alleged violation but shall extend to any other area of the premises in which he/she has reason to believe that a violation of any provision of the PEOSH Act under his/her jurisdiction exists. The Commissioner of Health shall make his/her inspection records available to the Commissioner of Labor for purposes of enforcement. Any employee, group of employees or employee representative who believes that a violation of a safety standard exists, or that an imminent danger exists, may request an inspection by giving notice to the Commissioner of the violation or danger. Complaints must be filed in writing and signed. Upon the request of the person giving the notice, his/her name or the name of any employee representative giving the notice may be withheld. The appropriate Commissioner shall conduct an appropriate inspection at the earliest time possible. The Plan also includes a prohibition of advance notice of inspections, a mechanism for employees of the employer and their representatives to accompany the inspector during the physical inspections, and opening, informal, and closing conferences. If the Commissioner of Labor, or the Commissioner of Health, concludes that conditions or practices in violation exist in any workplace, the Commissioner of Labor shall, with reasonable promptness, and in no case more than six months after his/her determination or the receipt of the certificate or report, issue a written Order to Comply to the employer (N.J.S.A.34:6A–41(a)).

Significant differences between federal OSHA and PEOSH inspection, enforcement, and discrimination include the following:

1. Penalties. Section 34:6A–41(d) of the PEOSH Act establishes a penalty structure which provides for failure-to-abate penalties of up to $7,000 per day for serious violations and other-than-serious violations. If the time for compliance with an Order of the Commissioner of Labor elapses, and the employer has not made a good faith effort to comply, the Commissioner of Labor shall issue a second Order to Comply imposing a civil administrative penalty of up to $7,000 per day for each violation not abated. If the employer contests the proposed daily penalties, a follow-up inspection shall still be scheduled. If an Order and daily penalties are not to be proposed because of an employer's flagrant disregard of an Order, the Director of PEOSH shall immediately contact the Commissioner of Labor, in writing, detailing the circumstances so that the matter can be referred to the State Attorney General's Office for issuance of a restraining order. Procedures for follow-up inspections are established in the PEOSH FOM Chapter 7, Section XII.

2. Whistleblower (Discrimination). The period fixed in the Plan for filing eligible complaints is 180 days, and the procedure in the Plan for enforcing merit determinations is through Orders to Comply (N.J.S.A 34:6A–45).

G. Compliance Manual

The PEOSH FOM, first issued in April 2009, replaces the New Jersey Field Inspection Reference Manual (FIRM) and is available to the public on the LWD Web site. The New Jersey compliance manual parallels federal OSHA's revised Field Operations Manual, CPL 02–00–150, and incorporates other policies parallel to federal compliance directives and unique state requirements. The PEOSH FOM provides guidance to PEOSH compliance staff concerning general staff responsibilities, pre-inspection procedures (including inspection scheduling and priorities, complaints and other unprogrammed inspections and inspection preparation), inspection procedures (including conduct of the inspection, opening conference, closing conference, physical examination of the workplace, follow-up inspections, fatality/catastrophe investigations, imminent danger investigations, and construction inspections), inspection documentation (including types of violations, violations of the general duty clause, writing citations, and grouping/combining violations), post-inspection procedures (including abatement, citations, penalties, and post-citation processes), discrimination investigation procedures (set forth in more detail in the PEOSH Whistleblower (Discrimination) Investigations Manual, which parallels the relevant portions of federal OSHA's Whistleblower Investigations Manual, CPL 02–03–003), and disclosure of information under the New Jersey Open Public Records Act (N.J.S.A. 47:1A–*et seq.*). New Jersey also uses and has adopted the OSHA Technical Manual (TED 01–00–015), which replaced the former Industrial Hygiene Manual, as guidance for its staff.

H. Review Procedures

Section 34:6A–42 of the PEOSH Act establishes an Occupational Safety and Health Review Commission (''Review Commission'') within LWD to hear appeals regarding Orders to Comply and penalties.

Under the Plan, both public employers and employees may seek formal administrative review of LWD citations and penalties, as well as the reasonableness of the abatement period, before the Review Commission (N.J.S.A. Sections 34:6A–36, 41 and N.J.A.C. 12:110–4.13). The notice of contest must be filed with the Commissioner of Labor within 15 working days of the issuance of an Order to Comply. The Commissioner of Labor must immediately advise the Review Commission of the notification, and the Review Commission will afford an opportunity for a hearing. After hearing an appeal, the Review Commission may sustain, modify or dismiss an Order or penalty, and the Review Commission's decision shall become final 45 days after its issuance (N.J.S.A. 34:6A–42).

I. Judicial Review

Appeals from decisions of the Review Commission are to the Appellate Division of the Superior Court (N.J.S.A. 34:6A–43).

J. Budget and Personnel

The Plan includes the FY 2015 grant application under section 23(g) of the OSH Act, which includes a current organizational chart and detailed information on staffing and funding. The state has given satisfactory assurances of adequate funding to support the Plan. In FY 2015, the State Plan was funded at $1,921,400 in federal section 23(g) funds, $1,921,400 in matching state funds, and $911,664 in 100% state funds, for a total federal and state contribution of $4,754,464. The state has given satisfactory assurance (New Jersey State Plan, p.156) that it will meet the staffing requirements of 29 CFR 1956.10. OSHA considers PEOSH's current staffing and funding levels to be adequate and appropriate.

K. Records and Reports

The Plan provides that state and local government employers in New Jersey will maintain appropriate records and make timely reports on occupational injuries and illnesses in a manner substantially identical to and ''at least as effective as'' that required for private sector employers under federal OSHA. New Jersey participates and has assured that it will continue its participation in the Bureau of Labor Statistics Annual Survey of Injuries and Illnesses in the public sector. The Plan also contains assurances that the Commissioner of Labor will provide reports to OSHA in such form as the Assistant Secretary may require and that New Jersey will continue to participate in the OSHA Information System (OIS). The state adopted federal OSHA's revision of its recordkeeping rules (29 CFR part 1904; 66 FR 5916–6135), January 19, 2001, as well as OSHA's New Reporting Requirements (January 2015).

L. Voluntary Compliance Programs

The state and local government employee consultation program makes available both safety consultants and industrial hygienists to state and local government employers who request such service for the purpose of apprising them of existing hazards and the best means of abatement. The PEOSH consultation program generally follows OSHA's Consultation Policies and Procedures Manual, CSP 02–00–002. The consultation program also provides outreach and training in support of PEOSH's activities. Under the Plan, training is provided to state and local government employers and employees, and seminars are conducted to familiarize affected individuals with applicable safety and health standards and requirements and safe work practices. PEOSH has a variety of public information programs to disseminate information and publications on important safety and health concerns. Policies and procedures for outreach programs, including training, educational and informational services, as well as voluntary compliance programs, are described in the Consultation Policies and Procedures Manual.

IV. Completion of Developmental Steps

With the approval of the revised State Plan in today's action, all developmental steps specified in the January 11, 2001 notice of initial approval of the New Jersey State Plan for State and Local Government Employees, and other relevant steps, have been successfully completed and approved as follows:

A. In accordance with New Jersey development step (a), the State of New Jersey has promulgated standards identical to all federal OSHA standards with the exception of Subpart L—Fire Protection and the Hazard Communication Standard (both include provisions which are more stringent than federal OSHA's). New Jersey has also established state standards on issues for which no federal standards are applicable. The state standards are the Indoor Firing Ranges for Public Employees Standard, and the Indoor Air Quality Standard. These four state-specific standards are approved by the Assistant Secretary in today's notice.

B. In accordance with New Jersey development step (b), New Jersey has promulgated regulations for inspections, citations, and abatement equivalent to 29 CFR part 1903, as supplemented by the PEOSH Act and the PEOSH FOM, all of which are approved by the Assistant Secretary in today's notice.

C. In accordance with New Jersey development step (c), New Jersey has developed a five-year strategic plan which is approved in today's notice.

D. In accordance with New Jersey development step (d), the state has developed a Field Operations Manual which parallels the OSHA Field Operations Manual, CPL 02–00–150, and incorporates other federal compliance policy directives and unique state requirements. The state's Field Operations Manual is approved in today's notice.

E. In accordance with New Jersey development step (e), the state has implemented a state and local government employer/employee consultation, training, and education program equivalent to 29 CFR part 1908 which is approved in today's notice.

F. In accordance with New Jersey development step (f), the state developed and adopted employee non-discrimination procedures equivalent to 29 CFR part 1977 which are approved in today's notice.

G. In accordance with New Jersey development step (g), the State Plan promulgated regulations for granting variances equivalent to 29 CFR part 1905 which are approved in today's notice.

H. In accordance with New Jersey development step (h), the state has promulgated regulations regarding recordkeeping equivalent to 29 CFR 1904, including the new recordkeeping rule, revised on January 1, 2015, which are approved in today's notice.

V. Decision

A. Approval of Plan Supplements

After careful review, opportunity for state correction, and subsequent revision, the plan supplements constituting a revised New Jersey State Plan for State and Local Government Employees and its components described above are found to be in substantial conformance with comparable federal provisions and the requirements of 29 CFR part 1956 and are hereby approved under 29 CFR part 1953 as providing a revised State Plan for the development and enforcement of standards which is ''at least as effective as'' the federal program, as required by section 18 of the OSH Act and 29 CFR part 1956. The right to reconsider this approval of the revised State Plan supplements is reserved should substantial objections or other information become available to the Assistant Secretary regarding any components of the Plan changes.

B. Certification

With the approval of a revised State Plan as noted above, all developmental steps have now been successfully completed, documented, and approved. In accordance with 29 CFR 1956.23, the New Jersey State Plan for State and Local Government Employees is certified as having successfully completed all developmental steps. This certification attests to the structural completeness of the State Plan and that it has all the necessary authorities and procedures to provide ''at least as effective'' standards, enforcement, and compliance assistance to the employees of the State of New Jersey and its

political subdivisions. This action renders no judgment as to the effectiveness of the State Plan in actual operations.

VI. Location of Basic State Plan Documentation

Copies of the revised New Jersey State Plan for State and Local Government Employees are available on the State Plan's Web site or upon request. Contact the Regional Administrator, U.S. Department of Labor, Occupational Safety and Health Administration, 201 Varick Street, Room 670, New York, New York 10014; or the New Jersey Public Employee Occupational Safety and Health Program, 1 John Fitch Plaza, P.O. Box 386, Trenton, NJ 08625–0386.

Components of the New Jersey State Plan, including the Field Operation Manual, recordkeeping regulations and instructions, complaint forms, and other program information are posted on the New Jersey Department of Labor & Workforce Development, Public Employee Occupational Safety and Health Web site at: *http://www.state.nj.us/health/peosh/.*

The PEOSH Act is administered by two departments: the New Jersey Department of Health enforces health regulations in the workplace; and the New Jersey Department of Labor & Workforce Development enforces safety regulations in the workplace. To obtain information, visit the NJDLWD PEOSH Program Web site at: *http://lwd.dol.state.nj.us/labor/lsse/safety health_index.html* or call (609) 633–3896.

Information on PEOSH laws and regulations can be found on the New Jersey Web site at: *http://lwd.dol.state.nj.us/labor/lsse/laws/peosha_law.html.*

Information on the New Jersey Department of Labor and Workforce Development, Office of Administrative Law and Review Commission can be found on the New Jersey Labor and Workforce Development Web site at: *http://lwd.dol.state.nj.us/.* The state Administrative Procedures Act can be found on the Governor's Web site at: *http://www.nj.gov/governor/.*

Electronic copies of this **Federal Register** notice and the related press release are available on OSHA's Web site at: *http://www.osha.gov.* More information on the New Jersey State Plan can be found on OSHA's Office of State Programs Web site at: *http://www.osha.gov/dcsp/osp/stateprogs/new_jersey.html.*

Authority and Signature

This document was prepared under the direction of David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health. It is issued under section 18 of the Occupational Safety and Health Act of 1970, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR part 1956; and Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012).

Signed in Washington, DC, on January 19, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–01286 Filed 1–21–16; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0028]

MET Laboratories, Inc.: Application for Expansion of Recognition and Modification to the List of Appropriate NRTL Program Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of MET Laboratories, Inc. for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant the application. Additionally, OSHA proposes to add three new test standards to the NRTL Program's list of appropriate test standards.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before February 8, 2016.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2006–0028, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2006–0028). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before February 8, 2016 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and

Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

The Occupational Safety and Health Administration is providing notice that MET Laboratories, Inc. (MET), is applying for expansion of its current recognition as an NRTL. MET requests the addition of five test standards to its NRTL scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by an NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL, including MET, which details the NRTL's scope of recognition. These pages are available from the OSHA Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

MET currently has one facility (site) recognized by OSHA for product testing and certification, with its headquarters located at: MET Laboratories, Inc., 914 West Patapsco Avenue, Baltimore, Maryland 21230. A complete list of MET's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/met.html.*

II. General Background on the Application

MET submitted five applications, two dated April 6, 2015 (OSHA–2006–0028–0020) and three dated May 29, 2015 (OSHA–2006–0028–0021), to expand its recognition to include five additional test standards. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 below lists the appropriate test standards found in MET's applications for expansion for testing and certification of products under the NRTL Program. As discussed below, OSHA is proposing to add three of these test standards to the appropriate test standard list by this notice.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN MET'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 2738	Standard for Induction Power Transmitters and Receivers for Use with Low Energy Products.
UL 8750	Standard for Light Emitting Diode (LED) Equipment for Use in Lighting Products.
UL 8752 *	Organic Light Emitting Diode (LED) Panels.
UL 2735 *	Standard for Electric Utility Meters.
UL 2594 *	Standard for Electric Vehicle Supply Equipment.

* Represents a new standard that OSHA is proposing to add to the NRTL Program's List of Appropriate Test Standards.

III. Proposal To Add New Test Standards to the NRTL Program's List of Appropriate Test Standards

Periodically, OSHA will propose to add new test standards to the NRTL list of appropriate test standards following an evaluation of the test standard document. To qualify as an appropriate test standard, the Agency evaluates the document to (1) verify it represents a product category for which OSHA requires certification by an NRTL, (2) verify the document represents an end product and not a component, and (3) verify the document defines safety test specifications (not installation or operational performance specifications).

In this notice, OSHA proposes to add three new test standards to the NRTL Program's list of appropriate test standards. Table 2, below, lists the test standards new to the NRTL Program. OSHA preliminarily determined that these test standards are appropriate test standards and proposes to include these test standards in the NRTL Program's list of appropriate test standards. OSHA seeks public comment on this preliminary determination.

TABLE 2—TEST STANDARDS OSHA IS PROPOSING TO ADD TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 2735	Standard for Electric Utility Meters.
UL 2594	Standard for Electric Vehicle Supply Equipment.
UL 8752	Organic Light Emitting Diode (LED) Panels.

IV. Preliminary Findings on MET's Application

MET submitted acceptable applications for expansion of its scope of recognition. OSHA's review of the application files and pertinent documentation indicate that MET can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of these five test standards for NRTL testing and certification listed above.

This preliminary finding does not constitute an interim or temporary approval of MET's application.

OSHA welcomes public comment as to whether MET meets the requirements of 29 CFR 1910.7 for expansion of its recognition as an NRTL.

Comments submitted in response to this notice should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2006–0028.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary for Occupational Safety and Health whether to grant MET's application for expansion of its scope of recognition and to add the new test standards to the NRTL Program's List of Appropriate Test Standards. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of its final decision in the **Federal Register**.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on January 19, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–01289 Filed 1–21–16; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0046]

QPS Evaluation Services Inc.: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of QPS Evaluation Services Inc. for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before February 8, 2016.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2010–0046, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2010–0046). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before February 8, 2016 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *Meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

The Occupational Safety and Health Administration is providing notice that QPS Evaluation Services Inc. (QPS), is applying for expansion of its current recognition as an NRTL. QPS requests the addition of one test standard to its NRTL scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard, and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by an NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL, including QPS, which details the NRTL's scope of recognition. These pages are available from the OSHA Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

QPS currently has one facility (site) recognized by OSHA for product testing and certification, with its headquarters located at: QPS Evaluation Services, Inc. 81 Kelfield Street, Unit 8, Toronto, Ontario, M9W 5A3, Canada. A complete list of QPS's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/qps.html.*

II. General Background on the Application

QPS submitted an application, dated July 28, 2014 (OSHA–2010–0046–0005), to expand its recognition to include one additional test standard. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA performed an on-site review in relation to this application on July 16–17, 2015.

Table 1 below lists the appropriate test standard found in QPS's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED APPROPRIATE TEST STANDARD FOR INCLUSION IN QPS'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
ANSI/AAMI ES 60601–1: 2005/(R)2012.	Medical Electrical Equipment—Part 1: General Requirements for Basic Safety and Essential Performance.

III. Preliminary Findings on the Application

QPS submitted an acceptable application for expansion of its scope of recognition. OSHA's review of the application file, and pertinent documentation, indicate that QPS can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of this one test standard for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of QPS's application.

OSHA welcomes public comment as to whether QPS meets the requirements of 29 CFR 1910.7 for expansion of its recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2010–0046.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary for Occupational Safety and Health whether to grant QPS's application for expansion of its scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of its final decision in the **Federal Register**.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on January 19, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–01284 Filed 1–21–16; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0043]

TUV SUD America, Inc.: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of TUV SUD America, Inc. for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before February 8, 2016.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2007–0043, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2007–0043). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before February 8, 2016 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

The Occupational Safety and Health Administration is providing notice that TUV SUD America, Inc. (TUVAM), is applying for expansion of its current recognition as an NRTL. TUVAM requests the addition of one test standard to its NRTL scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by an NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL, including TUVAM, which details the NRTL's scope of recognition. These pages are available from the OSHA Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

TUVAM currently has three facilities (sites) recognized by OSHA for product testing and certification, with its headquarters located at: TUV SUD America, Inc., 10 Centennial Drive, Peabody, MA 01960. A complete list of TUVAM's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/tuvam.html.*

II. General Background on the Application

TUVAM submitted an application, dated August 10, 2015 (Exhibit 15–1, Application for One Test Standard Expansion, OSHA–2007–0043), to expand its recognition to include one additional test standard. OSHA staff performed detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 below lists the appropriate test standard found in TUVAM's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED APPROPRIATE TEST STANDARD FOR INCLUSION IN TUVAM'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 62368–1	Audio/Video, information and communication technology equipment—Part 1: Safety Requirements.

III. Preliminary Findings on the Application

TUVAM submitted an acceptable application for expansion of its scope of recognition. OSHA's review of the application file indicates that TUVAM can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of this one test standard for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of TUVAM's application.

OSHA welcomes public comment as to whether TUVAM meets the requirements of 29 CFR 1910.7 for expansion of its recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2007–0043.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary for Occupational Safety and Health whether to grant TUVAM's application for expansion of its scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of its final decision in the **Federal Register**.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on January 19, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–01288 Filed 1–21–16; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2016–0001]

National Advisory Committee on Occupational Safety and Health (NACOSH); Request for Nominations

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for nominations to serve on NACOSH.

SUMMARY: The Assistant Secretary of Labor for Occupational Safety and Health requests nominations for membership on NACOSH.

DATES: Nominations for NACOSH must be submitted (postmarked, sent or received) by March 22, 2016.

ADDRESSES: You may submit nominations for NACOSH, which must include the docket number for this **Federal Register** notice (Docket No. OSHA–2016–0001), by one of the following methods:

Electronically: You may submit nominations, including attachments, electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the online instructions for making submissions.

Facsimile: If your nomination, including attachments, does not exceed 10 pages, you may fax it to the OSHA Docket Office at (202) 693–1648.

Regular mail, express delivery, hand delivery, messenger/courier service (hard copy): You may submit your materials to the OSHA Docket Office, Docket No. OSHA–2016–0001, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2350 (TTY (887) 889–5627). OSHA's Docket Office accepts deliveries (hand deliveries, express mail, and messenger/courier service) during normal business hours, 8:15 a.m. to 4:45 p.m. e.t., weekdays.

FOR FURTHER INFORMATION CONTACT: *For press inquiries:* Mr. Francis Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, Room N–3647, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1999 (TTY (877) 889–5627); email *meilinger.francis2@dol.gov.*

For general information: Ms. Michelle Walker, Director, OSHA Technical Data Center, Directorate of Technical Support and Emergency Management, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington DC 20210; telephone (202) 693–2350 (TTY (877) 889–5627); email *walker.michelle@dol.gov.*

SUPPLEMENTARY INFORMATION: The Assistant Secretary of Labor for Occupational Safety and Health invites interested individuals to submit nominations for membership on NACOSH.

NACOSH was established by Section 7(a) of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651, 656) to advise, consult with and make recommendations to the Secretary of Labor (Secretary) and the Secretary of Health and Human Services (HHS Secretary) on matters relating to the administration of the OSH Act. NACOSH is a continuing advisory committee of indefinite duration.

NACOSH operates in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2), its implementing regulations (41 CFR part 102–3), and OSHA's regulations on NACOSH (29 CFR part 1912a).

NACOSH is comprised of 12 members, all of whom the Secretary appoints. The terms of six NACOSH members expire on December 31, 2016. OSHA invites nominations for the following NACOSH positions:

- Two public representatives;
- One management representative;
- One labor representative;
- One occupational safety professional representative; and
- One occupational health professional representative.

Pursuant to 29 CFR 1912a.2, the HHS Secretary designates the two occupational health professional representatives and two of the four public representatives for the Secretary's consideration and appointment. OSHA will provide to HHS all nominations and supporting materials for the membership categories the HHS Secretary designates.

NACOSH members serve two-year staggered terms, unless the member becomes unable to serve, resigns, ceases to be qualified to serve, or is removed by the Secretary. The Secretary may appoint NACOSH members to successive terms. The Committee must meet at least two times a year (29 U.S.C. 656(a)(1)).

Any interested person or organization may nominate one or more qualified persons for membership on NACOSH. Nominations must include the nominee's name, occupation or current position, and contact information. The nomination also must identify the category that the candidate is qualified to represent, and include a resume of the nominee's background, experience, and qualifications. In addition, the nomination must state that the nominee is aware of the nomination, and is willing to serve and regularly attend NACOSH meetings.

The Secretary will appoint NACOSH members on the basis of their experience and competence in the field of occupational safety and health (29 CFR 1912a.2). The information OSHA receives through this nomination process, in addition to other relevant sources of information, will assist the Secretary in appointing members to serve on NACOSH. In appointing NACOSH members, the Secretary will consider individuals nominated in response to this **Federal Register** notice, as well as other qualified individuals.

The U.S. Department of Labor (Department) is committed to equal opportunity in the workplace and seeks a broad-based and diverse NACOSH membership. The Department will conduct a public records check of nominees before their appointment using publicly available sources.

Public Participation, Submissions and Access to Public Record

You may submit nominations using one of the methods listed in the **ADDRESSES** section. Your submission must include the Agency name and docket number for this **Federal Register** notice (Docket No. OSHA–2016–0001). Due to security-related procedures, receipt of submissions by regular mail may experience significant delay. Please contact the OSHA Docket Office for information about security procedures for making submissions by hand delivery, express delivery, or messenger/courier service.

OSHA posts submissions, including any personal information you provide, in the NACOSH docket, without change. Those documents also may be available online at *http://www.regulations.gov.* Therefore, OSHA cautions interested parties about submitting personal information, such as Social Security numbers and birthdates. To read or download documents in the NACOSH docket, go to Docket No. OSHA–2016–0001 at *http://www.regulations.gov.* The index for that Web page lists all of the documents in the docket; however, some documents (*e.g.,* copyrighted materials) are not publicly available through that Web page.

All documents in the NACOSH docket, including materials not available through *http://www.regulations.gov,* are available in the OSHA Docket Office. Please contact the OSHA Docket Office for assistance in making submissions to, or obtaining materials from, the NACOSH docket.

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, also are available at OSHA's Web page at *http://www.osha.gov.*

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by 29 U.S.C. 656, 5 U.S.C. App. 2; 29 CFR part 1912a; 41 CFR part 102–3; and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on January 19, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–01281 Filed 1–21–16; 8:45 am]

BILLING CODE 4510–26–P

LEGAL SERVICES CORPORATION

Assessing the Goals in the Strategic Plan 2012–2016; Request for Comments

AGENCY: Legal Services Corporation.

ACTION: Request for comments.

SUMMARY: The Legal Services Corporation (''LSC'') Board of Directors (''Board'') is in the process of updating LSC's strategic plan for the years 2017–2020. The LSC Board is soliciting comments on the current LSC Strategic Plan 2012–2016 and whether the current goals remain suitable and timely and if new goals should be implemented.

DATES: All comments and recommendations must be received on or before the close of business on February 29, 2016.

ADDRESSES: You may submit comments by any of the following methods:

Agency Web site: http://www.lsc.gov/contact-us. Follow the instructions for submitting comments on this Notice under ''Matters for Comment'' on the Web site.

Email: LSCStrategicPlan@lsc.gov. Include ''2012–2016 Strategic Plan Goals'' in the subject line of the message.

Fax: (202) 337–6813.

Mail: Legal Services Corporation, 3333 K Street NW., Washington, DC 20007.

Instructions: All comments should be addressed to Rebecca Fertig Cohen, Chief of Staff, Legal Services Corporation. Include ''2012–2016 Strategic Plan Goals'' as the heading or subject line for all comments submitted.

FOR FURTHER INFORMATION CONTACT: Rebecca Fertig Cohen, *cohenr@lsc.gov,* (202) 295–1576.

SUPPLEMENTARY INFORMATION: As an entity created and funded by Congress, LSC has a duty to the American people to pursue its fundamental mission of equal access to justice. With this primary goal in mind, the LSC Board adopted a plan in 2012 setting forth the strategic goals that would guide LSC for five years, ending in 2016. The LSC Board is now in the process of updating and revising the strategic plan for an additional four year period. As part of this process, the LSC Board is seeking input from the public and interested stakeholders on whether the goals articulated in the current LSC strategic plan for 2012–2016, which is available at *http://www.lsc.gov/sites/default/files/LSC/lscgov4/LSC_Strategic_Plan_2012-2016-Adopted_Oct_2012.pdf,* are still suitable and timely and whether new goals, if any, should be considered. A summary of the goals follows.

The first and primary goal listed in the LSC strategic plan for 2012–2016 is to maximize the availability, quality, and effectiveness of the civil legal services that LSC's grantees provide to eligible low-income individuals. LSC identifies three avenues through which it can best accomplish this goal: (1) Identifying and replicating best practices associated with delivering high quality civil legal assistance to the poor by its grantees; (2) promoting the development and implementation of technologies that maximize the availability of legal information and assistance; and (3) expanding the availability of civil legal assistance through the most effective use of pro bono services and other private resources by LSC's grantees.

The second goal listed in the LSC strategic plan for 2012–2016 is to become a leading voice for civil legal services for poor Americans by providing national leadership and opportunities for collaboration with others committed to promoting civil legal services, including other funders of legal aid, governmental agencies, and judicial systems throughout the country.

The third and final goal listed in the LSC strategic plan for 2012–2016 is to achieve the highest standards of fiscal responsibility both for itself and its grantees. As a steward of congressional funds collected from the American taxpayer, LSC has a duty to be a prudent with the use of the resources allocated to it. LSC's goal is to comply with the parameters expressed by Congress and conform to the highest professional standards of fiscal transparency and accountability, both within the Corporation and in its fiscal oversight of those who receive funds from LSC.

Dated: January 15, 2016.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2016–01221 Filed 1–21–16; 8:45 am]

BILLING CODE 7050–01–P

MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION

Sunshine Act Meetings

TIME AND DATE: Electronic meeting of the Board of Trustees to be held via telephone, 10:00 a.m. to 12:00 p.m. (PST-Pacific Standard Time), Wednesday, February 10, 2016.

PLACE: Board of Trustees Meeting held via telephone.

STATUS: This special meeting of the Board of Trustees, to be held Electronically (in accordance with the Operating Procedures of the Udall Foundation's Board of Trustees), will be open to the public, unless it is necessary for the Board to consider items in executive session. Members of the public who would like to participate in the open session of this special meeting of the Board of Trustees should email Stephanie Zimmt-Mack, General Counsel, Morris K. Udall and Stewart L. Udall Foundation, at *zimmt-mack@udall.gov.*

MATTERS TO BE CONSIDERED: (1) Officers of the Board and (2) Internal Personnel Matters.

PORTIONS OPEN TO THE PUBLIC: All agenda items except as noted below.

PORTIONS CLOSED TO THE PUBLIC: Executive Session to Discuss Internal Personnel Matters.

CONTACT PERSON FOR MORE INFORMATION: Stephanie Zimmt-Mack, General Counsel, 130 South Scott Avenue, Tucson, AZ 85701, (520) 901–8500.

Dated: January 15, 2016.

Elizabeth E. Monroe,

Executive Assistant, Morris K. Udall and Stewart L. Udall Foundation, and Federal Register Liaison Officer.

[FR Doc. 2016–01333 Filed 1–20–16; 11:15 am]

BILLING CODE 6820–FN–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2016–013]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide agencies with mandatory instructions for what to do with records when agencies no longer need them for current Government business. The instructions authorize agencies to preserve records of continuing value in the National Archives of the United States and to destroy, after a specified period, records lacking administrative, legal, research, or other value. NARA publishes notice in the **Federal Register** for records schedules in which agencies propose to destroy records not previously authorized for disposal or to reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: NARA must receive requests for copies in writing by February 22, 2016. Once NARA appraises the records, we will send you a copy of the schedule you requested. We usually prepare appraisal memoranda that contain additional information concerning the records covered by a proposed schedule. You may also request these. If you do, we will also provide them once we have completed the appraisal. You have 30 days after we send you these requested documents in which to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Management Services (ACNR) using one of the following means:

Mail: NARA (ACNR); 8601 Adelphi Road, College Park, MD 20740–6001.

Email: request.schedule@nara.gov.

FAX: 301–837–3698.

You must cite the control number, which appears in parentheses after the name of the agency that submitted the schedule, and a mailing address. If you would like an appraisal report, please include that in your request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, by mail at Records Management Services (ACNR); National Archives and Records Administration; 8601 Adelphi Road, College Park, MD 20740–6001, by phone at 301–837–1799, or by email at *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year, Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. These schedules provide for timely transfer into the National Archives of historically valuable records and authorize disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media-neutral unless otherwise specified. An item in a schedule is media-neutral when an agency may apply the disposition instructions to records regardless of the medium in which it has created or maintains the records. Items included in schedules submitted to NARA on or after December 17, 2007, are media-neutral unless the item is specifically limited to a specific medium. (See 36 CFR 1225.12(e).)

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value.

In addition to identifying the Federal agencies and any subdivisions requesting disposition authority, lists the organizational unit(s) accumulating

the records or lists that the schedule has agency-wide applicability (in the case of schedules that cover records that may be accumulated throughout an agency); provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction); and includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it also includes information about the records. You may request additional information about the disposition process at the addresses above.

Schedules Pending

1. Department of Defense, National Geospatial-Intelligence Agency (DAA–0537–2015–0001, 1 item, 1 temporary item). Records include employee financial disclosure forms.

2. Department of Health and Human Services, Indian Health Service (DAA–0513–2016–0001, 1 item, 1 temporary item). Self-governance records to include case files relating to contract agreements allowing Indian Tribes to assume control of programs previously administered by the Federal government.

3. Department of Homeland Security, United States Citizenship and Immigration Services (DAA–0566–2015–0003, 6 items, 6 temporary items). Application, supporting materials, and annual updates for designation as an entity that may sponsor job-creating commercial enterprises that immigrant investors may finance.

4. Department of Homeland Security, Transportation Security Administration (DAA–0560–2014–0002, 3 items, 3 temporary items). Security personnel deployment records to include requests, a tracking database, and performance reports.

5. Department of Justice, Bureau of Prisons (DAA–0129–2015–0003, 1 item, 1 temporary item). Files of escaped inmates who are never recaptured.

6. Department of the Navy, United States Marine Corps (DAA–0127–2015–0009, 1 item, 1 temporary item). Master files of an electronic information system used to manage and disseminate digitized still pictures and video imagery for commands in the field.

7. Department of State, Bureau of Diplomatic Security (DAA–0059–2015–0008, 17 items, 16 temporary items). Records of the High Threat Programs Directorate, including program and agreement files, and routine case files. Proposed for permanent retention are high profile case files related to international incidents.

8. Department of Transportation, National Highway Traffic Safety Administration (DAA–0416–2012–0007, 1 item, 1 temporary item). Master files of an electronic information system tracking the status of state traffic safety projects.

9. Department of Transportation, Surface Transportation Board (DAA–0134–2013–0019, 1 item, 1 temporary item). Records relating to rail line abandonments.

10. Environmental Protection Agency, Agency-wide (DAA–0412–2013–0017, 6 items, 5 temporary items). Compliance and enforcement records including administrative hearing and judicial action case files, incomplete investigation files, legal opinions not related to mission activities, correspondence, and related materials. Proposed for permanent retention are significant compliance and enforcement records including landmark cases concerning environmental laws.

11. Environmental Protection Agency, Agency-wide (DAA–0412–2015–0004, 2 items, 1 temporary item). Chemical Information System records relating to import and export certifications, and related correspondence. Proposed for permanent retention are records about chemicals subject to regulation and actions taken on industry submissions relating to their manufacture and use.

12. Federal Communications Commission, Wireline Competition Bureau (DAA–0173–2016–0005, 2 items, 2 temporary items). Master files of an electronic information system containing information on nationwide study area boundaries of incumbent local exchange carriers for voice and broadband service, and summarized data posted to the agency Web site.

13. National Aeronautics and Space Administration, Agency-wide (DAA–0255–2015–0002, 2 items, 2 temporary items). Education awards activity records including applications, proposals, letters of recommendation, and criteria for significant and non-significant awards.

14. Peace Corps, Office of Volunteer Recruitment and Selection (DAA–0490–2014–0004, 6 items, 4 temporary items). Records of the Office of University and Domestic Partnerships, including routine working files, newsletters, and photographs. Proposed for permanent retention are founding and policy documents for educational opportunity programs for volunteers.

Dated: January 12, 2016.

Margaret Hawkins,

Director, Records Appraisal and Agency Assistance.

[FR Doc. 2016–01269 Filed 1–21–16; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of a Matter To Be Added to the Agenda for Consideration at an Agency Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: January 19, 2016 (81 FR 2915).

TIME AND DATE: 11:45 a.m., Thursday, January 21, 2016.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA, 22314–3428.

STATUS: Closed.

Pursuant to the provisions of the ''Government in Sunshine Act'' notice is hereby given that the NCUA Board gave previous notice of the regular meeting of the NCUA Board scheduled for January 21, 2016. Prior to the meeting, on January 20, 2016, with less than seven days' notice to the public, the NCUA Board unanimously determined that agency business required changing the previously announced closed meeting time from 11:45 a.m. to 9:00 a.m. No earlier notice of the change was possible.

REVISED TIME: 9:00 a.m., Thursday, January 21, 2016.

FOR FURTHER INFORMATION CONTACT: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2016–01347 Filed 1–20–16; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Federal Council on the Arts and the Humanities Arts and Artifacts Indemnity Panel Advisory Committee

AGENCY: National Endowment for the Humanities, National Foundation on the Arts and the Humanities.

ACTION: Notice of Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given that the Federal Council

on the Arts and the Humanities will hold a meeting of the Arts and Artifacts Domestic Indemnity Panel.

DATES: The meeting will be held on Tuesday, February 9, 2016, from 2:00 p.m. to 5:00 p.m.

ADDRESSES: The meeting will be held by teleconference originating at the National Endowment for the Arts, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Lisette Voyatzis, Committee Management Officer, 400 7th Street SW., Room 4060, Washington, DC 20506, (202) 606–8322; *evoyatzis@neh.gov.* Hearing-impaired individuals who prefer to contact us by phone may use NEH's TDD terminal at (202) 606–8282.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is for panel review, discussion, evaluation, and recommendation on applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities, for exhibitions beginning on or after April 1, 2016. Because the meeting will consider proprietary financial and commercial data provided in confidence by indemnity applicants, and material that is likely to disclose trade secrets or other privileged or confidential information, and because it is important to keep the values of objects to be indemnified, and the methods of transportation and security measures confidential, I have determined that that the meeting will be closed to the public pursuant to subsection (c)(4) of section 552b of Title 5, United States Code. I have made this determination under the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated July 19, 1993.

Dated: January 19, 2016.

Elizabeth Voyatzis,

Committee Management Officer.

[FR Doc. 2016–01238 Filed 1–21–16; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Ocean Sciences; 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: Proposal Review Panel for Ocean Sciences (#10752)—Site Visit

DATE AND TIME: February 8, 2016; 6:00 p.m.–9:00 p.m.
February 9, 2016; 7:00 a.m.–9:00 p.m.
February 10, 2016; 7:00 a.m.–4:00 p.m.

PLACE: University of Southern California, Los Angeles, CA.

TYPE OF MEETING: Partially Open.

CONTACT PERSON: David Garrison, Division of Ocean Sciences, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone (703) 292–7588

PURPOSE OF MEETING: Review the Center for Dark Biosphere Investigations (C–DEBI) Science and Technology Center.

AGENDA: Review the C–DEBI Research Accomplishments and Organizational Structure & Partner Involvement to Achieve Center Goals; Planning & Decision-Making; past accomplishments and future plans.

C–DEBI 2016 Site Visit Agenda

8 February: Arrivals and Briefing

6:00 p.m.–9:00 p.m.: Review Team Meets (CLOSED SESSION)

9 February: Presentations at Radisson Hotel (OPEN SESSIONS UNLESS OTHERWISE NOTED)

7:00 a.m.–8:00 a.m.: Arrival and Continental Breakfast
8:00 a.m.–9:00 a.m.: Center Overview (Jan Amend)
9:00 a.m.–10:00 a.m.: Education, Outreach, and Diversity (Stephanie Schroeder, Steve Finkel)
10:00 a.m.–10:30 a.m.: Coffee Break
10:30 a.m.–11:00 a.m.: Data Management and Integration (John Heidelberg)
11:00 a.m.–11:30 a.m.: Interactive Discussion with Review Team
11:30 a.m.–12:00 p.m.: Review Team Executive Session (CLOSED SESSION)
12:00 p.m.–1:30 p.m.: Lunch–Review Team Discussion with Students/Postdocs
1:30 p.m.–1:45 p.m.: EAB Report (Susan Humphris)
1:45 p.m.–2:00 p.m.: Field-based Research (Beth Orcutt)
2:00 p.m.–2:15 p.m.: Lab-based Research (Victoria Orphan)
2:15 p.m.–2:30 p.m.: Modeling-based Research (Andy Fisher)
2:30 p.m.–3:00 p.m.: Summary and Q&A (Julie Huber et al.)
3:00 p.m.–3:30 p.m.: Review Team Executive Session (CLOSED SESSION)
3:30 p.m.–5:00 p.m.: Poster Session
5:00 p.m.–6:00 p.m.: Interactive Discussion with Review Team
6:00 p.m.–6:30 p.m.: Review Team Executive Session (CLOSED SESSION)
6:30 p.m.: Feedback Provided to PIs
7:00 p.m.–9:00 p.m.: Review Team Working Dinner (CLOSED SESSION)

10 February: CLOSED SESSIONS

7:00 a.m.–8:00 a.m.: Arrival and Continental Breakfast
8:00 a.m.–9:00 a.m.: Review Team Meets with Institution Administrators and Investigators Only
9:00 a.m.–10:00 a.m.: C–DEBI Response to Feedback
10:00 a.m.–4:00 p.m.: Review Team Prepares Report (Working Lunch)
4:00 p.m.: Departures

REASON FOR CLOSING: During closed sessions the review will include information of a confidential or proprietary nature, including technical and financial information; and information on personnel. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: January 19, 2016

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2016–01271 Filed 1–21–16; 8:45 am]

BILLING CODE 7555–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2016–95; Order No. 3034]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an additional Global Expedited Package Services 3 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* January 25, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

On January 14, 2016, the Postal Service filed notice that it has entered into an additional Global Expedited

Package Services 3 (GEPS 3) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2016–95 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than January 25, 2016. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Katalin K. Clendenin to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2016–95 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than January 25, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2016–01218 Filed 1–21–16; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2016–94; Order No. 3031]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an additional Global Expedited Package Services 3 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* January 25, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

On January 14, 2016, the Postal Service filed notice that it has entered into an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2016–94 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than January 25, 2016. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Kenneth R. Moeller to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2016–94 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than January 25, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2016–01179 Filed 1–21–16; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2016–96; Order No. 3032]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an additional Global Expedited Package Services 3 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* January 25, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

On January 14, 2016, the Postal Service filed notice that it has entered into an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision

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[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, January 14, 2016 (Notice).

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, January 14, 2016 (Notice).

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, January 14, 2016 (Notice).

authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2016–96 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than January 25, 2016. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2016–96 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Curtis E. Kidd is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than January 25, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2016–01180 Filed 1–21–16; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2016–97; Order No. 3035]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an additional Global Reseller Expedited Package Services 2 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* January 26, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

On January 15, 2016, the Postal Service filed notice that it has entered into an additional Global Reseller Expedited Package Services 2 (GREPS 2) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2016–97 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than January 26, 2016. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Christopher C. Mohr to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2016–97 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Christopher C. Mohr is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than January 26, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–01280 Filed 1–21–16; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement, January 15, 2016 (Notice).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76923; File No. SR–CBOE–2016–002)

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

January 15, 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 January 4, 2016, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to make a number of changes to its Fees Schedule, effective January 4, 2016.

Market-Maker Affiliate Volume Plan

The Exchange proposes to adopt the Market-Maker Affiliate Volume Plan (''AVP''). Specifically, under AVP, if a Trading Permit Holder (''TPH'') Affiliate [3] of a Market-Maker (including a Designated Primary Market-Maker (''DPM'') or Lead Market-Maker (''LMM'')) qualifies under the Volume Incentive Program (''VIP''), that Market-Maker will also qualify for a discount on that Market-Maker's Liquidity Provider Sliding Scale (''Sliding Scale'') transaction fees. By way background [sic], under VIP, the Exchange credits each Trading Permit Holder the per contract amount set forth in the VIP table resulting from each public customer (''C'' origin code) order transmitted by that TPH (with certain exceptions) which is executed electronically on the Exchange in all underlying symbols excluding Underlying Symbol List A, DJX, XSP, XSPAM, credit default options, credit default basket options and mini-options, provided the TPH meets certain volume thresholds in a month.[4] Currently, VIP consists of four (4) tiers with the following thresholds; 0%–0.75%, above 0.75%–1.50%, above 1.50%–3.00% and above 3%. The Exchange proposes to provide that if a Market-Maker's Affiliate reaches Tier 2, Tier 3 or Tier 4 of VIP, that Market-Maker will receive a discount on their Sliding Scale Market-Maker transaction fees of 10%, 15% or 20%, respectively.[5] Below is a table demonstrating the proposed program.

Tier	VIP Thresholds	AVP Transaction fee discount (%)
1	0.00%–0.75%	0
2	Above 0.75%–1.50%.	10
3	Above 1.50%–3.00%.	15
4	Above 3.00%	20

The Exchange believes AVP will incentivize the routing of orders to CBOE by TPHs that have both Market-Maker and agency operations, as well as incent Market-Makers to tighten market widths due to the reduced costs the incentives will provide. The Exchange notes that in the options industry, many options orders are routed by consolidators, which are firms that have both order router and Market-Maker operations. The Exchange is aware not only of the importance of providing credits on the order routing side in order to encourage the submission of orders, but also of the operations costs on the Market-Maker side. The Exchange believes AVP allows the Exchange to provide further relief to the Market-Maker side via the discount. Additionally, the Exchange believes AVP will attract more volume and liquidity to the Exchange, which will benefit all Exchange participants through increased opportunities to trade as well as enhancing price discovery.

Market-Maker Trading Permit Credits

Currently, Footnote 24 provides that if a Market-Maker or its affiliate receive a credit under VIP, that Market-Maker will receive a credit on its Market-Maker Trading Permit fees corresponding to the VIP tier reached (10% Market-Maker Trading Permit fee credit for reaching Tier 2 of the VIP, 20% Market-Maker Trading Permit fee credit for reaching Tier 3 of the VIP, and 30% Market-Maker Trading Permit fee credit for reaching Tier 4 of the VIP) (''Access Credit''). This credit does not apply to Market-Maker Trading Permits used for appointments in SPX, SPXpm, VIX, OEX and XEO. The Exchange proposes to make certain amendments to Footnote 24.

First, the Exchange proposes to clarify that a Market-Maker will receive an Access Credit if its Affiliate, not the Market-Maker itself, reaches certain VIP tiers (*i.e.,* eliminate ''or its'' from ''If a Market-Maker or its Affiliate . . .'' [sic] As noted above, VIP credits are limited to TPHs executing customer orders. As such, Market-Maker orders would not be eligible to count towards the qualifying tiers or receive VIP credits. The Exchange believes the proposed change clarifies this point and alleviates potential confusion. The Exchange notes no substantive changes are being made by this clarification.

Next, the Exchange proposes to exclude from the Access Credit, Market-Maker Trading Permits used for appointments in the Russell 2000 Index (''RUT''). The Exchange notes that the proposed exclusion is similar to the exclusion of other proprietary and exclusive products. The Exchange notes the Exchange's proprietary, exclusively-listed products are often collectively excluded from certain programs, including the Access Credit, because the Exchange has expended considerable resources developing and maintaining those products and therefore desires not to give a credit related to those products in order to recoup those expenditures. Similar to the products currently excluded from the Access Credit, RUT is no longer listed on any other exchange (other than C2). As such, the Exchange proposes to exclude Market-Maker Trading Permits used for RUT appointments from the Access Credit.

The Exchange also proposes to incorporate the description of the Access Credit within a single Affiliate Volume Plan table, as both the Access Credit and discount on Market-Maker fees under AVP are based upon a Market-Maker Affiliate reaching certain tiers within VIP. The Exchange believes the proposed table alleviates potential confusion and makes the Fees Schedule easier to read.

Floor Broker Trading Permit Rebates

Footnote 25, which governs rebates on Floor Broker Trading Permits, currently provides that any Floor Broker that executes a certain average of customer open-outcry contracts per day over the course of a calendar month in all underlying symbols excluding Underlying Symbol List A (except RUT), DJX, XSP, XSPAM, mini-options and subcabinet trades, will receive a rebate on that Floor Broker's Trading Permit Holder's Floor Broker Trading Permit Fees. The Exchange notes that although RUT had previously been added to ''Underlying Symbol List A'', it had continued to include RUT in the calculation of the qualifying volume for the rebate of Floor Broker Trading Permit fees. The Exchange now seeks to exclude RUT volume from the calculation, similar to the exclusion of all other products in Underlying Symbol List A. As discussed above, the Exchange's proprietary, exclusively-listed products are often collectively excluded from certain programs because the Exchange has expended considerable resources developing and

[3] ''Affiliate'' is defined as having at least 75% common ownership between the two entities as reflected on each entity's Form BD, Schedule A.

[4] Currently, excluded from the VIP credit are options in Underlying Symbol List A, DJX, XSP, XSPAM, credit default options, credit default basket options, mini-options, QCC trades, public customer to public customer electronic complex order executions, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Rule 6.80 (*see* CBOE Fees Schedule, Volume Incentive Program).

[5] The discount will be on transaction fees only (*i.e.,* the rates charged pursuant to the Liquidity Provider Sliding Scale). Other fees, such as the Index License Surcharge, will not be discounted.

maintaining these products. Similar to the products currently excluded from the calculation of qualifying volume for the Floor Broker Trading Permit rebates, RUT is no longer listed on any other exchange (other than C2) and the Exchange therefore proposes to exclude it from the qualifying calculation.

NDX and MNX Fees

The Exchange next proposes to increase the Nasdaq-100 Index (''NDX'') and mini-NDX Index (''MNX'') Index License Surcharge. Currently, the Exchange assesses an Index License Surcharge for NDX and MNX of $0.15 per contract for all non-customer orders. The Exchange now proposes to increase the NDX and MNX Surcharge from $0.15 to 0.25 per contract in order to recoup the increased costs associated with the NDX and MNX license. The Exchange will still be subsidizing the costs of the NDX and MNX license. Additionally, like other proprietary index products, the Exchange proposes to except NDX and MNX from VIP and from the Marketing Fee.

VIX License Index Surcharge

The Exchange proposes to waive through March 2016 the VIX Index License Surcharge of $0.10 per contract for Clearing Trading Permit Holder Proprietary (''Firm'') (origin codes ''F'' or ''L'') VIX orders that have a premium of $0.10 or lower and have series with an expiration of less than seven (7) calendar days. Particularly, the Exchange is attempting to reduce transaction costs on expiring, low-priced VIX options in order to encourage Firms to seek to close and/or roll over such positions close to expiration at low premium levels, including facilitating customers to do so, in order to free up capital and encourage additional trading. Currently, Firms are less likely to engage in such activity because the transaction fees are often equivalent [sic] or even exceed the premium level, making such transactions economically unattractive. The Exchange believes that the [sic] lowering costs for VIX options trading with a premium of $0.00–$0.10 and for series with an expiration of less than 7 days will encourage the closing, rolling and trading of such options and new series, as well. The Exchange proposes to waive the surcharge through March 2016, at which time the Exchange will evaluate whether the wavier [sic] has in fact prompted Firms to close and roll over positions close to expiration at low premium levels.

VIX Customer Transaction Fees

The Exchange proposes to reduce the amount of VIX customer (origin code ''C'') transactions [sic] fees [sic] orders with a premium of $0.11 to $0.99 from $0.27 per contract to $0.25 per contract and orders with a premium of above $1.00 from $.048 per contract to $0.45 per contract. The Exchange believes that the lowered costs for VIX options will encourage the trading of such options.

Hybrid 3.0 Surcharge

The Exchange assesses a Hybrid 3.0 Execution Fee of $0.20 per contract for all electronic executions in Hybrid 3.0 classes (with some exceptions).[6] The Exchange proposes to increase this fee to $0.21 per contract. The Exchange notes that it continually invests in the Hybrid 3.0 system and the proposed increase will help the Exchange recoup such expenditures.

RUI, RLV and RLG Fees

On October 20, 2015, the Exchange began trading options on three FTSE Russell Indexes (*i.e.,* Russell 1000 Index (''RUI''), Russell 1000 Value Index (''RLV'') and Russell 1000 Growth Index (''RLG'')). In order to promote and encourage trading of RUI, RLV and RLG, the Exchange had waived all transaction fees (including the Floor Brokerage Fee, Index License Surcharge and CFLEX Surcharge Fee) for RUI, RLV and RLG transactions through December 31, 2015. In order to continue to promote trading of these new options classes, the Exchange proposes to extend the fee waiver of RUI, RLV and RLG through March 31, 2016.

Large Customer Trade Discount

The Customer Large Trade Discount program (the ''Discount'') provides a discount in the form of a cap on the quantity of customer (''C'' origin code'' [sic]) contracts that are assessed transactions fees in certain options classes. The Discount table in the Fees Schedule sets forth the quantity of contracts necessary for a large customer trade to qualify for the Discount, which varies by product. Currently, under the ''Products'' section in the Discount table, the following S&P products for which the Discount is in effect are listed: ''SPX, SPXw, SPXpm, SRO.'' Customer transaction fees for each of these products are currently only charged up to the first 15,000 contracts. The Exchange proposes to raise the quantity of SPX, SPXw, SPXpm, and SRO contracts necessary for a large customer trade to qualify for the Discount from 15,000 contracts per order to 20,000 contracts per order. The purpose of the proposed rule change is to moderate the discount level for customer (C) orders in the SPX product group in view of its mature and established position in the industry. The Exchange additionally proposes to raise the quantity of VIX contracts necessary for a large customer trade to qualify for the Discount. Specially [sic], the Exchange proposes to raise the threshold from 10,000 contracts per order to 15,000 contracts per order. The purpose of the proposed change is to moderate the discount level for customer (C) orders in VIX in light of the increased sizes of qualifying Discount VIX orders.

RUT Tier Appointment Surcharge

CBOE Rule 8.3(e) provides that the Exchange may establish one or more types of tier appointments. In accordance with CBOE Rule 8.3(e), a tier appointment is an appointment to trade one or more options classes that must be held by a Market-Maker to be eligible to act as a Market-Maker in the options class or options classes subject to that appointment. CBOE currently maintains a tier appointment for Market-Maker Trading Permit Holders trading in RUT, as it does for SPX and VIX. Currently, the Exchange has a Tier Appointment Surcharge for SPX and VIX, but not RUT. The Exchange notes that it has expended considerable resources developing and maintaining its proprietary, exclusively-listed products. To help recoup costs of the license and for further development and maintenance of RUT options, the Exchange is now proposing to also establish a RUT Tier Appointment fee. Specifically, the Exchange proposes to adopt a RUT Tier Appointment fee of $1,000 per month, which will be assessed to any Market-Maker Trading Permit Holder that either (a) has a RUT Tier Appointment at any time during a calendar month and trades at least 100 RUT options contracts electronically while that appointment is active; or (b) trades at least 1,000 RUT options contracts in open outcry during a calendar month. The Exchange notes

[6] *See* CBOE Fees Schedule. Particularly, all electronic executions in Hybrid 3.0 classes shall be assessed the Hybrid 3.0 Execution Surcharge, except to [sic]: (i) Orders in SPX options in the SPX electronic book for those SPX options that are executed during opening rotation on the final settlement date of VIX options and futures which have the expiration [sic] that contribute to the VIX settlement calculation, (ii) executions by market-makers against orders in the complex order auction (COA) and Simple Auction Liaison (SAL) systems in their appointed classes, (iii) executions by market-makers against orders in the electronic book, Hybrid Agency Liaison (HAL) and the complex order book in their appointed classes, and (iv) orders executed by a floor broker using a PAR terminal.

that the proposed criteria is the same as it is for the VIX Tier Appointment fee. Additionally, similar to what's provided in the Fees Schedule for the SPX and VIX Tier Appointment fees, the Exchange proposes to state, consistent with Rule 8.3(e), that each RUT Tier Appointment may only be used with one designated Market-Maker Trading Permit. Additionally, the Exchange proposes to state that in order for a Market-Maker Trading Permit to be used to act as an electronic Market-Maker in RUT, the Trading Permit Holder must obtain a RUT Tier Appointment for that Market-Maker Trading Permit.

Extended Trading Hour Fees

In order to promote and encourage trading during the Extended Trading Hours (''ETH'') session, the Exchange currently waives ETH Trading Permit and Bandwidth Packet fees for one (1) of each initial Trading Permits and one (1) of each initial Bandwidth Packet, per affiliated TPH. The Exchange notes that waiver is set to expire December 31, 2015. The Exchange also waives fees through December 31, 2015 for a CMI and FIX login ID if the CMI and/or FIX login ID is related to a waived ETH Trading Permit and/or waived Bandwidth packet. In order to continue to promote trading during ETH, the Exchange wishes to extend these waivers through July 2016.

Floor Broker Workstation

The Exchange proposes raising the Floor Broker Workstation (''FBW'') and FBW2 fee from $400 per month (per login ID) to $450 per month (per login ID). The total amount charged by the Exchange's vendor that provides the FBW (and FBW2) is more than $450 per month (per login ID) for FBW and FBW2 and the Exchange has been subsidizing those costs for FBW and FBW2 users. As such, the Exchange proposes increasing the FBW fee to $450 per month (per login ID), which still includes a subsidy for FBW users (though smaller).

Additionally, the Exchange notes that for every FBW login a TPH has, the FBW2 monthly fee is currently waived through December 2015 on a one-to-one basis. The Exchange waived the FBW2 fee on a one-to-one basis because it had anticipated new features being launched on FBW2 by the end of the year and the Exchange wanted to encourage FBW users to begin (or continue) transitioning to FBW2 logins while waiting for the new features. Additionally, the Exchange wanted to provide additional time to become acclimated to FBW2 while at the same time being able to use FBW login IDs. The Exchange notes that certain new features on FBW2 have still not launched. As such, the Exchange wishes to extend the FBW2 monthly fee waiver on a one-to-one basis through March 31, 2016. The Exchange therefore proposes to delete now outdated language in the Fees Schedule and provide that for every FBW login a TPH has, the FBW2 fee will be waived for the months of January 2016 through March 2016 on a one-to-one basis.

QCC Cleanup

The Exchange proposes to correct an inadvertent omission to the Fees Schedule with respect to a recent change to Qualified Contingent Cross (''QCC'')[7] order fees. On November 16, 2015, the Exchange proposed to increase the transaction fee for all non-customer QCC orders from $0.15 per contract to $0.17 per contract.[8] The Exchange notes that the QCC transaction fee rate is located in two tables in the Fees Schedule (*i.e.,* the QCC Rate Table and the Clearing Trading Permit Holder Fee Cap Table (''Fee Cap Table'')). While the Exhibit 5 to SR–CBOE–2015–105 reflected the QCC fee increase in the QCC Rate Table, the Exchange inadvertently omitted to make the corresponding increase to the rate listed in the Fee Cap table. Accordingly, the Exchange proposes to update the rate listed for QCC orders from $0.15 per contract to $0.17 per contract in the Fee Cap Table to avoid potential confusion and maintain a clear and consistent Fees Schedule.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[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 facilitation [sic] 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 Section 6(b)(4) of the Act,[11] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes that adopting the Affiliate Volume Plan is reasonable because it will allow qualifying Market-Makers to receive a credit on their Market-Maker Sliding Scale transaction fees. The Exchange believes that this proposed change is equitable and not unfairly discriminatory because Market-Makers are valuable market participants that provide liquidity in the marketplace and incur costs that other market participants do not incur. For example, Market-Makers have a number of obligations, including quoting obligations that other market participants do not have. Additionally, the Exchange notes that incentivizing a Market-Maker Affiliate to achieve higher tiers on the VIP, can result in greater customer liquidity, and the resulting increased volume benefits all market participants (including Market-Makers or their affiliates who do not achieve the higher tiers on the VIP; indeed, this increased volume may allow them to reach these tiers). Further, other options exchanges also provide credits to Market-Makers if a Market-Maker's affiliate adds a certain amount of customer liquidity to that exchange.[12] The Exchange also notes that the credits under AVP are available to all Market-Makers who qualify.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to exclude Market-Maker Trading Permits used for appointments in RUT from the Access Credit because the Exchange has expended considerable resources maintaining RUT as a proprietary and exclusively-listed product and therefore desires not to give a credit related in order to recoup those expenditures. Additionally, the Exchange notes that Trading Permits used for appointments in other proprietary and exclusively listed products are excluded from receiving credits under the Access Credit program

[7] A QCC order is comprised of an order to buy or sell at least 1,000 contracts (or 10,000 mini-option contracts) that is identified as being part of a qualified contingent trade, coupled with a contra-side order or orders totaling an equal number of contracts.

[8] *See* Securities Exchange Act Release No. 76498 (November 20, 2015), 80 FR 228 (November 27, 2015) (SR–CBOE–2015–105).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78f(b)(4).

[12] *See e.g.,* NYSE Arca, Inc. (''Arca'') Options Fees and Charges, specifically the table describing the Market Maker Monthly Posting Credit Super Tier, under which transaction volume from a Market Maker's affiliates count towards the Market Maker's ability to qualify for higher credit tiers.

as well. Similarly, the Exchange believes it's reasonable to exclude RUT from the qualifying calculation for the Floor Broker Trading Permit rebates because other Underlying Symbol List A products are also excepted from counting towards the qualifying threshold volumes.

The Exchange believes clarifying in Footnote 24 that only a Market-Maker Affiliate (as opposed to the Market-Maker itself) can receive an Access Credit alleviates potential confusion. The Exchange also believes incorporating into a single table both details of the Access Credit and credits available to Market-Makers under AVP alleviates potential confusion and maintains clarity in the Fees Schedule. The alleviation of potential confusion serves 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 increasing the NDX and MNX Index License Surcharge Fee from $0.15 to $0.25 per contract is reasonable because the Exchange still pays more for the NDX and MNX license than the amount of the proposed NDX Index License Surcharge Fee (meaning that the Exchange will be subsidizing the costs of the NDX and MNX license). Additionally, the Exchange notes that another Exchange also assesses $0.25 per contract for NDX and MNX transactions.[13] This increase is equitable and not unfairly discriminatory because all non-Customer market participants will be assessed the same increased NDX and MNX Index License Surcharge. Not applying the NDX and MNX Index License Surcharge Fee to customer orders is equitable and not unfairly discriminatory because this is designed to attract customer NDX and MNX orders, which increases liquidity and provides greater trading opportunities to all market participants.

The Exchange believes that excluding NDX and MNX from VIP is reasonable because the VIP is a credit program, and excluding MNX and NDX from the VIP does not impose any extra fee for NDX and MNX trades, it just prevents them from incurring a credit (or counting towards incurring credits). As such, qualifying market participants trading NDX and MNX will merely be required to pay regular transaction fees. The Exchange believes excepting NDX and MNX from VIP is equitable and not unfairly reasonable because other proprietary index products are also excepted from VIP. Similarly, the Exchange believes it's reasonable to except NDX and MNX [sic] the Marketing Fee because other proprietary index products are excepted from those same items. This is equitable and not unfairly discriminatory for the same reason; it seems equitable to except NDX and MNX from items on the Fees Schedule from which other proprietary products are also excepted.

The Exchange believes it's reasonable to waive the VIX Index License Surcharge for Clearing Trading Permit Holder Proprietary VIX orders that have a premium of $0.10 or lower and have series with an expiration of less than 7 calendar days because the Exchange wants to encourage Firms to roll and close over positions close to expiration at low premium levels. The Exchange notes that without the waiver, firms are less likely to engage in these transactions, as opposed to other VIX transactions, due to the associated transaction costs. The Exchange believes it's equitable and not unfairly discriminatory to limit the waiver to Clearing Trading Permit Holder Proprietary orders because they contribute capital to facilitate the execution of VIX customer orders with a premium of $0.10 or lower and series with an expiration of less than 7 days. Finally, the Exchange believes it's reasonable, equitable and not unfairly discriminatory to provide that the surcharge will be waived through March 2016, as it gives the Exchange time to evaluate if the wavier [sic] is in fact having the desired effect of encouraging these transactions and because it applies to all Clearing Trading Permit Holders.

The proposal to reduce VIX customer transactions [sic] is reasonable because it allows customers to pay less for these transactions than they are currently paying. The proposed change to customer VIX options transaction fees is also equitable and not unfairly discriminatory because it applies uniformly to all customers and because this is designed to attract customer VIX orders, which increases liquidity and provides greater trading opportunities to all market participants.

The Exchange believes it's reasonable to increase the Hybrid 3.0 Surcharge because it is merely an increase of $0.01 per contract, and the Exchange uses this fee to cover the costs of operating the Hybrid 3.0 system. The Exchange believes that this proposed increase is also reasonable, equitable and not unfairly discriminatory because it applies to all Hybrid 3.0 executions,[14] and because the increased fee will help cover the costs of operating the Hybrid 3.0 system.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to extend the waiver of all transaction fees for RUI, RLV and RLG transasctions [sic], including the Floor Brokerage fee, the License Index Surcharge and CFLEX Surcharge Fee, because it promotes and encourages trading of these products which are still new and applies to all TPHs.

The Exchange believes that raising the discount threshold for VIX and SPX (including SPXw), SPXPM and SROs is reasonable because customers will still be receiving a discount for large trades that they would not otherwise receive. This change is equitable and not unfairly discriminatory because all customers whose large trades qualify for the Discount will still receive it. The Exchange believes it's equitable and not unfairly discriminatory to raise the threshold higher for the SPX product group because the SPX product group has reached a mature and established level since its introduction while other products, such as VIX, have not.

The Exchange believes that establishing a RUT Tier Appointment fee is reasonable because the Exchange maintains a similar fee for other exclusively-listed proprietary products for which there is a tier appointment.[15] The Exchange notes that the proposed Tier Appointment fee is less than the Tier Appointment fees assessed for SPX and VIX.[16] The Exchange believes it is equitable and not unfairly discriminatory to not assess the fee unless a Market-Maker trades at least 100 RUT contracts electronically while that appointment is active because those that do not regularly trade RUT will not be assessed the fee. Specifically, the RUT Tier Appointment fee is intended to be assessed to Market-Makers who act as Market-Makers in RUT, not those who submit an occasional order electronically in RUT. More specifically, the 100-contract threshold achieves this purpose because it is a sufficiently small number of contracts and yet leaves some small room for accidental or minor RUT trades. Because Market-Maker Trading Permit Holders have an appointment to trade in open outcry in all options classes traded on the Hybrid Trading System (including RUT) pursuant to Exchange Rule 8.3(c)(ii), the Exchange

[13] *See* NASDAQ OMX PHLX LLC (''PHLX'') Pricing Schedule, Section II, Multiply Listed Options Fees, Options Surcharge in MNX and NDX.

[14] With the exception of those listed in Footnote 21 of the Fees Schedule.

[15] *See* CBOE Fees Schedule, SPX and VIX Tier Appointment Fees.

[16] *Id.*

believes it is also equitable and not unfairly discriminatory to not assess the Tier Appointment fee unless a Market-Maker trades at least 1,000 RUT options contracts in open outcry during a calendar month. The Exchange believes this requirement again allows for minimum open outcry activity in RUT without having to pay an additional fee. This proposed change is also equitable and not unfairly discriminatory because it will be assessed uniformly to all Market-Makers that meet either of the above criteria and because it allows the Exchange to recoup expenditures related to the maintenance of a proprietary and exclusively listed product.

The Exchange believes extending the waiver of ETH Trading Permit and Bandwidth Packet fees for one of each type of Trading Permit and Bandwidth Packet, per affiliated TPH through July 31, 2016 is reasonable, equitable and not unfairly discriminatory, because it promotes and encourages trading during the ETH session and applies to all ETH TPHs. The Exchange believes it's also reasonable, equitable and not unfairly discriminatory to waive fees for Login IDs related to waived Trading Permits and/or Bandwidth Packets in order to promote and encourage ongoing participation in ETH and also applies to all ETH TPHs.

Increasing the FBW and FBW2 fee from $400 per month (per login ID) to $450 per month (per login ID) is reasonable because the total amount charged by the Exchange's vendor that provides the FBW (and FBW2) is more than $450 per month (per login ID) for FBW and FBW2 and the Exchange simply wants to reduce the extent to which the Exchange subsidizes such costs. This change is equitable and not unfairly discriminatory because all market participants who desire to use the FBW and FBW2 will be assessed the same fee.

The Exchange believes it is reasonable to extend the waiver of FBW2 fees for each FBW login a TPH has through March 2016 because it encourages users to use and become familiar with the updated FBW2 login IDs while waiting for certain features to be implemented on FBW2. The Exchange believes the proposed changes are equitable and not unfairly discriminatory because it applies to all users of FBW2.

The Exchange believes that correcting an inadvertent failure to update the QCC rate change in the Fee Cap table (in addition to the QCC Rate Table, where it is currently provided for) will alleviate potential confusion and maintain clarity in the Fees Schedule, which serves 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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. The Exchange 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, while different fees and rebates are assessed to different market participants in some circumstances, these different market participants have different obligations and different circumstances (as described in the ''Statutory Basis'' section above). For example, Clearing TPHs have clearing obligations that other market participants do not have. Market-Makers have quoting obligations that other market participants do not have. There is a history in the options markets of providing preferential treatment to customers, as they often do not have as sophisticated trading operations and systems as other market participants, which often makes other market participants prefer to trade with customers. Further, the Exchange fees and rebates, both current and those proposed to be changed, are intended to encourage market participants to bring increased volume to the Exchange (which benefits all market participants), while still covering Exchange costs (including those associated with the upgrading and maintenance of Exchange systems).

The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes are intended to promote competition and better improve the Exchange's competitive position and make CBOE a more attractive marketplace in order to encourage market participants to bring increased volume to the Exchange (while still covering costs as necessary). Further, the proposed changes only affect trading on CBOE. To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and paragraph (f) of Rule 19b–4 [18] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2016–002 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–2016–002. 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

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

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–2016–002 and should be submitted on or before February 12, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–01200 Filed 1–21–16; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–31958; File No. 812–14449]

The Guardian Insurance & Annuity Company, Inc., et al; Notice of Application

January 15, 2016.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order approving the substitution of certain securities pursuant to Section 26(c) of the Investment Company Act of 1940, as amended (the ''1940 Act'').

APPLICANTS: The Guardian Insurance & Annuity Company (the ''Company''), The Guardian Separate Account K, The Guardian Separate Account M, The Guardian Separate Account N (each, a ''Life Account'') and The Guardian Separate Account R (the ''Annuity Account'' and together with the Life Accounts, the ''Accounts'') (together, the ''Applicants'').

SUMMARY OF APPLICATION: The Applicants seek an order pursuant to Section 26(c) of the 1940 Act approving the substitution of shares issued by certain investment portfolios (the ''Existing Funds'') of registered investment companies with shares of certain investment portfolios (the ''Replacement Funds'') of registered investment companies, under certain variable life insurance policies and variable annuity contracts issued by the Company (the ''Contracts''), each funded through the Accounts.

FILING DATE: The application was filed on April 24, 2015, and amended on September 4, 2015, and November 10, 2015.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 9, 2016, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the 1940 Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: Richard T. Potter, The Guardian Insurance & Annuity Company, Inc., 7 Hanover Square, New York, New York 10004.

FOR FURTHER INFORMATION CONTACT: Elizabeth G. Miller, Senior Counsel, at (202) 551–8707, or Holly L. Hunter-Ceci, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Company is a stock life insurance company incorporated in the State of Delaware. The Company is wholly owned by The Guardian Life Insurance Company of America, a mutual life insurance company organized in the State of New York (''Guardian Life''). Guardian Life does not issue the Contracts and does not guarantee any benefits provided under the Contracts.

2. Each Account is a ''separate account'' as defined in Rule 0–1(e) under the 1940 Act and is registered with the Commission as a unit investment trust under the 1940 Act. The interests in each Account offered through the Contracts have been registered under the Securities Act of 1933 on Form N–4 for the variable annuity Contracts offered under the Annuity Account, and on Form N–6 for the variable life insurance Contracts offered under the Life Accounts. The application sets forth the registration statement file numbers for the Accounts. Each Account was established by the board of directors of the Company under the laws of the State of Delaware as follows:

Separate account	Date established
The Guardian Separate Account K.	November 18, 1993.
The Guardian Separate Account M.	February 27, 1997.
The Guardian Separate Account N.	September 23, 1999.
The Guardian Separate Account R.	March 12, 2003.

3. Each Account supports certain Contracts issued by the Company. Each Account consists of investment divisions, each corresponding to a registered open-end management investment company or series of a registered open-end management investment company in which the Account invests. The assets of each Account equal to its reserves and other liabilities are not chargeable with the Company's obligations except those under Contracts issued through such Account. Income, gains and losses, whether or not realized, of each Account are kept separate from other income, gains or losses of the Company and other separate accounts. The income and capital gains or capital losses of each investment division, whether realized or unrealized, are credited to or charged against the assets held in that division according to the terms of the applicable Contract, without regard to the income, capital gains or capital losses of the other investment divisions of the Company.

4. The Contracts are flexible premium or modified scheduled premium variable life insurance policies and variable annuity contracts. For so long as a variable life insurance Contract remains in force or a variable annuity Contract has not yet been annuitized, a Contract owner may transfer all or part of their accumulation values among the variable investment options under the

Contracts, subject to certain limits as described in the applicable Contract prospectus, or to a fixed or indexed account in the case of some of the Contracts. The terms and conditions, including charges and expenses, applicable to each Contract are described in the prospectus relating to such Contract.

5. The Applicants state that under the Contracts, the Company reserves the right, subject to Commission approval and compliance with applicable law, to substitute shares of one registered open-end management investment company available as a variable investment option for shares of another registered open-end management investment company.

6. The Applicants propose the substitution of shares of Existing Funds currently held by the Life Accounts and the Annuity Account to support variable life insurance policies and variable annuity contracts issued by the Company for shares of the Replacement Funds (''Substitutions''):

Substitution	Existing fund	Replacement fund
1.	Pioneer Disciplined Value VCT Portfolio—Class II Shares	AB VPS Growth and Income Portfolio—Class B Shares.
2.	Columbia Variable Portfolio—Seligman Global Technology Fund—Class 2 Shares.	Janus Aspen Series—Global Technology Portfolio—Service Shares.
3.	Dreyfus Variable Investment Fund: Appreciation Portfolio—Service Class Shares.	Putnam VT Investors Fund—Class IB Shares.
4.	AB VPS International Value Portfolio—Class B Shares	Templeton Foreign VIP Fund—Class 2 Shares.

7. Applicants represent that under the proposed Substitutions, each Existing Fund's shares will be redeemed for cash, and the cash from the redemption will be used to purchase shares of the respective Replacement Fund.

8. The Applicants represent that the proposed Substitutions and the selection of the Replacement Funds were not motivated by any financial consideration paid or to be paid to the Company or its affiliates by the respective Replacement Fund, its adviser or underwriter, or their affiliates.

9. The Applicants represent that each proposed Substitution is appropriate given the substantial similarity between the stated investment objectives and principal investment strategies of each Existing Fund as compared to each corresponding Replacement Fund, which would offer Contract owners continuity of their investment strategies and risks. The Applicants state that the proposed Substitutions are expected to provide competitive long-term returns as compared to the Existing Funds. Additional information for each Existing Fund and the corresponding Replacement Fund, including investment objectives, principal investment strategies, principal risks, and performance can be found in the application.

10. The Applicants represent that the proposed Substitutions will be described to the applicable prospectuses for the Contracts filed with the Commission or in other supplemental disclosure documents for the Contracts (collectively, the ''Supplements''). The Supplements will: (a) Give Contract owners notice of the Company's intention to take the necessary actions to substitute shares of the Existing Funds on the Substitution Date (defined herein); (b) advise Contract owners of their pre- and post-Substitution transfer rights; (c) instruct Contract owners how to submit transfer requests in light of the proposed Substitutions; and (d) advise Contract owners that any Contract value remaining in an Existing Fund Subaccount on the Substitution Date will be transferred to a subaccount investing in the corresponding Replacement Fund, and that the Substitutions will take place at relative net asset value. From the date of the Supplements (which will be at least 30 days prior to the Substitution Date) until the Substitution Date, Contract owners will have a pre-Substitution transfer right, the specifics of which will be determined by whether they have selected an optional living benefit rider, as discussed in more detail in the application.[1]

11. The Supplement will also inform Contract owners that, except as described in the market timing limitations section or limitations imposed by any living benefit riders of the relevant prospectus or disclosure document, the Company will not exercise any rights reserved by it under the Contracts to impose additional restrictions on transfers out of a Replacement Fund Subaccount from the date of the Supplements (which will be at least 30 days prior to the Substitution Date) until at least 30 days after the Substitution Date.

12. The Company will send affected Contract owners a written confirmation of the completed proposed Substitutions in accordance with Rule 10b–10 under the Securities Exchange Act of 1934. The Company will deliver to each affected Contract owner within five business days of the date of the proposed Substitutions (the ''Substitution Date'') a written confirmation which will include: (a) A confirmation that the proposed Substitutions were carried out as previously notified; (b) a restatement of the information set forth in the Supplements; and (c) before and after account values. The confirmation statement will also include or be accompanied by a statement that reiterates the free transfer rights disclosed in the Supplements. The Company will also send each Contract owner a current prospectus for each Replacement Fund involved in the proposed Substitutions to the extent that such Contract owners have not previously received a copy.

13. Each Substitution will take place at the relative net asset value determined on the Substitution Date pursuant to Section 22(c) of the 1940 Act and Rule 22c–1 thereunder, with no change in the amount of any Contract owner's Contract value or death benefit or in the dollar value of his or her investments in any of the subaccounts. The rights or obligations of the Company under the Contracts will not be altered in any way. The proposed Substitutions will take place with no change to the Contract owner's Contract value, cash value and accumulation value.

[1] Certain Contract owners have selected a Contract rider that provides a living benefit rider. The terms of the living benefit riders offered by the Company limit the available investment options to identified allocation models consisting of a specified selection of registered open-end management investment companies available as variable investment options under the applicable Contract. Each allocation model sets forth a specific allocation percentage for each variable investment option within the model. For Contract owners who have selected a living benefit rider, all transfers, including the transfers contemplated by condition 6 of this Notice, are limited to transfers of the entire Contract value to one of the other allocation models available under the applicable living benefit rider. On the Substitution Date, assets in a living benefit rider allocation model that are held in an Existing Fund Subaccount will be transferred to the applicable Replacement Fund Subaccount.

14. Applicants will effectuate the Substitutions after the issuance of the requested order by the Commission. As of the Substitution Date, shares of the Existing Fund will be redeemed for cash. The Company, on behalf of the Accounts, will simultaneously place a redemption request with the Existing Fund and a purchase order with the Replacement Fund so that the purchase of the Replacement Fund shares will be for the exact amount of the redemption proceeds.

15. The Company or its affiliates will pay all expenses and transaction costs of the proposed Substitutions, including legal and accounting expenses, any applicable brokerage expenses and other fees and expenses. No fees or charges will be assessed to the Contract owners to effect the proposed Substitutions. The proposed Substitutions will not result in an increase in Contract fees and expenses, including mortality and expense risk fees and administration and distribution fees charged by the Separate Accounts. The proposed Substitutions will not result in adverse tax consequences to Contract owners and will not alter any tax benefits associated with the Contracts. No costs of the proposed Substitutions will be borne directly or indirectly by Contract owners.

16. Applicants will not receive, for three years from the Substitution Date any direct or indirect benefits from the applicable Replacement Fund, its adviser or underwriter (or their affiliates), in connection with assets attributable to Contracts affected by the proposed Substitutions, at a higher rate than they had received from the Existing Fund, its adviser or underwriter (or their affiliates), including without limitation 12b–1 fees, shareholder service, administrative or other service fees, revenue sharing, or other arrangements.

Legal Analysis

1. Applicants request that the Commission issue an order pursuant to Section 26(c) of the 1940 Act approving the proposed Substitution by the Company of shares of each Replacement Fund for shares of the corresponding Existing Fund. Section 26(c) of the 1940 Act requires the depositor of a registered unit investment trust holding securities of a single issuer to receive Commission approval before substituting the securities held by the trust. Section 26(c) provides that such approval shall be granted by order of the Commission if the evidence establishes that the substitution is consistent with the protection of investors and the purposes of the 1940 Act.

2. The Applicants submit that the proposed Substitutions meet the standards set forth in Section 26(c) and that, if implemented, the Substitutions would not raise any of the concerns that Congress intended to address when the 1940 Act was amended to include this provision. As described in the application, Applicants represent that each Replacement Fund and its corresponding Existing Fund have substantially similar investment objectives and principal investment strategies, which would offer Contract owners continuity of their investment strategies and risks, and that Existing Funds will have lower net operating expenses immediately after the proposed Substitutions.

3. The Contracts will offer Contract owners the opportunity to make at least one transfer of Contract value from the subaccount investing in the Existing Fund (for at least 30 days before the Substitution Date), or the Replacement Fund (for at least 30 days after the Substitution Date) to any other available investment option under the Contract without any cost or limitation other than those disclosed in the applicable prospectuses previously provided to Contract owners.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The proposed Substitutions will not be effected unless the Company determines that: (a) The Contracts allow the substitution of shares of registered open-end investment companies in the manner contemplated by the application; (b) the proposed Substitutions can be consummated as described in the application under applicable insurance laws; and (c) any regulatory requirements in each jurisdiction where the Contracts are qualified for sale have been complied with to the extent necessary to complete the proposed Substitutions.

2. The Company or its affiliates will pay all expenses and transaction costs of the Substitutions, including legal and accounting expenses, any applicable brokerage expenses and other fees and expenses. No fees or charges will be assessed to the Contract owners to effect the proposed Substitutions.

3. The proposed Substitutions will be effected at the relative net asset values of the respective shares in conformity with Section 22(c) of the 1940 Act and Rule 22c–1 thereunder without the imposition of any transfer or similar charges by Applicants. The proposed Substitutions will be effected without change in the amount or value of any Contracts held by affected Contract owners.

4. The proposed Substitutions will in no way alter the tax treatment of affected Contract owners in connection with their Contracts, and no tax liability will arise for Contract owners as a result of the proposed Substitutions.

5. The rights or obligations of the Company under the Contracts of affected Contract owners will not be altered in any way. The proposed Substitutions will not adversely affect any riders under the Contracts since each Replacement Fund is an allowable investment option for use with such riders.

6. Affected Contract owners will be permitted to make at least one transfer of Contract value from the subaccount investing in the Existing Fund (before the Substitution Date) or the Replacement Fund (after the Substitution Date) to any other available investment option under the Contract without charge for a period beginning at least 30 days before the Substitution Date through at least 30 days following the Substitution Date. Except as described in any market timing/short-term trading provisions of the relevant prospectus, the Company will not exercise any right it may have under the Contract to impose restrictions on transfers between the subaccounts under the Contracts, including limitations on the future number of transfers, for a period beginning at least 30 days before the Substitution Date through at least 30 days following the Substitution Date.

7. All affected Contract owners will be notified, at least 30 days before the Substitution Date about: (a) The intended substitution of the Existing Funds with the Replacement Funds; (b) The intended Substitution Date; and (c) information with respect to transfers as set forth in Condition 6 above. In addition, the Company will deliver to all affected Contract owners, at least 30 days before the Substitution Date, a prospectus for each applicable Replacement Fund.

8. The Company will deliver to each affected Contract owner within five (5) business days of the Substitution Date a written confirmation which will include: (a) A confirmation that the proposed Substitutions were carried out as previously notified; (b) a restatement of the information set forth in the Supplements; and (c) before and after account values.

9. Applicants will not receive, for three years from the Substitution Date, any direct or indirect benefits from the applicable Replacement Fund, its adviser or underwriter (or their

affiliates), in connection with assets attributable to Contracts affected by the proposed Substitutions, at a higher rate than they had received from the Existing Fund, its adviser or underwriter (or their affiliates), including without limitation 12b-1 fees, shareholder service, administrative or other service fees, revenue sharing, or other arrangements.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–01230 Filed 1–21–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76920; File No. SR–OC–2015–03]

Self-Regulatory Organizations; OneChicago, LLC; Notice of Filing of Proposed Rule Change Relating to the Summary Imposition of Fines

January 15, 2016.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (the ''Act''),[1] notice is hereby given that on December 30, 2015, OneChicago, LLC (''OneChicago,'' ''OCX,'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. OneChicago has also filed this rule change with the Commodity Futures Trading Commission (''CFTC''). OneChicago filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act (''CEA'') on December 29, 2015.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

OneChicago is proposing to amend OCX Rule 717 (Summary Imposition of Fines) and concurrently issue Notice to Members (''NTM'') 2015–48. OCX Rule 717 lays out OneChicago's summary fine procedure. Specifically, OCX Rule 717 lists the violations for which the Exchange may impose summary fines, as well as the process the Exchange must follow to impose such fines. OneChicago proposes to amend Rule 717 to add several rule violations to the list of items for which the Exchange may impose summary fines. In addition to adding several rule violations for which the Exchange may impose summary fines, OCX is also proposing to add a summary fine schedule for each rule violation. The summary fine schedule informs market participants of the fines for each rule violation based on the number of offenses within a rolling twelve month period. OCX developed this summary fine schedule with input from the CFTC staff, and many of the summary fines are in line with summary fines for similar violations at other security futures exchanges.[2] OneChicago is also making minor technical changes to OCX Rule 717 to support the foregoing amendments to the rule.

OneChicago is concurrently issuing NTM 2015–48. The NTM informs market participants that OneChicago is amending OCX Rule 717. Additionally, the NTM lists the violations for which summary fines may be imposed. Then, in order to provide market participants with more clarity regarding the rule violations, guidance is provided regarding what activity or omission the Exchange would consider to constitute a violation of the listed rules.

Finally, OneChicago is also amending OCX Rule 705 (Review of Investigative Reports). OCX Rule 705 describes the process by which the OneChicago Chief Regulatory Officer (''CRO'') will review investigation reports conducted by the Compliance Department. OneChicago proposes to amend OCX Rule 705 to allow the CRO to authorize the summary imposition of fines as a result of an investigation.

The text of the proposed rule change is attached as *Exhibit 4* to the filing submitted by the Exchange but is not attached to the published notice of the filing.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OneChicago 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 self-regulatory organization 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

OCX Rule 717 (Summary Imposition of Fines)

OCX Rule 717 lays out the Exchange's summary fine authority. Currently, the Rule describes that the Chief Regulatory Officer may summarily impose a fine against a Member for failing (i) to make timely payments of original or variation margin, options premiums, fees, cost, charges or fines to the Exchange or the Clearinghouse; (ii) to make timely and accurate submissions to the Exchange of notices, reports or other information required by the Rules of the Exchange; and (iii) to keep any books and records required by the Rules of the Exchange.

Additionally, in its current form, the Rule describes what requirements the Exchange must follow when issuing a summary fine pursuant to Rule 717. The Exchange must provide notice of any summary fine imposed, and the notice must contain the violations of the Rules of the Exchange for which the fine was imposed, the violation date, and the amount of the fine. Furthermore, the Rule describes the requirements for the Member or Access Person to pay the fine or to appeal the fine pursuant to OCX Rule 716. Finally, Rule 717 then sets the maximum fine for each violation at $5,000, and explains that the summary imposition of fines does not preclude the Exchange from bringing any other action against the fined market participant.

OneChicago is now proposing to make certain amendments to this Rule 717. Namely, OCX is proposing to add to Rule 717 a list of items for which summary fines may be imposed. The items added generally relate to violations of reporting, audit trail, recordkeeping, and other Exchange Rules. The list of items which OneChicago proposes to add to Rule 717 and their associated proposed summary fines as described below:

- Failure to make timely payments of fees, costs, or charges to the Exchange or Clearinghouse. The proposed summary fines for this rule violation are a warning letter for the first offense, $1,000 fine for the second offense, $2,500 fine for the third offense, and $5,000 for all subsequent offenses within a rolling twelve month period.
- Failure to make timely and accurate submissions to the Exchange of notices, reports or other information required by the Rules of the Exchange. The proposed summary fines for this rule

[1] 15 U.S.C. 78s(b)(7).

[2] *See, e.g.,* CFE Rule 714(f).

violation are a warning letter for the first offense, $2,500 fine for the second offense, $5,000 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses, within a rolling twelve month period. The proposed summary fines for this rule violation are elevated because failure to submit timely and accurate reports to the Exchange impairs the Exchange's ability to carry out its self-regulatory obligations.

• Failure to maintain front-end audit trail information for all electronic orders entered into the OneChicago System, including order modifications and cancellations. The proposed summary fines for this rule violation are a warning letter for the first offense, $1,000 fine for the second offense, $2,500 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period.

• Failure to keep any books and records required by the Rules of the Exchange. The proposed summary fines for this rule violation are a warning letter for the first offense, $1,000 fine for the second offense, $2,500 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period.

• Failure to comply with order form preparation and recordkeeping requirements relating to orders which cannot be immediately entered into the OneChicago System. The proposed summary fines for this rule violation are a warning letter for the first offense, $1,000 fine for the second offense, $2,500 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period.

• Failure to comply with exposure requirements related to pre-execution discussions. The proposed summary fines for this rule violation are a warning letter for the first offense, $10,000 fine for the second offense, and a $15,000 fine for all subsequent offenses within a rolling twelve month period. The proposed summary fines for this rule violation are elevated because pre-arranged trading in violation of an exchange's pre-execution discussion policy presents the potential for fraudulent or manipulative behavior on an exchange.

• Failure to comply with Exchange of Future for Physical transaction reporting requirements. The proposed summary fines for this rule violation are a warning letter for the first offense, $7,500 fine for the second offense, $15,000 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period. The proposed summary fines for this rule violation are elevated because EFPs are bilateral transactions, the price of which remains unknown to the marketplace until the trade is reported by the parties to the transaction.

• Failure to identify correct account designation in order entry into the OneChicago System. The proposed summary fines for this rule violation are a warning letter for the first offense, $1,000 fine for the second offense, $2,500 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period.

• Failure to comply with order marking requirement for Exchange of Future for Physical transactions or block trades. The proposed summary fines for this rule violation are a warning letter for the first offense, $1,000 fine for the second offense, $2,500 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period.

• Failure to comply with block trade reporting requirements. The proposed summary fines for this rule violation are a warning letter for the first offense, $7,500 fine for the second offense, $15,000 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period. The proposed summary fines for this rule violation are elevated because block trades are bilateral transactions, the price of which remains unknown to the marketplace until the trade is reported by the parties to the transaction.

• Failure to comply with the prohibition on netting down concurrent long and short positions during the last five days of trading. The proposed summary fines for this rule violation are a warning letter for the first offense, $2,500 fine for the second offense, $5,000 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period. The proposed summary fines for this rule violation are elevated because netting down concurrent long and short positions during expiry week may cause a change in open interest in a particular product with no commensurate trading activity.

• Failure to identify correct account type in order entry into the OneChicago System. The proposed summary fines for this rule violation are a warning letter for the first offense, $1,000 fine for the second offense, $2,500 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period.

• Failure to timely correct an error in the handling of an order via transfer. The proposed summary fines for this rule violation are a warning letter for the first offense, $1,000 fine for the second offense, $2,500 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period.

• Failure to comply with reporting requirements for reportable positions. The proposed summary fines for this rule violation are a warning letter for the first offense, $2,500 fine for the second offense, $5,000 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period. The proposed summary fines for this rule violation are elevated because failure to report large trader positions impairs the Exchange's ability to carry out its self-regulatory obligations.

• Failure to submit ownership and control reports. The proposed summary fines for this rule violation are a warning letter for the first offense, $2,500 fine for the second offense, $5,000 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period. The proposed summary fines for this rule violation are elevated because failure to report ownership and control reports impairs the Exchange's ability to carry out its self-regulatory obligations.

Additionally, Rule 717 is being amended to increase the maximum summary fine from $5,000 to $15,000. This change is being made to accommodate OCX's proposed summary fine schedule, which contains varying levels of fines ranging from $1,000 to $15,000. The level of fines for each rule violation generally depend upon the severity of the rule violation and the potential harm to customers, other market participants, or the marketplace itself.

In addition to the above, OCX is proposing to make several other changes to OCX Rule 717. First, OCX is proposing to add that the CRO may consider the severity of a rule violation in determining whether to impose a summary fine for that violation. OCX is making this change to grant the Exchange flexibility in addressing rule violations based on the severity of the violation. As is more fully explained in OCX Rule 705, the CRO reserves the right to determine whether an investigation should be closed with no further action, by issuing a warning

letter, by imposing summary fines, or by commencing disciplinary proceedings.

Rule 717 is also being amended to clarify that OCX may impose summary fines against a Clearing Member, Exchange Member, or Access Person. Finally, OCX is proposing to remove certain items from OCX Rule 717(a)(i). Currently, that subparagraph allows the CRO to impose summary fines for a failure to make timely payments of original or variation margin, options premiums, fees, costs, charges or fines. OCX is proposing to remove original or variation margin and options premiums from this list of items because they are not relevant to OCX. OCX is also removing fines from this list because summary fines would not be an effective deterrent for a market participant that has failed to make timely payment of fines already imposed by the Exchange.

NTM 2015–48

In addition to amending Rule 717, OCX is proposing to concurrently issue NTM 2015–48, which provides notice to OneChicago's market participants of the planned amendments to Rule 717, and provides guidance regarding several of the violations included in the summary fine schedule. The NTM provides guidance by explaining what may constitute a rule violation that may be subject to the imposition of summary fines.

OCX Rule 705 (Review of Investigative Reports)

OCX Rule 705 describes the process by which the CRO reviews the Compliance Department's investigative reports in order to determine whether a reasonable basis exists to believe that a violation within the Exchange's jurisdiction has occurred or is about to occur. The Rule then lays out various dispositions the CRO may authorize, including the commencement of disciplinary proceedings, the informal disposition of the investigation, or the closing of the investigation with no further action. OneChicago now proposes to add the summary imposition of fines to the list of dispositions which the CRO may authorize as a result of an investigation.

By way of background, OCX Rule 717 itself does not limit the summary imposition of fines to the conclusion of an investigation. The CRO may authorize summary fines in the absence of an investigation report if a Rule violation is detected. OCX is now clarifying in Rule 705 that the summary imposition of fines is one of the several dispositions the CRO may authorize upon the Compliance Department's completion of an investigation.

2. Statutory Basis

OneChicago believes that the proposed rule change is consistent with Section 6(b) of the Act,[3] in general, and furthers the objectives of Section 6(b)(5)[4] and 6(b)(7)[5] 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, and
- to provide a fair procedure for the disciplining of market participants.

The Exchange believes that the proposed rule change will strengthen its ability to carry out its responsibilities as a self-regulatory organization. Summary fines provide an efficient an effective way for a self-regulatory organization to penalize rule violations without requiring the commencement of disciplinary proceedings. The broad authority to impose summary fines allows the Exchange to discipline its market participants, and provides a deterrent from futures violations.

Furthermore, the Exchange believes that the proposed summary fine schedule is fair and reasonable in light of each rule violation. OCX has structured its proposed summary fine schedule such that routine or clerical violations warrant lower summary fines, whereas more serious violations, such as the failure to comply with the Exchange's pre-execution discussion policy, warrant higher summary fines.

Finally, the Exchange believes that the proposed rule change and associated NTM are equitable and not unfairly discriminatory because they would apply equally to all market participants that are subject to the applicable requirements of each Rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

OneChicago does not believe that the rule change and associated NTM will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, in that the rule change and associated NTM enhances OneChicago's ability to deter and discipline certain rule violations.

OneChicago further notes that the proposed summary fine schedule is consistent with fine schedules established by other domestic futures exchanges. The proposed summary fine schedule distinguishes the severity of rule violations by imposing varying levels of fines for different violations. Specifically, those violations that are generally perceived as more clerical in nature are subject to lower summary fines than those violations that may involve harm to the marketplace.

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 proposed rule change and NTM will become operative on January 14, 2016.

At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.[6]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–OC–2015–03 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–OC–2015–03. 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/*

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78f(b)(7).

[6] 15 U.S.C. 78s(b)(1).

rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OC–2015–03, and should be submitted on or before February 12, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–01199 Filed 1–21–16; 8:45 am]

BILLING CODE 8011–01–P

[7] 17 CFR 200.30–3(a)(73).

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–31959; File No. 812–14473]

Leaning Pine II, L.L.C.; Notice of Application

January 15, 2016.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from all provisions of the Act and all rules and regulations thereunder.

SUMMARY OF APPLICATION: Applicant requests an order for an exemption from all provisions of the Act and all rules and regulations thereunder, as Applicant is essentially a closely-held private investment company formed for a limited purpose.

APPLICANT: Leaning Pine II, L.L.C. (''Applicant'').

FILING DATES: The application was filed on May 26, 2015 and amended on October 22, 2015 and January 13, 2016.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 9, 2016, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F St. NE., Washington, DC 20549–1090. Applicant: Leaning Pine II, L.L.C., 315 E. Commerce Street, Suite 300, San Antonio, TX 78205.

FOR FURTHER INFORMATION CONTACT: Vanessa M. Meeks, Senior Counsel, or Melissa R. Harke, Branch Chief, at (202) 551–6825 (Chief Counsel's Office, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicant's Representations

1. Applicant is a newly-formed Texas limited liability company. Applicant will be capitalized with assets of individual members of the Hixon family (the ''Family'') and other Family Members (as defined below) so that it may serve as a non-charitable endowment for Hobo Lake Club Incorporated (''Hobo Lake Club''), a non-profit corporation organized by the Family, which owns a lakeside property and lodge in Plum Lake, Vilas County, Wisconsin and operates as a recreation club for its members. The land held by Hobo Lake Club was first acquired by members of the Family approximately 100 years ago. As a non-profit corporation, Hobo Lake Club does not have ''owners'' in the common sense, but instead has ''members.'' Under Hobo Lake Club's bylaws, members are limited to lineal descendants of Joseph M. Hixon and Irene C. Hixon.

2. As used herein, ''Family Members'' refers to (i) the descendants (including adopted descendants) of Joseph M. Hixon (deceased) and Irene C. Hixon (deceased); (ii) spouses and former-spouses of any individuals described in clause (i) above; (iii) one descendant of a former spouse who will be admitted as a member of Applicant upon the effectiveness of the Shareholder Agreement (as defined below) and his descendants (including adopted descendants); and (iv) trusts, partnerships and other entities established for the exclusive benefit of, or exclusively owned by, any individuals described in clause (i), (ii) or (iii) above.

3. Applicant anticipates that upon its capitalization Applicant will have approximately 120 members, all of whom will be Family Members. These approximately 120 members will include several trusts for the benefit of individuals who are also members individually. Applicant will be capitalized exclusively by the contribution of a portion of dividend proceeds payable to various Family Members by Hixon Properties Incorporated (''Hixon Properties''), a private company that owns and invests primarily in real estate and related ventures that is controlled by Family Members, such dividend proceeds to be contributed to Applicant pursuant to an agreement (the ''Shareholder Agreement'') among Applicant, Hixon Properties and Applicant's members.

4. Membership interests in Applicant (''Interests'') have not been and will not be offered or sold to the public. Applicant's operating agreement (the ''LLC Agreement'') includes a restriction on transfers that prohibits members from transferring Interests to anyone other than Family Members. As a result of this restriction on transfers, no trading market will exist for the Interests. Additionally, any new member (*i.e.* other than by transfer) is also required to be a shareholder of Hixon Properties, whose shares are subject to transfer restrictions similar to those in the LLC Agreement (and applicant will further prohibit admittance of non-Family Members other than upon a transfer of shares of Hixon Properties subject to the Shareholder Agreement by a Member of Applicant to a non-Family Member).

5. Under the LLC Agreement, Applicant's purpose is to serve as a source of funding for Hobo Lake Club, and Applicant is expressly authorized to make distributions to Hobo Lake Club for the operations, maintenance and improvement of Hobo Lake Club's properties. Applicant is not intended to

be utilized as a wealth-creation vehicle for its members. Rather, pursuant to the Shareholder Agreement and consistent with Applicant's limited purpose of serving as a source of funding for Hobo Lake Club, contributions of dividend proceeds from Hixon Properties will cease once Applicant's assets reach $4,500,000 (as adjusted for changes in the consumer price index) (the ''Funding Threshold''), which is a level of funding that is intended, along with other funding resources, to be sufficient to support Hobo Lake Club.

6. Applicant will be managed by a body of at least three managers (the ''Managers''), each of whom must be a Family Member. Election or removal of a Manager requires the action of Applicant's members holding a majority of the Interests. The Managers may be reimbursed for expenses incurred on behalf of Applicant, but may only receive compensation for their service as Managers in excess of such reimbursements with the consent of the members holding at least 60% of the Interests, which compensation shall not include performance fees or other performance-based compensation.

7. Applicant's assets will be comprised of investments in individual securities and investment funds. The Managers will engage investment advisers registered with the Commission to carry out Applicant's investment policy (the ''Policy'').

8. The highest priority of the Policy is to ensure funding for Hobo Lake Club. The registered investment advisers engaged by Applicant will be required to operate within the guidelines established by the Policy and assume a moderate risk posture. Management fees charged must be reasonable and customary, and no performance fees will be permitted.

9. The Managers will supervise all advisers engaged by Applicant and will review Applicant's investment portfolio quarterly to ensure compliance with the Policy. All advisers will be required to provide reports to the Managers at least quarterly. Applicant will provide reports to its members at least annually. On a portfolio-wide basis, the registered investment advisers engaged by Applicant will be subject to quantitative asset allocation, portfolio quality and diversification standards, which will be established by the Managers.

Applicant's Legal Analysis

1. Applicant is seeking an order pursuant to section 6(c) of the Act for an exemption from all of the provisions of the Act and all rules and regulations thereunder. Applicant submits that section 3(c)(1) of the Act evidences the intention of Congress to exclude ''private'' investment companies from the scope of the Act. Under section 6(c) of the Act, the Commission may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant submits that the requested exemption from all provisions of the Act and all rules and regulations thereunder meets these standards, as Applicant is essentially a closely-held private investment company formed for a limited purpose.

2. Applicant states that similarly situated companies can typically rely on section 3(c)(1) of the Act for an exclusion from registration under the Act. Section 3(c)(1) excepts from the definition of ''investment company'' any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities. Applicant submits that, as contemplated, there will be over 100 initial investors in Applicant, and the number of members is likely to increase in the future as Interests are passed down to younger generations, meaning it would not qualify for the exception under section 3(c)(1).

3. Applicant submits that the exemption requested is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant further submits that the exemption requested is consistent with relief granted by the Commission to other private investment companies that have more than 100 beneficial owners and that are substantially owned and controlled by a single family or that were formed for the limited purpose of aggregating and holding funds pending utilization of those funds by a related private enterprise.

4. Applicant submits that one of the key purposes of the Act is the mitigation of the conflicts of interest between fund investors and the management of the fund. Applicant submits that, in its case, sufficient safeguards exist to protect its investors and such safeguards are consistent with those implemented by similarly situated entities for which relief has previously been granted.

Applicant's Conditions

Applicant agrees that the order of the Commission granting the requested relief shall be subject to the following conditions, which conditions shall continue for so long as Applicant seeks to rely on such relief:

1. Interests have not been and will not be offered or sold to the public. The LLC Agreement includes a restriction on transfers that prohibits members from transferring Interests to anyone other than Family Members. Additionally, any new member (*i.e.*, other than by transfer) is also required to be a shareholder of Hixon Properties, whose shares are subject to transfer restrictions similar to those in the LLC Agreement. Applicant will further prohibit admittance of non-Family Members other than upon a transfer of shares of Hixon Properties subject to the Shareholder Agreement by a Member of Applicant to a non-Family Member.

2. Applicant will be managed by Managers, each of whom will be a Family Member.

3. Applicant's Managers will engage only Commission-registered investment advisers and will meet no less frequently than quarterly to review Applicant's investment portfolio to ensure compliance with the Policy.

4. Applicant will not modify its purpose as set forth in the LLC Agreement.

5. Applicant will not knowingly make available to any broker or dealer registered under the Securities Exchange Act of 1934, as amended, any financial information concerning Applicant for the purpose of knowingly enabling such broker or dealer to initiate any regular trading market in the Interests.

6. Applicant will provide each member of Applicant annual financial statements audited by an independent public accountant registered with, and subject to regular inspection by, the Public Company Accounting Oversight Board at such times as Applicant's assets, as reflected on Applicant's year-end balance sheet prepared in accordance with generally accepted accounting principles, equal or exceed $1,000,000. With respect to any year for which audited annual financial statements are not provided in accordance with the foregoing limitation, Applicant will provide unaudited annual financial statements to each member of Applicant.

7. Applicant will comply with the provisions set forth in subparagraphs (A)(i) and (B)(i) of section 12(d)(1) of the Act, as if Applicant were an investment company relying on the exemption set forth in section 3(c)(1) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–01201 Filed 1–21–16; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 9417]

Notice of Public Meeting

The Department of State will conduct an open meeting at 9:30 a.m. on Wednesday, February 24, 2016, at the headquarters of the Radio Technical Commission for Maritime Services (RTCM) in Suite 605, 1611 N. Kent Street, Arlington, Virginia 22209. The primary purpose of the meeting is to prepare for the third Session of the International Maritime Organization's (IMO) Sub-Committee on Navigation, Communication, and Search and Rescue to be held at the IMO Headquarters, United Kingdom, from February 29 to March 4, 2016.

The agenda items to be considered include:

—Routing measures and mandatory ship reporting systems
—Amendment to the General Provisions on Ships' Routing (resolution A.572(14)) on establishing multiple structures at sea
—Recognition of Galileo as a component of the WWRNS
—Additional modules to the Revised Performance Standards for Integrated Navigations Systems (INS) (resolution MSC.252(83) relating to the harmonization of bridge design and display of information
—Updates to the LRIT system
—Guidelines associated with multi-system shipborne radionavigation receivers dealing with the harmonized provision of PNT data and integrity information
—Guidelines for the harmonized display of navigation information received via communications equipment
—Revised Guidelines and criteria for ship reporting systems (resolution MSC.43(64))
—Analysis of developments in maritime radiocommunication systems and technology
—Performance Standards for shipborne GMDSS equipment to accommodate additional providers of GMDSS satellite services
—Interconnection of NAVTEX and Inmarsat SafetyNET receivers and their display on Integrated Navigation Display Systems
—Completion of the detailed review of the Global Maritime Distress and Safety System (GMDSS)
—Updating of the GMDSS master plan and guidelines on MSI (maritime safety information) provisions
—Response to matters related to the Radiocommunication ITU R Study Group
—Response to matters related to ITU World Radiocommunication Conference
—Measures to protect the safety of persons rescued at sea
—Analysis of information on developments in Inmarsat and Cospas-Sarsat
—Revised Performance Standards for EPIRBs operating on 406 MHz (resolution A.810(19)) to include Cospas-Sarsat MEOSAR and second generation beacons
—Guidelines on harmonized aeronautical and maritime search and rescue procedures, including SAR training matters
—Further development of the Global SAR Plan for the provision of maritime SAR services
—Amendments to the IAMSAR Manual
—Revised guidelines for preparing plans for cooperation between search and rescue services and passenger ships (MSC.1/Circ.1079)
—Unified interpretation of provisions of IMO safety, security, and environment related Conventions
—Biennial status report and provisional agenda for NCSR 4
—Report to the Maritime Safety Committee

Members of the public may attend this meeting up to the seating capacity of the room. To facilitate the building security process, and to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, George Detweiler, by email at *George.H.Detweiler@uscg.mil,* by phone at (202) 372–1566, or in writing at 2703 Martin Luther King Jr. Ave. SE., Stop 7418, Washington DC 20593–7418 not later than February 17, 2016. Requests made after February 17, 2016, might not be able to be accommodated. RTCM Headquarters is adjacent to the Rosslyn Metro Station. For further directions and lodging information, please see: *http://www.rtcm.org/visit.php.* Additional information regarding this and other public meetings related to the IMO may be found at: *www.uscg.mil/imo.*

Dated: January 15, 2016.

Jonathan W. Burby,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2016–01275 Filed 1–21–16; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice: 9420]

Culturally Significant Objects Imported for Exhibition Determinations: ''Picasso: The Great War, Experimentation and Change'' 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 ''Picasso: The Great War, Experimentation and Change,'' 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 Barnes Foundation, Philadelphia, Pennsylvania, from on or about February 21, 2016, until on or about May 9, 2016, at the Columbus Museum of Art, Columbus, Ohio, from on or about June 10, 2016, until on or about September 11, 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 14, 2016.

Mark Taplin,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–01277 Filed 1–21–16; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 9423]

Culturally Significant Objects Imported for Exhibition Determinations: ''Cave Temples of Dunhuang: Buddhist Art on China's Silk Road'' 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 ''Cave Temples of Dunhuang: Buddhist Art on China's Silk Road,'' 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 J. Paul Getty Museum, Los Angeles, California, from on about May 7, 2016, until on or about September 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 19, 2016.

Mark Taplin,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–01348 Filed 1–21–16; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 9415]

Notice of a Public Meeting

The Department of State will conduct an open meeting at 10:00 a.m. on Wednesday, February 10, 2016, in the Oklahoma Room of the U.S. Department of Transportation Headquarters, 1200 New Jersey Ave. SE., Washington, DC 20590. The primary purpose of the meeting is to prepare for the third Session of the International Maritime Organization (IMO) Sub-Committee on Pollution Prevention and Response (PPR 3) to be held at the IMO Headquarters, United Kingdom, from February 15–19, 2016.

The agenda items to be considered include:

—Decisions of other IMO bodies
—Safety and pollution hazards of chemicals and preparation of consequential amendments to the IBC Code
—Review of MARPOL Annex II requirements that have an impact on cargo residues and tank washings of high viscosity and persistent floating products
—Code for the transport and handling of limited amounts of hazardous and noxious liquid substances in bulk on offshore support vessels
—Revised guidance on ballast water sampling and analysis
—Production of a manual entitled ''Ballast Water Management—How to do it''
—Consideration of the impact on the Arctic of emissions of Black Carbon from international shipping
—Development of standards for shipboard gasification waste to energy systems and associated amendments to regulation 16 of MARPOL Annex VI
—Amendments to bunker delivery note to permit the supply of fuel oil not in compliance with regulation 14 of MARPOL Annex VI
—Guidelines for onboard sampling and verification of the sulphur content of the fuel oil used on ships
—Guidelines for the discharge of exhaust gas recirculation bleed-off water
—Improved and new technologies approved for ballast water management systems and reduction of atmospheric pollution
—Revised section II of the Manual on oil pollution contingency planning
—Guide on oil spill response in ice and snow conditions
—Updated IMO Dispersant Guidelines
—Updated OPRC Model training courses
—Unified interpretation to provisions of IMO environment-related Conventions
—Biennial agenda and provisional agenda for PPR 4
—Election of Chairman and Vice-Chairman for 2016
—Report to the Marine Environment Protection Committee

Members of the public may attend this meeting up to the seating capacity of the room. They may also contact the meeting coordinator to request a call-in number, in order to ensure adequate teleconference capacity, or to submit written comments and related material ahead of time. To facilitate the building security process, and to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, Ms. Regina Bergner, by email at *regina.r.bergner@uscg.mil,* by phone at 202–372–1431, or by fax at (202) 372–8383, not later than February 5, 2016. Requests made after February 5, 2016, might not be able to be accommodated.

Please note that in the case of inclement weather, the meeting will not be rescheduled. Refer to the Office of Personnel Management Web site for the operational status of federal agencies (*https://www.opm.gov/policy-data-oversight/snow-dismissal-procedures/current-status/*). In the case of a delayed opening, the meeting will be held as scheduled. The public meeting will be cancelled if federal agencies are closed. Please note that due to security considerations, two valid, government-issued photo identifications must be presented to gain entrance to the building.

Directions to DOT Headquarters may be found at: *http://www.dot.gov/directions.* Additional information regarding this and other public meetings related to the IMO may be found at: *www.uscg.mil/imo.*

Dated: January 15, 2016.

Jonathan W. Burby,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2016–01272 Filed 1–21–16; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice: 9416]

Notice of Public Meeting

The Department of State will conduct an open meeting at 10:00 a.m. on Tuesday, March 8, 2016, at the offices of the Radio Technical Commission for Maritime Services (RTCM), 1611 N. Kent Street, Suite 605, Arlington, VA 22209. The primary purpose of the meeting is to prepare for the third session of the International Maritime Organization's (IMO) Sub-Committee on Ship Systems and Equipment to be held at the IMO Headquarters, United Kingdom, March 14–18, 2016.

The agenda items to be considered include:

—Safety objectives and functional requirement of the Guidelines on alternative design and arrangements for SOLAS chapters II–1 and III
—Making the provisions of MSC.1/Circ.1206/Rev.1 mandatory
—Review of the MODU Code, LSA Code and MSC.1/Circ.1206/Rev.1
—Development of life safety performance criteria for alternative design and arrangements for fire safety (MSC/Circ.1002)
—Clarification of the requirements in SOLAS chapter II–2 for fire integrity of windows on passenger ships carrying not more than 36 passengers and special purpose ships with more than 60 (but no more than 240) persons on board
—Measures for on-board lifting appliances and winches
—Amendments to the Guidelines for vessels with dynamic positioning (DP) systems (MSC/Circ.645)
—Revision of requirement for escape route signs and equipment location markings in SOLAS and related instruments
—Revised SOLAS regulations II–1/13 and II–1/13–1 and other related regulations for new ships
—Unified interpretation of provisions of IMO safety, security, and environment related conventions
—Biennial status report and provisional agenda for SSE 4
—Any other business

Members of the public may attend this meeting up to the seating capacity of the room. In order to ensure reasonable accommodation for the full number of meeting participants, those who plan to attend should contact the meeting coordinator, LT Brian Hall, by email at *Brian.M.Hall@uscg.mil,* by phone at (202) 372–1396, or in writing at 2703 Martin Luther King Jr. Ave. SE., Stop 7509, Washington DC 20593–7509 not later than March 1, 2016. Requests made after March 1, 2016, might not be able to be accommodated. RTCM Headquarters is located adjacent to the Rosslyn Metro station and is accessible by taxi and privately owned conveyance. Additional information regarding this and other public meetings related to the IMO may be found at: *www.uscg.mil/imo.*

Dated: January 15, 2016.

Jonathan Burby,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2016–01273 Filed 1–21–16; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in Utah

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitation of claims for judicial review of actions by FHWA and other federal agencies.

SUMMARY: This notice announces actions taken by the FWHA that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to the proposed 1800 North (SR–37) 2000 West to I–15, Davis County improvements in the State of Utah. These actions grant approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the FHWA actions on the highway project will be barred unless the claim is filed on or before June 20, 2016. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Ziman, Area Engineer, Region 1, FHWA Utah Division, 2520 West 4700 South, Suite 9A, Salt Lake City, Utah 84129; telephone at 801–955–3525, or via email at *paul.ziman@dot.gov*. The FHWA Utah Division Office's normal business hours are Monday through Friday, 7:30 a.m. to 4:30 p.m., m.t.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA has taken final agency action subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the 1800 North (SR–37) 2000 West to I–15 project in the State of Utah. The 1800 North (SR–37) 2000 West to I–15 project proposes to provide transportation improvements on 1800 North (SR–37) between 2000 West and Interstate 15 (I–15) in Davis County, Utah, within the cities of Clinton and Sunset. The project consists of the following improvements: Widen 1800 North between Main Street and 2000 West to a five-lane cross-section (two travel lanes in each direction with a two-way left-turn lane) with additional lanes to accommodate turning movements as 1800 approaches Main Street and 2000 West; construct a grade-separated railroad crossing on 1800 North that would take 1800 North over the Union Pacific Railroad and Utah Transit Authority tracks; and construct a new interchange on I–15 at 1800 North that would provide flyover ramps to the east side of I–15. The directional flyover ramps would be shifted to the south to avoid the Army Rail Shop (a Section 4(f) property). The actions by the FHWA and the laws under which such actions were taken are described in the Environmental Impact Statement and Section 4(f) Evaluation issued on December 21, 2015.

This notice applies to all FHWA decisions as of the issuance date of this notice and all laws under which such actions were taken. Laws generally applicable to such actions include but are not limited to:

1. General: National Environmental Policy Act (42 U.S.C. 4321–4351); Federal-aid Highway Act (23 U.S.C. 109).

2. Wildlife: Endangered Species Act (16 U.S.C. 1531–1544 and 1536); Fish and Wildlife Coordination Act (16 U.S.C. 661–667(d)); Migratory Bird Treaty Act (16 U.S.C. 703–712).

3. Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470(f) *et seq.*); Archaeological and Historic Preservation Act (16 U.S.C. 469–469(c)); Archaeological Resources Protection Act of 1977 (16 U.S.C. 470(aa)–11).

4. Wetlands and Water Resources: Clean Water Act (Sections 319, 401, and 404) (33 U.S.C. 1251–1387); Land and Water Conservation Fund (16 U.S.C. 4601–4604); Safe Drinking Water Act (42 U.S.C. 300f through 300j–26); Rivers and Harbors Act of 1899 (33 U.S.C. 401–406); Wild and Scenic Rivers Act (16 U.S.C. 1271–1287); Emergency Wetlands Resources Act, (16 U.S.C. 3901, 3921); Wetlands Mitigation (23 U.S.C. 119(g) and 133(b)(14)); Flood Disaster Protection Act (42 U.S.C. 4012a, 4106).

5. Section 4(f) Land: Department of Transportation Act of 1966 (49 U.S.C. 303; 23 U.S.C. 138).

6. Noise: Federal-Aid Highway Act of 1970 (Pub. L. 91–605, 84 Stat. 1713); 23 U.S.C. 109(h) and (i); 42 U.S.C. 4441, 4332; sec. 339(b), Public Law 104–59, 109 Stat. 568, 605; 23 CFR part 772 (Procedures for Abatement of Highway Traffic Noise and Construction Noise); 49 CFR 1.48(b).

7. Executive Orders: E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13287 Preserve America.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: January 12, 2016.

Brigitte Mandel,

Acting Division Administrator, Federal Highway Administration, Salt Lake City, Utah.

[FR Doc. 2016–00956 Filed 1–21–16; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Transportation Project in and Between the States of New York and New Jersey: Cross Harbor Freight Program, Tier 1 Final Environmental Impact Statement

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other federal agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal Agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to the Cross Harbor Freight Program (CHFP) Tier I Final Environmental Impact Statement (Tier I FEIS), and consist of the issuance by FHWA of a record of decision (ROD), dated December 9, 2015, with respect to the Tier I FEIS . The Federal actions, taken as a result of a tiered environmental review process under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4351) and implementing regulations on tiering (40 CFR 1502.20, 40 CFR 1508.28, and 23 CFR part 771), determined certain issues relating to the proposed projects. Those Tier 1 decisions will be used by Federal agencies in subsequent proceedings, including decisions whether to grant licenses, permits, and approvals for highway, rail, and transit projects. Tier 1 decisions may also be relied upon by State and local agencies in proceedings on the proposed projects.

DATES: By this notice, the FHWA is advising the public that it has made decisions that are subject to 23 U.S.C. 139(l)(1) and are final within the meaning of that law. A claim seeking judicial review of the Tier 1 Federal agency decisions on the proposed highway, rail, and transit projects will be barred unless the claim is filed on or before June 20, 2016.

FOR FURTHER INFORMATION CONTACT: For FHWA: Mr. Peter W. Osborn, Division Administrator, Federal Highway Administration, Leo W. O'Brien Federal Building, Albany, New York 12207; telephone (518) 431–4127; *Peter.Osborn@dot.gov.* FHWA New York Division Office's normal business hours are 7:30 a.m. to 4:00 p.m., e.t.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA has issued a Tier 1 FEIS and an ROD in connection with the proposed CHFP that aims to improve the movement of goods in the greater New York/New Jersey region by enhancing the transportation of freight across New York Harbor (Harbor). As part of the CHFP, FHWA and the Port Authority of New York and New Jersey (PANYNJ) are undertaking a tiered environmental impact statement process, pursuant to the NEPA, which studies the goods movement system serving the region today, and considers how that system could be improved through various alternatives for the transportation of freight across the Harbor.

Tier I broadly examined the potential transportation and environmental effects from a range of alternatives, with the goal of selecting those alternative(s) for further study and potential implementation.

FHWA and the PANYNJ issued a Tier I Draft Environmental Impact Statement (Tier I DEIS) in November 2014 for public review and comment. The Tier I DEIS analyzed 10 Build Alternatives and a No Action Alternative. The project team used a variety of forums to engage stakeholders and solicit public comment on the Tier I DEIS, including scoping meetings; public hearings; briefings for elected officials, community groups, business, environmental, and transportation advocates, and other stakeholders; workshops for Federal, State, and local government agencies having regulatory jurisdiction over, or expertise with respect to, the Alternatives under review; a project Web site; and informational materials made available in English, Chinese, Spanish, and Yiddish.

Based on the findings in the Tier I DEIS, and in consideration of the written and oral comments received from the public, FHWA and PANYNJ issued a Tier I FEIS in September 2015, which included a Response to Comments chapter, and identified two of the Build Alternatives (the Enhanced Carfloat Alternative and the Rail Tunnel Alternative) as Preferred Alternatives that are recommended for more detailed, site-specific review and analysis in a Tier II level of study.

As Federal lead agency, FHWA issued a ROD on December 9, 2015, adopting the recommendations made in the Tier I FEIS and closing out Tier I of the study. It is important to note that neither the Tier I FEIS, nor the ROD, constitute a decision to implement any of the Alternatives that have been advanced for further consideration.

The actions by FHWA and the laws under which such actions were taken, are described in the Tier I FEIS, the ROD issued on December 9, 2015, and in other documents in the FHWA administrative record. The Tier I FEIS, the ROD, and other documents in the FHWA administrative record file are available by contacting FHWA at the address provided above. The Tier I FEIS and the ROD can be viewed and downloaded from the project Web site at *www.crossharborstudy.com.*

This notice applies to all Federal agency Tier 1 decisions that are final within the meaning of 23 U.S.C. 139(l)(1) as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4351); Federal-Aid Highway Act (23 U.S.C. 109 and 23 U.S.C. 128).
2. Air: Clean Air Act (42 U.S.C. 7401–7671(q)).
3. Land: Section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. 303 and 23 U.S.C. 138).
4. Wildlife: Endangered Species Act (16 U.S.C. 1532–1544 and Section 1536); Fish and Wildlife Coordination Act (16 U.S.C. 661–667(d)); and Migratory Bird Treaty Act (16 U.S.C. 703–712).
5. Wetlands and Water Resources: Safe Drinking Water Act (42 U.S.C. 300(f)–300(j)(6)); Wild and Scenic Rivers Act (16 U.S.C. 1271–1287); and Wetlands Mitigation (23 U.S.C. 103(b)(6)(M) and 133(b)(11)).
6. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470(f) et seq).
7. Social and Economic: Civil Rights Act of 1964 (42 U.S.C. 2000(d)–2001(d)(1)); and American Indian Religious Freedom Act (42 U.S.C. 1966).
8. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; and E.O. 11514 Protection and Enhancement of Environmental Quality.
9. Hazardous Materials: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601–9675); Superfund Amendments and

Reauthorization Act of 1986 (SARA); and Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901–6992(k)).

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(I)(1).

Issued on: December 9, 2015.

Peter W. Osborn,

Division Administrator, Albany, New York.

[FR Doc. 2016–00687 Filed 1–21–16; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of random drug and alcohol testing rates for 2016.

SUMMARY: This notice announces the random testing rates for employers subject to the Federal Transit Administration's (FTA) drug and alcohol rules for 2016.

DATES: *Effective Date:* January 1, 2016.

FOR FURTHER INFORMATION CONTACT: Iyon Rosario, Drug and Alcohol Program Manager for the Office of Safety and Oversight, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone: 202–366–2010 or email: *Iyon.Rosario@dot.gov*).

SUPPLEMENTARY INFORMATION:

On January 1, 1995, FTA required large transit employers to begin drug and alcohol testing employees performing safety-sensitive functions and submit annual reports by March 15 of each year beginning in 1996. The annual report includes the number of employees who had a verified positive for the use of prohibited drugs, and the number of employees who tested positive for the misuse of alcohol during the reported year. Small employers commenced their FTA-required testing on January 1, 1996, and began reporting the same information as the large employers beginning March 15, 1997. The testing rules were updated on August 1, 2001, and established a random testing rate for prohibited drugs and the misuse of alcohol.

The rules require that employers conduct random drug tests at a rate equivalent to at least 50 percent of their total number of safety-sensitive employees for prohibited drug use and at least 25 percent for the misuse of alcohol. However, the rules provide that the drug random testing rate may be lowered to 25 percent if the positive rate for the entire transit industry is less than one percent for two preceding consecutive years. Once lowered, the random rates may be raised to 50 percent if the positive rate equals or exceeds one percent for any one year (positive rate means the number of positive results for random drug tests conducted under 49 CFR 655.45 plus the number of refusals of random tests required by 49 CFR 655.49, divided by the total number of random drug tests, plus the number of refusals of random tests required by 49 CFR part 655).

The alcohol provisions provide that the random rate may be lowered to 10 percent if the violation rate for the entire transit industry is less than 0.5 percent for two consecutive years. It will remain at 25 percent if the violation rate is equal to or greater than 0.5 percent but less than one percent, and it will be raised to 50 percent if the violation rate is one percent or greater for any one year (violation rate means the number of covered employees found during random tests administered under 49 CFR 655.45 to have an alcohol concentration of .04 or greater, plus the number of employees who refuse a random test required by 49 CFR 655.49, divided by the total reported number of random alcohol tests plus the total number of refusals of random tests required by 49 CFR part 655).

Pursuant to 49 CFR 655.45(b), the Administrator's decision to increase or decrease the minimum annual percentage rate for random drug and alcohol testing is based, in part, on the reported positive drug and alcohol violation rates for the entire industry. The information used for this determination is drawn from the drug and alcohol Management Information System (MIS) reports required by 49 CFR part 655. In determining the reliability of the data, the Administrator considers the quality and completeness of the reported data, or may obtain additional information or reports from employers, and make appropriate modifications in calculating the industry's verified positive results and violation rates.

The Administrator has determined the random drug testing rate will remain at 25 percent for 2016 due to an industry positive rate lower than 1.0 percent for random drug test data for the two preceding calendar years. The random drug rates for the two preceding years are .87 percent for 2014 and .90 percent for 2015.

The Administrator has also determined the random alcohol testing rate for 2016 will remain at 10 percent because the random alcohol violation rate for the industry was again lower than 0.5 percent for the two preceding consecutive years. The random alcohol rates for the two preceding years are 0.14 percent for 2014 and 0.14 percent for 2015.

Detailed reports on the FTA drug and alcohol testing data collected from transit employers may be obtained from the FTA, Office of Safety and Oversight, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366–2010 or at *http://transit-safety.fta.dot.gov/publications/Default.aspx.*

Issued in Washington, DC, pursuant to authority under 49 CFR 1.91.

Therese W. McMillan,

Acting Administrator.

[FR Doc. 2016–01222 Filed 1–21–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0106; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming Model Year 2008–2010 Alfa Romeo 8C Spider Passenger Cars Are Eligible for Importation

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

ACTION: Receipt of petition.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that model year (MY) 2008–2010 Alfa Romeo 8C Spider passenger cars (PC) that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

DATES: The closing date for comments on the petition is February 22, 2016.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the

online instructions for submitting comments.

• *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

• *Fax:* 202–493–2251.

Instructions: Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

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

How to read comments submitted to the docket: You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

FOR FURTHER INFORMATION CONTACT: George Stevens, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(B), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS, and has no substantially similar U.S.-certified counterpart, shall be refused admission into the United States unless NHTSA has decided that the motor vehicle has safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories (WETL), Inc. of Houston, Texas (Registered Importer R–90–005) has petitioned NHTSA to decide whether nonconforming 2008–2010 Alfa Romeo 8C Spider PCs are eligible for importation into the United States.

In its petition, WETL notes that the original manufacturer, Alfa Romeo, certified the MY 2008 and 2009 8C Spider PCs to all applicable FMVSS and offered those vehicles for sale in the United States. WETL contends that the non-U.S certified MY 2010 Alfa Romeo 8C Spider PC shares the same platform with the U.S.-certified 2008 and 2009 model Alfa Romeo 8C Spider PC, and on that basis compares the non-U.S. certified model to those vehicles to establish its conformity with many applicable FMVSS. Because there is no U.S.-certified counterpart for the 2010 Alfa Romeo 8C Spider PC, the petitioner acknowledged that it could not base its petition solely on the substantial similarity of those vehicles to the U.S.-certified 2008 and 2009 Alfa Romeo 8C Spider PC in light of the petitioning requirements of 49 U.S.C. 30141(a)(1)(A), as set forth in 49 CFR part 593. Instead, the petitioner chose to establish import eligibility on the basis that the vehicles have safety features that comply with, or are capable of being modified to comply with, the FMVSS based on destructive test data or such other evidence that NHTSA decides to be adequate as set forth in 49 U.S.C. 30141(a)(1)(B). Nevertheless, the petitioner contends that the non-U.S. certified 2010 Alfa Romeo 8C Spider PCs use the same components as the U.S.-certified MY 2008 and 2009 Alfa Romeo 8C Spider PCs in virtually all of the systems subject to applicable FMVSS.

WETL submitted information with its petition intended to demonstrate that non-U.S. certified MY 2008 and 2009 Alfa Romeo 8C Spider PCs conform to many FMVSS and are capable of being altered to comply with all other standards to which they were not originally manufactured to conform.

Specifically, the petitioner claims that non-U.S. certified MY 2008, 2009 and 2010 Alfa Romeo 8C Spider PCs, as originally manufactured, conform to: Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 113 *Hood Latch System,* 116 *Motor Vehicle Brake Fluids,* 124 *Accelerator Control Systems,* 126 *Electronic Stability Control Systems,* 135 *Passenger Car Brake Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies:* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 225 *Child Restraint Anchorage Systems,* 301 *Fuel System Integrity,* 302 *Flammability of Interior Materials,* and 401 *Interior Trunk Release.*

The petitioner also contends that the subject non-U.S. certified vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* replacement of the instrument cluster with the U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* replacement of the headlamps, and the front and rear side marker lamps with U.S.-conforming components.

Standard No. 110 *Tire Selection and Rims:* installation of the required tire information placard.

Standard No. 111 *Rearview Mirrors:* inscription of the required warning statement on the face of the passenger mirror.

Standard No. 114 *Theft Protection:* reprogramming the theft protection control system by using the Examiner Smart Diagnostic System to change the country code options. In addition, there would be a need for installation of a key buzzer warning system to meet the requirements of the standard.

Standard No. 118 *Power-Operated Window, Partition, and Roof Panel System:* reprogramming the power-operated window, partition, and roof panel systems by using the Examiner Smart Diagnostic System to change the country code options.

Standard No. 138 *Tire Pressure Monitoring Systems:* installation of the U.S.-model tire pressure control unit, antenna, and sensors. In addition, programming of the associated control units by using the Examiner Smart Diagnostic System to change the country code options.

Standard No. 208 *Occupant Crash Protection:* installation of U.S.-model seat occupancy detection control units and seat frame sensors and replacement of the air bag ECUs. In addition, reprogramming of all associated control systems with U.S.-model software and reprogramming of the driver's seat controller to activate the safety belt warning buzzer using an Examiner Smart Diagnostic System.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicle near the left windshield pillar to meet the requirements of 49 CFR part 565.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2016–01270 Filed 1–21–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0122; Notice 1]

Van Hool N.V., Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of petition.

SUMMARY: Van Hool N.V. (Van Hool), has determined that certain model year (MY) 2015–2016 Van Hool Double Deck buses do not fully comply with paragraph S5.3.4 of Federal Motor Vehicle Safety Standard (FMVSS) No. 121, *Air Brake Systems.* Van Hool filed a report dated November 6, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Van Hool then petitioned NHTSA under 49 CFR part 556 requesting a decision that the subject noncompliance is inconsequential to motor vehicle safety.

DATES: The closing date for comments on the petition is February 22, 2016.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to: 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 Deliver:* Deliver comments by hand to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- *Electronically:* Submit comments electronically by: logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/.* Follow the online instructions for submitting comments. Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

The petition, supporting materials, and all comments received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All documents submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown at the heading of this notice.

DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. Overview

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Van Hool submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Van Hool's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved

Affected are approximately 48 MY 2015–2016 Van Hool Double Deck buses that were manufactured between December 13, 2014 and October 22, 2015.

III. Noncompliance

Van Hool explains that the noncompliance is that brake release times slightly exceed the requirements as specified in paragraph S5.3.4 of FMVSS No. 121.

IV. Rule Text

Paragraph S5.3.4 of FMVSS No. 121 requires in pertinent part:

S5.3.4 *Brake Release Time.* Each service brake system shall meet the requirements of S5.3.1 (a) through (b) . . .

V. Summary of Van Hool's Petition

Van Hool described the subject noncompliance and stated its belief that the noncompliance is inconsequential to motor vehicle safety based on the following reasoning:

(1) Based on the results of testing that Van Hool conducted on some of the affected buses, it determined that the brake release times, on average,

exceeded the FMVSS No. 121 requirement by only 0.03 of a second on the front axle, by 0.05 of as second on the tag axle, and by 0.10 of a second on the drive axle.

(2) Van Hool determined that this noncompliance may be due to the change of fitting for this type of vehicle. These new fittings for the Double Deck buses were introduced in production in September 2014. The classic brass couplings were replaced with push-in tube connections made of composite material to remedy certain complaints of air loss. The effect of minimal loss of internal air flow was misjudged, which caused the brake release time to exceed the requirements.

However, Van Hool believes that there is no safety issue, nor unnecessary brake drag during acceleration after brake release due to the reaction time of the driver (moving foot from brake pedal to throttle pedal) and the reaction time of the complete driveline being longer than the brake release time.

(3) Van Hool stated its belief that because the brake actuation time on the subject buses fulfilled the requirements as specified in paragraph S5.3.3 of FMVSS No. 121, that the noncompliance has no effect on the brake performance. Van Hool found that its testing showed a margin on the required brake actuation time of 11% for the front axle, 20% for the drive axle and 17% for the tag axle. For this reason Van Hool is convinced that the noncompliance will not show significant differences in dynamic brake test and will have no influence on the motor vehicle safety. Thus, Van Hool did not repeat the dynamic brake test. Also, the dynamic brake test was not repeated on any of the subject vehicles because Van Hool's dynamic brake test showed a minimum 25% margin for the brake stopping distance requirement.

(4) Van Hool made reference to previous inconsequential noncompliance petitions that it believes are similar to its petition and that were granted by NHTSA.

Van Hool additionally informed NHTSA that the noncompliance has been corrected on vehicles in subsequent production and that all future vehicles will be in full compliance with FMVSS No. 121.

In summation, Van Hool believes that the described noncompliances are inconsequential to motor vehicle safety, and that its petition, to exempt Van Hool from providing recall notification of noncompliances as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject buses that Van Hool no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant buses under their control after Van Hool notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120: Delegations of authority at 49 CFR 1.95 and 501.8.

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2016–01168 Filed 1–21–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of Amendment to Systems of Records.

SUMMARY: As required by the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)), notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records entitled ''Customer User Provisioning System (CUPS)-VA'' (87VA005OP). VA is re-publishing the system notice in its entirety.

DATES: Comments on this new system of records must be received no later than February 22, 2016. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the new system will become effective February 22, 2016.

ADDRESSES: Written comments concerning the proposed amended system of records may be submitted by: mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026; or email to *http://www.Regulations.gov.* All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 (this is not a toll-free number) for an appointment.

FOR FURTHER INFORMATION CONTACT: Andrea Birkland, Chief, Systems Access Management, Enterprise Operations, Department of Veterans Affairs, 1615 Woodward Street, Austin, Texas 78772, telephone (512) 326–6394.

SUPPLEMENTARY INFORMATION: The Department is proposing to amend its system of records entitled ''Customer User Provisioning System (CUPS)'' by updating the system manager and address to Deputy Director, Security Systems, 1615 Woodward Street, Austin, Texas 78772. The telephone number is (512) 326–6021; updating the system location name from Corporate Data Center Operations (CDCO) to Enterprise Operations (EO); and changing the information contact to Andrea Birkland, Chief, Systems Access Management, Department of Veterans Affairs, 1615 Woodward Street, Austin, Texas 78772, telephone (512) 326–6394.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Nabors II, Chief of Staff, approved this document on January 11, 2016, for publication.

Dated: January 12, 2016.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

87VA005OP

SYSTEM NAME:

Customer User Provisioning System (CUPS)-VA.

SYSTEM LOCATION:

The automated records are maintained by the Enterprise Operations (EO), 1615 Woodward Street, Austin, TX 78772. The paper records will be maintained at each VA field station that has a responsibility for CUPS input.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Department of Veterans Affairs employees, employees of other

government agencies, and authorized contractor personnel who have requested and have been granted access to the automated resources of VA Enterprise Operations (EO).

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in this system, in both paper and electronic form, will include the names and network user-ID of all personnel who have requested and been granted access to the automated resources at EO. The records will also include business address and telephone number, job title, and information relating to data file and computer system access permissions granted to that individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, Section 501.

PURPOSE(S):

The purpose of this system of records is to allow EO in Austin, Texas, to maintain a current list of all VA employees, employees of other government agencies, and authorized contractor personnel who require access to the computer resources of EO, in accordance with Federal computer security requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. At the initiative of VA, pertinent information may be disclosed to appropriate Federal, State or local agencies responsible for investigating, prosecuting, enforcing or implementing statutes, rules, regulations or orders, where VA becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

2. Disclosure of specific information may be made to a Federal agency, in response to its request, to the extent that the information requested is relevant and necessary to the requesting agency's decision in connection with hiring or retaining an employee, issuing a security clearance, conducting a security or suitability investigation on an individual, classifying jobs, awarding a contract or issuing a license, grant or other benefit.

3. Disclosure of information may be made to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, the Federal Labor Relations Authority and its General Counsel or the Equal Employment Opportunity Commission, when requested in performance of their authorized duties, and the request is not in connection with a law enforcement investigation.

4. The record of an individual who is covered by this system or records may be disclosed to a member of Congress, or staff person acting for the member when the member or staff person requests the record on behalf of and at the written request of that individual.

5. Disclosure may be made to the National Archives and Records Administration and General Services Administration for record management inspections conducted under Authority of Title 44 U.S.C.

6. VA may disclose information from this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to the DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

7. Disclosure of relevant information may be made to individuals, organizations, private or public agencies, or other entities with whom VA has a contract or agreement or where there is a subcontract to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

8. VA may disclose on its own initiative any information in this system, except the names and home addresses of veterans and their dependents, that is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, State, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation or order. VA may also disclose on its own initiative the names and addresses of veterans with the responsibility of investigating or prosecuting civil, criminal, or regulatory violations if law, or charged with enforcing or implementing the statute regulation, or order issued pursuant thereto.

9. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

10. VA may, on its own initiative, disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) VA has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to the economic or property interests, identity theft or fraud, or harm to security, confidentially, or integrity of this system or other systems or programs (whether maintained by VA or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the VA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by VA to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms are defined in 38 U.S.C. 5727.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each field station responsible for inputting records into the system will retain the original signed paper copies of requests for system access in locked containers. Data files supporting the automated system are stored in a secure area located at EO Data files are stored on magnetic disk and, for archival purposes, on magnetic tape.

RETRIEVABILITY:

Paper records are maintained in alphabetical order by last name of the requester. Automated records are retrieved by individual name or by a specific automated resource.

SAFEGUARDS:

Paper records in progress are maintained in a manned room during working hours. Paper records

maintained for archival purposes are stored in locked containers until needed. During non-working hours, the paper records are kept in a locked container in a secured area. Access to the records is on a need-to-know basis only. Access to the automated system is via computer terminal; standard security procedures, including a unique customer identification code and password combination, are used to limit access to authorized personnel only.

Specifically, in order to obtain access to the automated records contained in this system of records, an individual must:

1. Have access to the automated resources of EO An individual may not self-register for this access. Formal documentation of the request for access, signed by the employee's supervisor, is required before an individual may obtain such access. Authorized customers are issued a customer identification code and one-time password.

2. Be an authorized official of the CUPS system. Only two individuals per field station may be designated CUPS officials with access to add, modify or delete records from the system. These individuals require a specific functional task code in their customer profile; this functional task can only be assigned by EO. A limited number of supervisory or managerial employees throughout VA will have read-only access for the purpose of monitoring CUPS activities.

RETENTION AND DISPOSAL:

Records will be maintained and disposed of in accordance with the records disposal authority approved by the Archivist of the United States, the National Archives and Records Administration, and published in Agency Records Control Schedules.

Paper records will be destroyed by shredding or other appropriate means for destroying sensitive information. Automated storage records are retained and destroyed in accordance with a disposition authorization approved by the Archivist of the United States.

SYSTEMS AND MANAGER(S) AND ADDRESS:

Officials responsible for policies and procedures; Deputy Director, Security Systems, 1615 Woodward Street, Austin, Texas 78772. The telephone number is (512) 326–6021.

NOTIFICATION PROCEDURE:

Individuals who wish to determine whether this system of records contains information about them should contact the Deputy Director, Security Systems, 1615 Woodward Street, Austin, Texas 78772. The telephone number is (512) 326–6021.

RECORD ACCESS PROCEDURE:

An individual who seeks access or wishes to contest records maintained under his or her name or other personal identifier may write, call, or visit the system manager.

CONTESTING RECORD PROCEDURES:

(See Record Access Procedures above.)

RECORD SOURCE CATEGORIES:

Individuals who have applied for and been granted access permission to the resources of EO.

[FR Doc. 2016–01224 Filed 1–21–16; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Consolea corallicola* (Florida Semaphore Cactus) and *Harrisia aboriginum* (Aboriginal Prickly-Apple); Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2014–0057; 4500030113]

RIN 1018–AZ92

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Consolea corallicola (Florida Semaphore Cactus) and Harrisia aboriginum (Aboriginal Prickly-Apple)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, designate critical habitat for *Consolea corallicola* (Florida semaphore cactus) and *Harrisia aboriginum* (aboriginal prickly-apple) under the Endangered Species Act (Act). In total, approximately 4,411 acres (1,785 hectares) for *Consolea corallicola* in Miami-Dade and Monroe Counties, Florida; and 3,444 acres (1,394 hectares) for *Harrisia aboriginum* in Manatee, Charlotte, Sarasota, and Lee Counties, Florida, fall within the boundaries of the critical habitat designations.

DATES: This rule becomes effective on February 22, 2016.

ADDRESSES: This final rule is available on the internet at *http://www.regulations.gov* and *http://www.fws.gov/verobeach/.* Comments and materials we received, as well as some supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov.* All of the comments, materials, and documentation that we considered in this rulemaking are available by appointment, during normal business hours at the South Florida Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**).

The coordinates, plot points, or both from which the maps are generated are included in the administrative record for this critical habitat designation and are available at *http://www.fws.gov/verobeach/,* at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2014–0057, and at the South Florida Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**). Any additional tools or supporting information that we developed for this critical habitat designation will also be available at the U.S. Fish and Wildlife Service Web site and Field Office listed above, and may also be included in the preamble and/or at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Roxanna Hinzman, Field Supervisor, U.S. Fish and Wildlife Service, South Florida Ecological Services Office, 1339 20th Street, Vero Beach, FL 32960; by telephone 772–562–3909; or by facsimile 772–562–4288. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), when we determine that any species is threatened or endangered, we must designate critical habitat, to the maximum extent prudent and determinable. Designations of critical habitat can be completed only by issuing a rule.

This rule consists of: A final rule designating critical habitat for two endangered plant species, *Consolea corallicola* and *Harrisia aboriginum.*

We have prepared an economic analysis of the designations. In order to consider economic impacts, we prepared an incremental effects memorandum (IEM) and screening analysis which, together with our narrative and interpretation of effects, we consider our draft economic analysis (DEA) of the proposed critical habitat designation and related factors. The analysis, dated October 15, 2014, was made available for public review from January 22, 2015, through March 23, 2015 (80 FR 3316). The DEA addressed probable economic impacts of critical habitat designation for *Consolea corallicola* and *Harrisia aboriginum.* We did not receive any comments regarding the DEA; therefore, we consider the October 15, 2014, DEA, our IEM, and narrative interpretation of the effects to be the final economic analysis.

Peer review and public comment. We sought comments from three independent specialists to ensure that our designation is based on scientifically sound data and analyses. We obtained opinions from two of the independent specialists with scientific expertise to review our technical assumptions, analysis, and whether or not we had used the best available information. These peer reviewers generally concurred with our methods and conclusions and provided additional information, clarifications, and suggestions to improve this final rule. Information we received from peer review did not result in changes to the proposed designation. We also considered all comments and information received from the public during the comment period.

Previous Federal Actions

Previous Federal actions for *Consolea corallicola* and *Harrisia aboriginum* are outlined in our proposed and final rules to list both species as endangered species published in the **Federal Register** on October 11, 2012 (77 FR 61836), and October 24, 2013 (78 FR 63796), respectively.

Summary of Comments and Recommendations

We requested written comments from the public on the proposed designation of critical habitat for *Consolea corallicola* and *Harrisia aboriginum* and the associated DEA with the publication of the proposed rule to designate critical habitat that published January 22, 2015 (80 FR 3316). The comment period opened on January 22, 2015, and closed on March 23, 2015. We did not receive any requests for a public hearing. We also contacted appropriate Federal, State, and local agencies; scientific organizations; and other interested parties and invited them to comment on the proposed rule and DEA during the comment period.

We received four comment letters directly addressing the proposed critical habitat designation. All substantive information provided during the comment period is addressed below.

Peer Review

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from three knowledgeable individuals with scientific expertise that included familiarity with the species, the geographic region in which the species occurs, and conservation biology principles. We received responses from two of the peer reviewers.

Both peer reviewers noted that the proposal was comprehensive and that the data which the Service relied upon to delineate critical habitat was sound. Peer reviewers did not provide any new information that would necessitate changes to the final rule. Peer reviewer comments are addressed in the following summary.

Peer Reviewer Comments

(1) *Comment:* The proposed rule references a population within John Pennekamp Coral Reef State Park. This population was planted by park staff and is, therefore, considered cultivated as there is no documentation that

supports *Consolea corallicola* occurring historically within the park.

Our Response: The proposed rule did not identify a population of *Consolea corallicola* within John Pennekamp Coral Reef State Park since the Service was unaware that *C. corallicola* was planted at this location. Although individuals of listed plant species receive protection under section 7 of the Act regardless of whether they were translocated (planted) or originated naturally, designation of critical habitat at John Pennekamp Coral Reef State Park does not mandate the Florida Park Service to manage the habitat or reintroduce *C. corallicola* in the areas identified. John Pennekamp Coral Reef State Park is located within critical habitat unit FSC2 that also contains Dagny Johnson Botanical State Park where the plant is known to occur. Critical habitat units for this species are delineated by the presence of suitable habitat conditions that promote survival and expansion of populations into the future and are not required to be completely occupied by the species at the time of listing.

(2) *Comment:* One peer reviewer noted that the Florida Natural Areas Inventory (FNAI), *Guide to the natural communities of Florida: 2010 edition* contains a ''new'' natural community, designated as Keys Cactus Barren that occurs in the Florida Keys on Key Largo limestone. This may be another natural community that *C. corallicola* uses or may be reintroduced or otherwise assisted in its migration. However, the Keys Cactus Barren is so ''new'' that it has not been mapped out or identified properly like the other natural communities that were designated in the 1990 FNAI Guide to the natural communities of Florida. It may be useful for those active in the conservation of *C. corallicola* to identify and map Keys cactus barren within critical habitat areas that are being proposed.

Our Response: The Service agrees that, while no historical wild populations were reported from Keys cactus barren habitat, it is likely to be a suitable habitat type for *Consolea corallicola* because it is an open canopy habitat with many of the same associated species found in rockland hammock or buttonwood forest. The ecology of Keys cactus barrens remains poorly understood, in particular, how they arise and what processes maintain them. While areas of Keys cactus barren habitat are not delineated in the data we utilized, the habitat type occurs largely as inclusions within rockland hammock, coastal berm, or buttonwood forest. Since these habitats were included in the proposal, it is likely that many unmapped Keys cactus barren areas are included in the final critical habitat designation.

(3) *Comment:* One peer reviewer stated that proper management of individual plants and their habitat may prove to be very expensive and time demanding, requiring quarterly population monitoring to remove *Cactoblastis cactorum* larvae, and to control other native and nonnative plants and animals around individual plants.

Our Response: The Service agrees that conservation of these species will necessitate a commitment by the Service and our conservation partners. Nonnative plant and animal control is ongoing at some sites, and most populations are visited at least twice per year to monitor for *Cactoblastis* infestations. We welcome suggestions from stakeholders and partners on how to efficiently address the threat from *C. cactorum* moths.

(4) *Comment:* One peer reviewer suggested that reducing fuels around the cacti before prescribed fire and in case of wildfire may also need to be conducted in the event that prescribed or wild fire burns into the plants.

Our Response: The Service agrees that fuel reduction or other strategies are needed to reduce the risk of wild or prescribed fire escaping into areas supporting the two cacti. We discuss the risk of wildfire in this final rule, but we believe that emergency management actions that may be needed in the event of wildfire, such as clearing fuels around individual cacti, must take place on a case-by-case basis.

(5) *Comment:* One peer reviewer suggested that, in addition to using current aerial photography to identify critical habitat for these species, the Service should use historical aerial photography as well. The earliest possible aerials show the habitat as it was from the mid-1900s, when Florida was much different than it is today (more open), and will lead to more effective identification of the natural communities the two cacti need.

Our Response: The Service has identified critical habitat areas that are suitable for the two species based largely on current habitat conditions, and to a much lesser extent, areas that could be suitable if they undergo restoration (see Criteria Used to Identify Critical Habitat sections for each species). We attempted to designate a critical habitat unit for each current and historical population on record. In some areas of these species' range, dense development and concomitant lack of large natural areas are the primary limiting factor to the size of the critical habitat units. While historical aerial imagery would help us understand past habitat conditions and perhaps identify some areas lost to disrupted ecology or nonnative species, we believe the improvement to this critical habitat designation would be negligible because the main limiting factor for these species is habitat loss due to development and sea level rise, rather than due to lack of natural disturbance and active management.

Comments From the State

Section 4(b)(5)(A)(ii) of the Act requires the Secretary to give actual notice of any regulation proposed thereunder to the State agency in each State in which the species occur, and to invite comments. Comments received from the State regarding the proposal to designate critical habitat for *Consolea corallicola* and *Harrisia aboriginum* are addressed below.

(6) *Comment:* The Florida Department of Agriculture and Consumer Services' Division of Plant Industry (FDACS–DPI), which maintains Florida's list of threatened, endangered, and economically exploited species under Florida's native plant protection statute (Chapter 5B–40 Preservation of Native Flora of Florida), stated that it supports the designation of critical habitat for *Consolea corallicola* and *Harrisia aboriginum.* The commenter stated that habitat at the highest available elevation will be important to avoid possible inundation from storms and sea level rise.

Our Response: The Service appreciates FDACS–DPI support of the critical habitat designation. We agree that habitats at higher elevations are important for reducing the vulnerability of these two plants to storm surge and sea level rise. A significant portion of the total critical habitat designation for *Consolea corallicola* is on Key Largo, which contains the vast majority of the relatively high elevations within the species' historical range. However, we did not include the highest elevation in the Florida Keys (located on Windley Key) because there is no record of *C. corallicola* on the island. The critical habitat designation for *Harrisia aboriginum* includes higher elevation coastal berms and shell mounds. Shell mounds are often several meters above sea level. Other areas with higher elevation do not contain the associated species, vegetation structure, and disturbance regime suitable for *Harrisia aboriginum.*

Summary of Changes From Proposed Rule

Public and peer review comments did not necessitate any changes to the final rule.

Summary of Biological Status for *Consolea corallicola* and *Harrisia aboriginum*

For more information on *Consolea corallicola* and *Harrisia aboriginum* taxonomy, life history, habitat, population descriptions, and factors affecting the species, please refer to the proposed listing rule published October 11, 2012 (77 FR 61836), the final listing rule published October 24, 2013 (78 FR 63796), and the proposed rule to designate critical habitat published January 22, 2015 (80 FR 3316).

Critical Habitat

Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) of the Act would apply, but even in the event of a destruction or adverse modification finding, the obligation of the Federal action agency and the landowner is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat). In identifying those physical or biological features within an area, we focus on the principal biological or physical constituent elements (primary constituent elements such as roost sites, nesting grounds, seasonal wetlands, water quality, tide, soil type) that are essential to the conservation of the species. Primary constituent elements are those specific elements of the physical or biological features that provide for a species' life-history processes and are essential to the conservation of the species.

Under the second prong of the Act's definition of critical habitat, we may designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. For example, an area currently occupied by the species but that was not occupied at the time of listing may be essential for the conservation of the species and may be included in the critical habitat designation. We designate critical habitat in areas outside the geographical area occupied by a species only when a designation limited to its range would be inadequate to ensure the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific and commercial data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines, provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information developed during the listing process for the species. Additional information sources may include, but are not limited to, the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, other unpublished materials, or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act, (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species, and (3) section 9 of the Act's prohibitions on taking any individual of the species, including taking caused by actions that affect

habitat. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of *Consolea corallicola* and *Harrisia aboriginum.* Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

Physical or Biological Features

In accordance with sections 3(5)(A)(i) and 4(b)(1)(A) of the Act and regulations at 50 CFR 424.12(b), in determining which areas within the geographical area occupied by the species at the time of listing may be designated as critical habitat, we consider the physical or biological features that are essential to the conservation of the species and which may require special management considerations or protection. These include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing (or development) of offspring; and

(5) Habitats that are protected from disturbance or are representative of the historical geographic and ecological distributions of a species.

We derive the specific physical or biological features essential to *Consolea corallicola* and *Harrisia aboriginum* from studies of the species' habitat, ecology, and life history as described below. Additional information on these cacti can be found in the proposed and final listing rules. We have determined that the following physical or biological features are essential to the conservation of *Consolea corallicola.*

Consolea corallicola

Space for Individual and Population Growth and for Normal Behavior

Plant Community and Competitive Ability. Consolea corallicola occurs in communities classified as coastal berm, buttonwood forests, and rockland hammocks restricted to the Florida Keys. These communities and their associated native plant species are described in the Status Assessment for *Consolea corallicola* in the proposed and final listing rules. These habitats and their associated plant communities provide vegetation structure that allows for adequate growing space, sunlight, and a competitive regime that is required for *C. corallicola* to persist and spread. Therefore, based on the information above, we identify upland habitats consisting of coastal berm, rockland hammock, and buttonwood forest to be a physical or biological feature for *C. corallicola.*

Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements

Climate (temperature and precipitation). Consolea corallicola requires adequate rainfall and does not tolerate prolonged freezing temperatures. The climate of south Florida where *C. corallicola* occurs is characterized by distinct wet and dry seasons, a monthly mean temperature above 18 °C (64.4 °F) in every month of the year, and annual rainfall averaging 75 to 150 cm (30 to 60 inches (in)) (Gabler *et al.* 1994, p. 211). Freezes can occur in the winter months, but are very infrequent at this latitude in Florida. Therefore, based on the information above, we determined this type of climate to be a physical or biological feature for *C. corallicola.*

Soils. Substrates supporting *Consolea corallicola* include loose sediment formed by a mixture of coarse sand, shell fragments, pieces of coralline algae, and other coastal debris, exposed bare limestone rock or with a thin layer of leaf litter or highly organic soil (Bradley and Gann 1999, p. 37; FNAI 2010a, b, and c, p. 1; FNAI 2010d,e, p. 2). These substrates provide anchoring spots, nutrients, moisture regime, and suitable soil chemistry for *C. corallicola;* and facilitate a community of associated plant species that create a competitive regime that allows *C. corallicola* to persist and spread. Therefore, based on the information above, we identify substrates derived from calcareous sand or limestone that provide anchoring and nutritional requirements to be a physical or biological feature for *C. corallicola.*

Hydrology. The species requires coastal berms and buttonwood forests that occur at an elevation higher than the daily tidal range, but are subject to flooding by seawater during extreme tides and storm surge (FNAI 2010b, p. 2; FNAI 2010c, p. 2). This flooding helps to limit the variety of plants that may grow in these habitats and compete with *Consolea corallicola.* Rockland hammocks occur on high ground that does not regularly flood, but this habitat is often dependent upon a high water table to keep humidity levels high, and may be inundated during storm surges (FNAI 2010e, p. 2). Therefore, based on the information above, we identify rockland hammock habitat with groundwater levels needed to maintain humidity and buttonwood and coastal berm habitat inundated by storm surge or tidal events at a frequency and duration needed to limit plant species competition while not creating overly saline conditions to be a physical or biological feature for *C. corallicola.*

Cover or Shelter

Consolea corallicola occurs in open canopy and semi-open to closed canopy habitats. The spatial and temporal distribution of open canopy areas varies by habitat type and time since the last disturbance, such as a hurricane, caused canopy openings. In rockland hammocks, suitable sites will often be found near the hammock edge or where there are openings in the forest canopy. More open communities (*e.g.,* coastal berm and buttonwood forests) provide more abundant and temporally consistent suitable habitat than communities capable of establishing a dense canopy (*e.g.,* hardwood hammocks). Therefore, based on the information above, we identify habitats that have a vegetation composition and structure that allows for adequate sunlight and space for individual growth and population expansion to be a physical or biological feature for *C. corallicola.*

Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring

The habitats identified above as physical or biological features also provide a plant community with associated plant species that foster a competitive regime suitable to *Consolea corallicola* and contain adequate open space for the recruitment of new plants. Associated plant species in these habitats attract and provide cover for generalist pollinators (*e.g.,* bees, butterflies, and beetles) that pollinate *C. corallicola.*

Habitats Protected From Disturbance or Representative of the Historical, Geographic, and Ecological Distributions of the Species

Consolea corallicola continues to occur in habitats that are protected from human-generated disturbances and are representative of the species' historical, geographical, and ecological distribution although its range has been reduced. The species is still found in coastal berm, buttonwood forest, and

rockland hammocks. As described above, these habitats provide a community of associated plant and animal species that are compatible with *C. corallicola,* vegetation structure that provides adequate sunlight levels and open space for plant growth and regeneration, and substrates with adequate moisture availability and suitable soil chemistry. Representative communities are located on Federal, State, local, and private conservation lands that implement conservation measures benefitting the species. Therefore, based on the information above, we identify habitat of sufficient size and connectivity that can support species growth, distribution, and population expansion to be physical or biological features for *C. corallicola*.

Disturbance Regime. Coastal berm, buttonwood forest, and rockland hammock habitats that could or currently support *Consolea corallicola* depend on natural disturbance regimes from hurricanes or tidal inundation to open the canopy in order to provide light levels sufficient to support the species. The historical frequency and magnitude of hurricanes and tidal inundation has allowed for the persistence of *C. corallicola* by occasionally creating areas of open canopy. In the absence of disturbance, some of these habitats may have closed canopies, resulting in areas lacking enough available sunlight to support *C. corallicola*. However, too frequent or severe disturbance that transitions the habitat toward more saline conditions could result in the decline of the species in the area. Therefore, based on the information above, we identify habitats that have disturbance regimes, including hurricanes, and infrequent inundation events that maintain habitat suitability to be physical or biological features for *C. corallicola*.

Primary Constituent Elements for Consolea corallicola

Under the Act and its implementing regulations, we are required to identify the physical or biological features essential to the conservation of *Consolea corallicola* in areas occupied at the time of listing, focusing on the features' primary constituent elements. Primary constituent elements are those specific elements of the physical or biological features that provide for a species' life-history processes and are essential to the conservation of the species.

Based on our current knowledge of the physical or biological features and habitat characteristics required to sustain the species' life-history processes, we determine that the primary constituent elements specific to *Consolea corallicola* are:

(i) Areas of upland habitats consisting of coastal berm, rockland hammocks, and buttonwood forest.

(A) Coastal berm habitat that contains:

(1) Open to semi-open canopy, subcanopy, and understory; and

(2) Substrate of coarse, calcareous, and storm-deposited sediment.

(B) Rockland hammock habitat that contains:

(1) Canopy gaps and edges with an open to semi-open canopy, subcanopy, and understory; and

(2) Substrate with a thin layer of highly organic soil covering limestone or organic matter that accumulates on top of the limestone.

(C) Buttonwood forest habitat that contains:

(1) Open to semi-open canopy and understory; and

(2) Substrate with calcareous marl muds, calcareous sands, or limestone rock.

(ii) A plant community of predominately native vegetation with no invasive, nonnative animal or plant species or such species in quantities low enough to have minimal effect on survival of *Consolea corallicola*.

(iii) A disturbance regime, due to the effects of strong winds or saltwater inundation from storm surge or infrequent tidal inundation, that creates canopy openings in coastal berm, rockland hammocks, and buttonwood forest.

(iv) Habitats that are connected and of sufficient size to sustain viable populations in coastal berm, rockland hammocks, and buttonwood forest.

(v) Habitats that provide populations of the generalist pollinators that visit the flowers of *Consolea corallicola*.

Special Management Considerations or Protection for Consolea corallicola

When designating critical habitat, we assess whether the specific areas within the geographic area occupied by the species at the time of listing contain features which are essential to the conservation of the species and which may require special management considerations or protection.

Special management considerations or protection are necessary throughout the critical habitat units to avoid further degradation or destruction of the habitat that provides those features essential to the species' conservation. The primary threats to the physical or biological features that *Consolea corallicola* depends on include:

(1) Habitat destruction and modification by development and sea level rise;

(2) Competition with nonnative, invasive plant and animal species;

(3) Wildfire; and

(4) Hurricanes and storm surge.

Some of these threats can be addressed by special management considerations or protection, while others (*e.g.,* sea level rise, hurricanes, storm surge) are beyond the control of landowners and managers. However, even when landowners or land managers may not be able to control all the threats, they may be able to address the results of the threats.

Proposed Actions To Ameliorate Threats

The following measures or management activities can ameliorate threats to *Consolea corallicola:*

(1) Protecting habitats from residential, commercial, or recreational facility development;

(2) Avoiding ditching or filling that may alter hydrological conditions;

(3) Nonnative plant and animal species control programs to reduce competition and predation and prevent habitat degradation; and

(4) Hardwood reduction to maintain the open vegetation structure of the species' habitats.

The reduction of these threats will require the implementation of special management actions within each of the critical habitat areas identified in this final rule. All critical habitat units will need management to address the ongoing threats listed above and those presented in the *Summary of Factors Affecting the Species* sections in the proposed and final listing rules.

Ongoing Actions To Ameliorate Threats

The Service, National Park Service (NPS), State of Florida, Miami-Dade and Monroe Counties, and several local governments own and manage conservation lands within the range of *Consolea corallicola*. The Nature Conservancy purchased Torchwood Hammock Preserve on Little Torch Key in 1988, to protect what was at the time the only known remaining population of *C. corallicola*. The comprehensive conservation plan (CCP) for the Lower Florida Keys National Wildlife Refuges (National Key Deer Refuge, Key West National Wildlife Refuge, and Great White Heron National Wildlife Refuge) and Crocodile Lake National Wildlife Refuge promote the enhancement of wildlife populations by maintaining and enhancing a diversity and abundance of habitats for native plants and animals, especially imperiled species that are found only in the Florida Keys. This CCP provides specifically for

maintaining and expanding populations of *C. corallicola*.

NPS regulations at 36 CFR 2.1 prohibit visitors from harming or removing plants, listed or otherwise, from Everglades National Park (ENP) or Biscayne National Park (BNP). *Consolea corallicola* is listed on the Regulated Plant Index as endangered under chapter 5B–40, Florida Administrative Code. Florida Statutes 581.185 sections (3)(a) and (b) prohibit any person from willfully destroying or harvesting any species listed as endangered or threatened on the Regulated Plant Index, or growing such a plant on the private land of another, or on any public land, without first obtaining the written permission of the landowner and a permit from the Florida Department of Plant Industry.

The Service, NPS, State of Florida, Miami-Dade and Monroe Counties, and several local governments conduct nonnative species control efforts on sites that support or have suitable habitat for *C. corallicola*. The introduced *Cactoblastis* moth (*Cactoblastis cactorum*) infests *C. corallicola* plants and may cause mortality. We consider the moth to be a major threat to the species. Monitoring for *Cactoblastis* moth infestations, and hand removal efforts of the moth larvae and eggs are conducted at BNP and Torchwood Hammock Preserve in an effort to protect *C. corallicola*. No satisfactory method of large-scale control for the *Cactoblastis* moth is known at this time. The U.S. Department of Agriculture (USDA) Agricultural Research Service's Center for Medical, Agricultural, and Veterinary Entomology in Tallahassee, Florida, is developing containment methods to control the spread of the *Cactoblastis* moth (USDA 2006, p. 9).

Reintroductions of *Consolea corallicola* have been implemented at several locations on State and Federal lands in the Florida Keys over the past 15 years. Attempts at reintroduction implemented in the 1990s were largely unsuccessful due to poor site selection, *Cactoblastis* moth predation, crown rot, and burial of small plants by leaf litter. It is too early to judge the results of more recent reintroductions that were implemented in 2013 and 2014. Reintroduction of *C. corallicola* serves multiple objectives towards the plant's conservation, including increasing the number of populations to address the threat of few, small populations; establishing populations across a wider geographic area to reduce the chance that all populations will be affected by natural disturbances, such as hurricanes and storm surge events; and establishing populations at higher elevation sites that will be less vulnerable to storm surge events and sea level rise. Assisted migration to higher elevations at existing sites may be needed in the future to conserve populations if the area supporting the existing population shows indications of increased soil salinity and population decline due to sea level rise.

Criteria Used To Identify Critical Habitat for Consolea corallicola

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we review available information pertaining to the habitat requirements of the species and identify occupied areas at the time of listing that contain the features essential to the conservation of the species. If, after identifying currently occupied areas, a determination is made that those areas are inadequate to ensure conservation of the species, in accordance with the Act and our implementing regulations at 50 CFR 424.12(e), we then consider whether designating additional areas—outside those currently occupied—are essential for the conservation of the species.

We are designating critical habitat units throughout the historical range of *Consolea corallicola*. The species currently occupies all of the islands of the Florida Keys where it was recorded historically. We determined that there is no unoccupied habitat that is essential for the conservation of the species. Therefore, we are only designating critical habitat in areas within the geographical area presently occupied by the species (*i.e.,* occupied at the time of listing).

The wild populations of *Consolea corallicola* are much reduced (50 percent) from the species' historical distribution, and one of the two remaining wild populations is small, consisting of only 12 mature plants. The habitats required by *C. corallicola* are severely fragmented by development in the Florida Keys. We anticipate that recovery will require continued protection of the remaining extant populations and habitat, augmenting existing small populations, and establishing populations in additional areas to more closely approximate its historical distribution in order to ensure there are adequate numbers of plants in stable populations and that these populations occur over a wide geographic area. This will help to ensure that catastrophic events, such as storms, cannot simultaneously affect all known populations.

Small plant populations with limited, fragmented distributions, such as *Consolea corallicola,* are vulnerable to relatively minor environmental disturbances (Frankham 2005, pp. 135–136) that could result in the loss of genetic diversity from genetic drift, the random loss of genes, and inbreeding (Ellstrand and Elam 1993, pp. 217–237; Leimu *et al.* 2006, pp. 942–952). Plant populations with lowered genetic diversity are more prone to local extinction (Barrett and Kohn 1991, pp. 4, 28). Smaller plant populations generally have lower genetic diversity, and lower genetic diversity may in turn lead to even smaller populations by decreasing the species' ability to adapt, thereby increasing the probability of population extinction (Newman and Pilson 1997, p. 360; Palstra and Ruzzante 2008, pp. 3428–3447). Because of the dangers associated with small populations or limited distributions, the recovery of many rare plant species includes the creation of new sites or reintroductions to ameliorate these effects.

Habitat fragmentation can have negative effects on populations, especially rare plants, and can affect survival and recovery (Aguilar *et al.* 2006, pp. 968–980; Aguilar *et al.* 2008, pp. 5177–5188; Potts *et al.* 2010, pp. 345–352). In general, habitat fragmentation causes habitat loss, habitat degradation, habitat isolation, changes in species composition, changes in species interactions, increased edge effects, and reduced habitat connectivity (Fahrig 2003, pp. 487–515; Fischer and Lindenmayer 2007, pp. 265–280). Habitat fragments are often functionally smaller than they appear because edge effects (such as increased nonnative, invasive species or wind speeds) impact the available habitat within the fragment (Lienert and Fischer 2003, p. 597).

In selecting areas for critical habitat designation, we utilized the Shaffer and Stein (2000) methodology for conserving imperiled species known as the 'three Rs': Representation, resiliency, and redundancy. Representation, or preserving some of everything, means conserving not just a species but its associated plant communities. Resiliency and redundancy ensure there is enough of a species so it can survive into the future. Resiliency means ensuring that the habitat is adequate for a species and its representative components. Redundancy ensures an adequate number of sites and individuals. This methodology has been widely accepted as a reasonable

conservation strategy (Tear *et al.* 2005, p. 841).

We have addressed representation through the primary constituent elements (as discussed above) and by identifying areas of habitat for the expansion of *Consolea corallicola* populations. There are only approximately 800 to 1,000 known individuals and only 6 populations. All but 2 populations consist of fewer than 100 individuals (low redundancy). All populations occur on small islands where the amount of suitable remaining habitat is limited (low resiliency), and much of the remaining habitat may be lost to sea level rise over the next century.

Sources of Data To Identify Critical Habitat Boundaries

To determine the location and boundaries of critical habitat, the Service used the following sources of information and considerations:

(1) Florida Natural Areas Inventory (FNAI) population records and ArcGIS geographic information system software to spatially depict the location and extent of documented populations of *Consolea corallicola* (FNAI 2011a, pp. 1–4);

(2) Reports prepared by botanists with the Institute for Regional Conservation (IRC), NPS, and Florida Department of Environmental Protection (FDEP) (Some of these were funded by the Service; others were requested or volunteered by biologists with the NPS or FDEP.);

(3) Historical records found in reports and associated voucher specimens housed at herbaria, all of which are referenced in the above-mentioned reports from the IRC and FNAI;

(4) Digitally produced habitat maps provided by Monroe County; and

(5) Aerial images of Miami-Dade and Monroe Counties. The presence of primary constituent elements was determined through the use of GIS spatial data depicting the current habitat status. These habitat data for the Florida Keys were developed by Monroe County from 2006 aerial images, and ground conditions for many areas were checked in 2009. Habitat data for BNP were provided by the NPS. The areas that contain the primary constituent elements follow predictable landscape patterns and have a recognizable signature in the aerial imagery.

We have identified areas to include in this designation by applying the following considerations. The amount and distribution of critical habitat being designated allows existing and future established populations of *Consolea corallicola* to:

(1) Maintain their existing distribution;

(2) Expand their distribution into previously occupied areas (needed to offset habitat loss and fragmentation);

(3) Use habitat depending on habitat availability (response to changing nature of coastal habitat including sea level rise) and support genetic diversity;

(4) Increase the size of each population to a level where the threats of genetic, demographic, and normal environmental uncertainties are diminished; and

(5) Maintain their ability to withstand local or unit-level environmental fluctuations or catastrophes.

Areas Occupied at the Time of Listing

The critical habitat designation for *Consolea corallicola* focuses on areas within the historical range that were occupied at the time the species was listed and have retained the necessary primary constituent elements that will allow for the maintenance and expansion of existing populations. The critical habitat units were delineated around documented extant populations. These units include the mapped extent of the population that contains one or more of the physical or biological features. We considered the following when identifying occupied areas of critical habitat:

(1) The delineation included space to allow for the successional nature of the occupied habitats (*i.e.,* gain and loss of areas with sufficient light availability due to disturbance of the tree canopy driven by natural events such as inundation and hurricanes), and habitat transition or loss due to sea level rise.

(2) Some areas will require special management to be able to support a higher density of the plant within the occupied space. These areas generally are habitats where some of the primary constituent elements have been lost through natural or human causes. These areas would help to offset the anticipated loss and degradation of habitat occurring or expected from the effects of climate change (such as sea level rise) or due to development.

When determining critical habitat boundaries within this final rule, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features for *Consolea corallicola.* The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this final rule have been excluded by text in the rule and are not designated as critical habitat. Therefore, a Federal action involving these lands would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the adjacent critical habitat.

Units were designated based on sufficient elements of physical or biological features being present to support *Consolea corallicola* life-history processes. Some units contained all of the identified elements of physical or biological features and supported multiple life-history processes. Some segments contained only some elements of the physical or biological features necessary to support *C. corallicola's* particular use of that habitat.

The critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document in the rule portion. We include more detailed information on the boundaries of the critical habitat designation in the preamble of this document. We will make the coordinates, plot points, or both on which each map is based available to the public on *http://www.regulations.gov* at Docket No. FWS–R4–ES–2014–0057, on our Internet site at *http://www.fws.gov/verobeach/,* and at the field office responsible for the designation (see **FOR FURTHER INFORMATION CONTACT** above).

Critical Habitat Designation for *Consolea corallicola*

We are designating four units as critical habitat for *Consolea corallicola.* The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for *C. corallicola.* The four areas we designate as critical habitat are:

(1) FSC1 Swan Key in Biscayne National Park, Miami-Dade County, Florida;

(2) FSC2 Key Largo, Monroe County, Florida;

(3) FSC3 Big Pine Key, Monroe County, Florida; and

(4) FSC4 Little Torch Key in Monroe County, Florida.

Land ownership within the designated critical habitat consists of Federal (28 percent), State (58 percent), County (1 percent), and private and other (14 percent). Table 1 shows these units by land ownership, area, and occupancy.

TABLE 1—CONSOLEA CORALLICOLA CRITICAL HABITAT UNITS

[All areas rounded to the nearest whole acre (ac) and hectare (ha)]

Unit	Total ac (ha)	Federal ac (ha)	State ac (ha)	County ac (ha)	Private/other ac (ha)	Occupied
FSC1—Swan Key—Biscayne National Park	37 (15)	37 (15)	0	0	0	Yes.
FSC2—Key Largo	3,434 (1,389)	702 (284)	2,331 (943)	17 (7)	384 (155)	Yes.
FSC3—Big Pine Key	772 (313)	508 (205)	172 (70)	11 (5)	81 (33)	Yes.
FSC4—Little Torch Key	168 (68)	0	47 (19)	10 (4)	111 (45)	Yes.
Total	4,411 (1,785)	1,247 (504)	2,550 (1,032)	38 (16)	576 (233)	
Percent of Total	100	28	58	1	13	

Note: Area sizes may not sum due to rounding.

Two (FSC1 and FSC2) of the four critical habitat units designated for *Consolea corallicola* are also currently designated under the Act as critical habitat for the American crocodile (*Crocodylus acutus*), and two (FSC2 and FSC3) are designated as critical habitat units for *Chromolaena frustrata* (Cape Sable thoroughwort).

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for *Consolea corallicola,* below.

Unit FSC1: Swan Key—Biscayne National Park, Miami-Dade County, Florida

Unit FSC1 consists of approximately 37 ac (15 ha) in Miami-Dade County. This unit is composed entirely of lands in Federal ownership, 100 percent of which are located on Swan Key within Biscayne National Park. The unit includes all upland rockland hammock habitat on Swan Key, most of which is located on the eastern side of Swan Key, surrounded by the island's mangrove fringe. A second, smaller area is located on the island's elongate western half and is also surrounded by mangroves.

This unit was occupied at the time the species was listed and contains all the physical or biological features, including suitable climate, hydrology, substrate, associated native plant species, and disturbance regimes, essential to the conservation of the species and the coastal hardwood hammock and buttonwood forest primary constituent elements. The physical or biological features in this unit may require special management considerations or protection to address threats of nonnative plant and animal species and sea level rise. However, in most cases these threats are being addressed or coordinated with BNP to implement needed actions. BNP conducts nonnative species control on Swan Key and monitors *Consolea corallicola* for population trends and *Cactoblastis* moth damage. The NPS is currently revising the BNP General Management Plan (Plan), which identifies *C. corallicola* but does not discuss specific conservation measures. However, the Plan states that Swan Key will continue to be a ''sensitive resource area'' and managed to protect critical ecosystems, habitats, and natural processes. Access will be tightly controlled and limited to permitted research activities. In addition, the Service believes assisted migration to the highest elevations on Swan Key on BNP may be needed in the future to conserve the population if the area supporting the existing population shows indications of increased soil salinity and population decline due to sea level rise.

Unit FSC2: Key Largo, Monroe County, Florida

Unit FSC2 consists of approximately 3,434 ac (1,389 ha) in Monroe County. This unit is composed of Federal lands within Crocodile Lake National Wildlife Refuge (NWR) (702 ac (284 ha)); State lands within Dagny Johnson Botanical State Park, John Pennekamp Coral Reef State Park, and the Florida Keys Wildlife and Environmental Area (2,331 ac (943 ha)); lands owned by Monroe County (17 ac (7 ha)); and parcels in private or other ownership (384 ac (155 ha)). This unit extends from near the northern tip of Key Largo, along the length of Key Largo, beginning at the south shore of Ocean Reef Harbor near South Marina Drive and the intersection of County Road (CR) 905 and Clubhouse Road on the west side of CR 905, and between CR 905 and Old State Road 905, then extending to the shoreline south of South Harbor Drive. The unit then continues on both sides of CR 905 through the Crocodile Lake NWR, Dagny Johnson Key Largo Hammock Botanical State Park, and John Pennekamp Coral Reef State Park. The unit then terminates near the junction of U.S. 1 and CR 905 and Garden Cove Drive. The unit resumes on the east side of U.S. 1 from South Andros Road to Key Largo Elementary; then from the intersection of Taylor Drive and Pamela Street to Avenue A; then from Sound Drive to the intersection of Old Road and Valencia Road; then resumes on the east side of U.S. 1 from Hibiscus Lane and Ocean Drive. The unit continues south near the Port Largo Airport from Poisonwood Road to Bo Peep Boulevard. The unit resumes on the west side of U.S. 1 from the intersection of South Drive and Meridian Avenue to Casa Court Drive. The unit then continues on the west side of U.S. 1 from the point on the coast directly west of Peace Avenue south to Caribbean Avenue. The unit also includes a portion of El Radabob Key in Largo Sound located directly east of Avenue A, extending south to a point directly east of Mahogany Drive.

This unit was occupied at the time the species was listed and contains all the physical or biological features, including suitable climate, hydrology, substrate, associated native plant species, and disturbance regimes, essential to the conservation of the species and the rockland hammock and buttonwood forest primary constituent elements. The physical or biological features in this unit may require special management considerations or protection to address threats of nonnative plant species and sea level rise. The CCP for Crocodile Lake NWR promotes the enhancement of wildlife populations by maintaining and enhancing a diversity and abundance of habitats for native plants and animals, especially imperiled species that are found only in the Florida Keys, but does not identify *Consolea corallicola* because it does not presently occur on the Refuge. The Management Plan for Dagny Johnson Key Largo Hammock Botanical State Park calls for the protection and restoration of habitats and to continue conservation efforts already under way for *C. corallicola*. The Service and FDEP conduct nonnative species control on their

respective lands on Key Largo. FDEP monitors the reintroduced *C. corallicola* at Dagny Johnson Key Largo Hammock Botanical State Park for population trends and *Cactoblastis* moth damage. In addition, assisted migration of the cacti to the highest elevations on these lands is needed because the population already shows the effects of increased soil salinity and is partially inundated by high tides.

Unit FSC3: Big Pine Key, Monroe County, Florida

Unit FSC3 consists of approximately 772 ac (313 ha) in Monroe County. This unit is composed of Federal land within the National Key Deer Refuge (NKDR) (508 ac (205 ha)); State land managed as part of the NKDR (172 ac (70 ha)); lands owned by Monroe County (11 ac (5 ha)); and parcels in private or other ownership (81 ac (33 ha)). This unit extends from near the northern tip of Big Pine Key along the eastern shore to the vicinity of Hellenga Drive and Watson Road; from Gulf Boulevard south to West Shore Drive; Big Pine Avenue and Elma Avenues on the east, Coral and Yacht Club Road, and U.S. 1 on the north, and Industrial Avenue on the east from the southeastern tip of Big Pine Key to Avenue A.

This unit was occupied at the time the species was listed and contains all the physical or biological features, including suitable climate, hydrology, substrate, associated native plant species, and disturbance regimes, essential to the conservation of the species and the coastal berm, rockland hammock, and buttonwood forest primary constituent elements. The physical or biological features in this unit may require special management considerations or protection to address threats of nonnative plant species and sea level rise. The CCP for the Lower Florida Keys NWRs (NKDR, Key West NWR, and Great White Heron NWR) promotes the enhancement of wildlife populations by maintaining and enhancing a diversity and abundance of habitats for native plants and animals, and provides specifically for maintaining and expanding populations of candidate plant species including *C. corallicola*. The Service conducts nonnative species control in areas that could support *C. corallicola*.

Unit FSC4: Little Torch Key, Monroe County, Florida

Unit FSC4 consists of approximately 168 ac (68 ha) in Monroe County. This unit is composed of State lands (47 ac (19 ha)); lands owned by Monroe County (10 ac (4 ha)); and parcels in private and other ownership (111 ac (45 ha)). This unit extends along State Highway 4A, from Coral Shores Road, south to County Road, resuming at Linda Street and extending south to the Overseas Highway. South of the Overseas Highway, the unit includes areas west of Kings Cove Road, and an area comprising the southern tip of Little Torch Key that includes portions of The Nature Conservancy's (TNC) John J. Pescatello Torchwood Hammock Preserve.

This unit was occupied at the time the species was listed and contains all the physical or biological features, including suitable climate, hydrology, substrate, associated native plant species, and disturbance regimes, essential to the conservation of the species and the coastal hardwood hammock and buttonwood forest primary constituent elements. The physical or biological features in this unit may require special management considerations or protection to address threats of nonnative plant species and sea level rise. TNC's 1994 Management Plan calls for monitoring, *Cactoblastis* control, vegetation management, and basic research on *Consolea corallicola* and threats to the species. TNC monitors *C. corallicola* at the Torchwood Hammock Preserve and conducts nonnative plant and animal species control. The Preserve is fenced, and potential visitors must request access to enter the site. Assisted migration to the highest elevations in the Preserve may be needed in the future to conserve the population if the area supporting the existing population shows indications of increased soil salinity and population decline due to sea level rise.

Physical or Biological Features for Harrisia aboriginum

We have determined that the following physical or biological features are essential to the conservation of *Harrisia aboriginum.*

Space for Individual and Population Growth and for Normal Behavior

Plant Community and Competitive Ability. Harrisia aboriginum occurs in communities classified as coastal strand, coastal grasslands, coastal berms, maritime hammocks, and shell mounds (Bradley *et al.* 2004, pp. 4, 14). Detailed descriptions of these communities and their associated native plant species are provided in the Status Assessment for *Harrisia aboriginum* section of the proposed and final listing rules. These habitats and their associated plant communities provide vegetation structure that provides adequate growing space, sunlight, and a competitive regime that is required for *H. aboriginum* to persist and spread. Therefore, based on the information above, we identify upland habitats consisting of coastal strand, coastal grasslands, coastal berms, maritime hammocks, and shell mounds to be a physical or biological feature for *H. aboriginum.*

Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements

Climate (temperature and precipitation). Harrisia aboriginum requires adequate rainfall and does not tolerate freezing temperatures. The climate of south Florida where *H. aboriginum* occurs is characterized by distinct wet and dry seasons, a monthly mean temperature above 18 °C (64.4 °F) in every month of the year, and annual rainfall averaging 75 to 150 cm (30 to 60 in) (Gabler *et al.* 1994, p. 211). Freezes can occur in the winter months, but are very infrequent at this latitude in Florida. Therefore, based on the information above, we determined this type of climate to be a physical or biological feature for *H. aboriginum.*

Soils. Substrates supporting *Harrisia aboriginum* include sand and calcareous shell material (Bradley *et al.* 2004, pp. 4, 14). These substrates provide anchoring spots, nutrients, moisture regime, and suitable soil chemistry for *H. aboriginum,* and facilitate a community of associated plant species that create a competitive regime that allows *H. aboriginum* to persist and spread. Therefore, based on the information above, we identify substrates derived from calcareous sand or shell material to be a physical or biological feature for *H. aboriginum.*

Hydrology. Harrisia aboriginum requires upland habitats that occur above the daily tidal range, but are potentially subject to flooding by seawater during extreme tides and storm surge. *H. aboriginum* will not tolerate hydric or saline soils, and these soil conditions may also cause these habitats to transition to a community of species that will outcompete *H. aboriginum* for space. Maritime hammocks occur on high ground that does not regularly flood, but can be inundated during storm surges (FNAI 2010h, p. 3). Some sites that support *H. aboriginum* show indications that soil salinization is driving changes in the plant community toward salt-tolerant species, and will eventually lead to conditions unsuitable for *H. aboriginum.* Therefore, based on the information above, we identify upland habitats at elevations not affected by soil salinization due to sea level rise to be physical or biological features for *H. aboriginum.*

Cover or Shelter

Harrisia aboriginum occurs in open canopy and semi-open to closed canopy habitats. The amount and frequency of open canopy areas varies by habitat type and time since the last disturbance, such as a hurricane, caused canopy openings. In maritime hammocks, suitable areas will often be found near the hammock edge or where there are openings in the forest canopy. More open communities (*e.g.,* coastal berm, coastal strand, and coastal grasslands) provide more abundant and temporally consistent suitable habitat than communities capable of establishing a dense canopy (*e.g.,* maritime hammocks, shell mounds). Therefore, based on the information above, we identify habitats that have a vegetation composition and structure that allows for adequate sunlight and space for individual growth and population expansion to be a physical or biological feature for *H. aboriginum.*

Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring

The habitats identified above as physical or biological features also provide a plant community with associated plant species that foster a competitive regime that is suitable for *Harrisia aboriginum* and contain adequate open space for the recruitment of new plants. Associated plant species in these habitats attract and provide cover for generalist pollinators (*e.g.,* bees, butterflies, and beetles) that pollinate *H. aboriginum.*

Habitats Protected From Disturbance or Representative of the Historical, Geographic, and Ecological Distributions of the Species

Harrisia aboriginum continues to occur in habitats that are protected from human-generated disturbances and are representative of the species' historical, geographical, and ecological distribution although its range has been reduced. The species is still found in its representative plant communities of coastal strand, coastal grassland, coastal berm, maritime hammock, and shell mound habitat. As described above, these habitats provide a community of associated plant and animal species that are compatible with *H. aboriginum,* vegetation structure that provides adequate sunlight levels and open space for plant growth and regeneration, and substrates with adequate moisture availability and suitable soil chemistry. In addition, representative communities are located on Federal, State, local, and private conservation lands that implement conservation measures benefitting the species. Therefore, based on the information above, we identify habitat of sufficient size and connectivity that can support species growth, distribution, and population expansion to be a physical or biological feature for *H. aboriginum.*

Disturbance Regime. Coastal strand, coastal berm, coastal grassland, maritime hammock, and shell mound habitats that support *Harrisia aboriginum* depend on natural disturbance regimes from hurricanes or tidal inundation to reduce the canopy in order to provide light levels sufficient to support the species. The historical frequency and magnitude of hurricanes and tidal inundation has allowed for the persistence of *H. aboriginum* by occasionally creating areas of open canopy. In the absence of disturbance, some of these habitats may have closed canopies, resulting in areas lacking enough available sunlight to support *H. aboriginum.* However, too frequent or severe disturbance that transitions the habitat toward more saline conditions could result in the decline of the species in the area. In addition, fires are rare to nonexistent in coastal strand, coastal grassland, coastal berm, maritime hammocks, and shell mound communities (FNAI 2010a, p. 2; FNAI 2010f, p. 2; FNAI 2010g, p. 2; FNAI 2010h, p. 3; FNAI 2010i, p. 2). Therefore, based on the information above, we identify habitats that have disturbance regimes, including hurricanes, and infrequent inundation events that maintain the habitat suitability to be physical or biological features for *H. aboriginum.*

Primary Constituent Elements for Harrisia aboriginum

Based on our current knowledge of the physical or biological features and habitat characteristics required to sustain the species' life-history processes, we determine that the primary constituent elements specific to *Harrisia aboriginum* are:

(i) Areas of upland habitats consisting of coastal strand, coastal grassland, coastal berm, maritime hammocks, and shell mounds.

(A) Coastal strand habitat that contains:

(1) Open to semi-open canopy and understory; and

(2) Substrate of sand and shell fragments of stabilized coastal dunes.

(B) Coastal grassland habitat that contains:

(1) No canopy and an open understory; and

(2) Substrate of sand and shell fragments.

(C) Coastal berm habitat that contains:

(1) Open to semi-open canopy, subcanopy, and understory; and

(2) Substrate of coarse, calcareous, storm-deposited sediment.

(D) Maritime hammock habitat that contains:

(1) Canopy gaps and edges with an open to semi-open canopy, subcanopy, and understory; and

(2) Substrate of calcareous sand and shell fragments.

(E) Shell mound habitat that contains:

(1) Open to semi-open canopy and understory; and

(2) Substrate of soil derived from calcareous shells deposited by Native Americans during prehistoric times.

(ii) A plant community of predominately native vegetation with no invasive, nonnative animal or plant species or such species in quantities low enough to have minimal effect on survival of *Harrisia aboriginum.*

(iii) Canopy openings in coastal strand, coastal grassland, coastal berm, maritime hammock, and shell mound habitats that are created by the effects of strong winds or saltwater inundation from storm surge or infrequent tidal inundation.

(iv) Habitats that are connected and of sufficient size to sustain viable populations in coastal strand, coastal grassland, coastal berm, maritime hammock, and shell mound habitats.

(v) Habitats that provide populations of the generalist pollinators that visit the flowers of *Harrisia aboriginum.*

Special Management Considerations or Protection for Harrisia aboriginum

Management considerations or protection are necessary throughout the critical habitat units to avoid further degradation or destruction of the habitat that provides those features essential to the species' conservation. The primary threats to the physical or biological features that *Harrisia aboriginum* depends on include:

(1) Habitat destruction and modification by development and sea level rise;

(2) Competition with nonnative, invasive plant species;

(3) Herbivorous nonnative animal species;

(4) Wildfire; and

(5) Hurricanes and storm surge.

Some of these threats can be addressed by special management considerations or protection while others (*e.g.,* sea level rise, hurricanes, storm surge) are beyond the control of landowners and managers. However, even when landowners or land managers may not be able to control all the threats, they may be able to address the results of the threats.

Management activities that could ameliorate these threats include the monitoring and minimization of impacts from recreational activities, nonnative species control, and protection from development. Precautions are needed to avoid the inadvertent trampling of *Harrisia aboriginum* in the course of management activities and public use. Development of recreational facilities or programs should avoid impacting these habitats directly or indirectly. Ditching should be avoided because it alters the hydrology and species composition of these habitats. Sites that have shown increasing encroachment of woody species over time may require efforts to maintain the open nature of the habitat, which favors these species. Nonnative species control programs are needed to reduce competition, predation, and prevent habitat degradation. The reduction of these threats will require the implementation of special management actions within each of the critical habitat areas identified in this final rule. All critical habitat units require active management to address the ongoing threats above and those presented in the *Summary of Factors Affecting the Species* sections in the proposed and final listing rules.

The Service, State of Florida, and Manatee, Sarasota, Charlotte, and Lee Counties own and manage conservation lands within the historical range of *Harrisia aboriginum.* The CCP for J.N. 'Ding' Darling National Wildlife Refuge (JDDNWR) promotes the enhancement of wildlife populations by maintaining and enhancing a diversity and abundance of habitats for native plants and animals, especially imperiled species. This CCP provides specifically for maintaining populations of *H. aboriginum.* The State Management Plans for Charlotte Harbor Preserve, Cayo Costa, Stump Pass Beach, Delnor-Wiggins Pass, and Gasparilla Island State Parks and Bocilla Preserve promote the protection of habitats and native species. The Service, State of Florida, and Manatee, Sarasota, Charlotte, and Lee Counties conduct nonnative species control efforts on sites that support, or have suitable habitat for, *H. aboriginum.* The Service monitors the population of *H. aboriginum* at JDDNWR. FDEP monitors the *H. aboriginum* population at Charlotte Harbor Preserve State Park.

Nonnative species control is currently lacking at Manasota Beach Park and Kitchen Key in areas that support *H. aboriginum.* Poaching, vandalism, and wildfire have been observed at Manasota Beach Park. Most populations are at elevations close to sea level and may require assisted migration as sea level rise continues to drive the transition toward salt-tolerant plant species in these areas. Reintroduction is needed to restore the species' historical distribution on Cayo Costa and Madira Bickell Mound State Historical Park. Augmentation of small populations at Longboat Key, Terra Ceia, Lemon Bay Preserve, Kitchen Key, Gasparilla Island, and Cayo Pelau would reduce the risk of population loss to hurricanes, storm surge, or wildfire.

Harrisia aboriginum is listed on the Regulated Plant Index as endangered under chapter 5B–40, Florida Administrative Code. Florida Statutes 581.185 sections (3)(a) and (b) prohibit any person from willfully destroying or harvesting any species listed as endangered or threatened on the Regulated Plant Index, or growing such a plant on the private land of another, or on any public land, without first obtaining the written permission of the landowner and a permit from the Florida Department of Plant Industry.

Criteria Used To Identify Critical Habitat for Harrisia aboriginum

We are designating critical habitat in areas within the geographical area occupied by *Harrisia aboriginum* at the time of listing in 2013. We also are designating specific areas outside the geographical area occupied by the species at the time of listing that were historically occupied, but are presently unoccupied, because such areas are essential for the conservation of the species.

We have determined that all areas known to be occupied at the time of listing meet the definition of critical habitat and are needed for the conservation of the species. However, we determined that occupied habitat is not adequate for the conservation of *Harrisia aboriginum* (see our rationale below). We used habitat and historical occurrence data to identify unoccupied habitat essential for the conservation of the species. To determine the location and boundaries of both occupied and unoccupied critical habitat, the Service used the following sources of data and information for *H. aboriginum* that include the following:

(1) FNAI population records and ArcGIS software to spatially depict the location and extent of documented populations of *Harrisia aboriginum* (FNAI 2011b, pp. 1–28);

(2) Reports prepared by botanists with the IRC and the Service (Some of these were funded by the Service; others were requested or volunteered by biologists with the Service.);

(3) Historical records found in reports and associated voucher specimens housed at herbaria, all of which are also referenced in the above-mentioned reports from the IRC and FNAI;

(4) Digitally produced habitat maps provided by FNAI; and

(5) Aerial images of Manatee, Charlotte, Sarasota, and Lee Counties. The presence of primary constituent elements was determined through the interpretation of aerial imagery. The areas that contain primary constituent elements follow predictable landscape patterns and have a recognizable signature in the aerial imagery.

Only approximately 300 to 500 individuals and 12 populations of *Harrisia aboriginum* are known to exist. All but 2 of these populations consist of fewer than 100 individuals, with 7 populations having 10 or fewer individuals (low redundancy). Most populations occur on coastal barrier islands where the amount of suitable remaining habitat is limited (low resiliency), and much of the remaining habitat will be lost to sea level rise over the next century. We have addressed representation through our primary constituent elements (as discussed above) and by providing habitat for *H. aboriginum.* For adequate redundancy and resiliency, it is essential for the conservation of *H. aboriginum* for additional populations to be established and existing populations to be augmented. Therefore, we have designated two unoccupied areas as critical habitat units where *H. aboriginum* was historically recorded, but has since been extirpated.

The current distribution of *Harrisia aboriginum* is reduced from its historical distribution, with no populations remaining in Manatee County, at the northern extent of the species' range. We anticipate that recovery will require continued protection of the remaining extant population and habitat, as well as establishing populations in additional areas that more closely approximate its historical distribution in order to ensure there are adequate numbers of plants in stable populations and that these populations occur over a wide geographic area. This will help to ensure that catastrophic events, such as storms, cannot simultaneously affect all known populations.

Areas Occupied at the Time of Listing

The occupied critical habitat units were delineated around documented extant populations. These units include the mapped extent of the population that contains one or more of the physical or biological features. We considered the following when

identifying occupied areas of critical habitat:

(1) The delineation included space to allow for the successional nature of the occupied habitats (*i.e.,* gain and loss of areas with sufficient light availability due to disturbance of the tree canopy driven by natural events such as inundation and hurricanes), and habitat transition or loss due to sea level rise.

(2) Some areas will require special management to be able to support a higher density of the plant within the occupied space. These areas generally are habitats where some of the primary constituent elements have been lost through natural or human causes. These areas would help to offset the anticipated loss and degradation of habitat occurring or expected from the effects of climate change (such as sea level rise) or due to development.

Areas Outside the Geographic Area Occupied at the Time of Listing

After completing the above analysis, we determined that occupied areas were not sufficient for the conservation of the species for the following reasons: (1) Restoring the species to its historical range and reducing its vulnerability to stochastic events such as hurricanes and storm surge requires reintroduction to areas where it occurred in the past but has since been extirpated; (2) providing increased connectivity for populations and areas for small populations to expand requires currently unoccupied habitat; and (3) reintroduction or assisted migration to reduce the species vulnerability to sea level rise and storm surge requires higher elevation sites that are currently unoccupied by *Harrisia aboriginum.* Therefore, we looked for unoccupied areas that may be essential for the conservation of the species.

The unoccupied areas are essential for the conservation of the species because they:

(1) Represent the historical range of *Harrisia aboriginum. H. aboriginum* has been extirpated from two locations where it was previously recorded. Of those areas found in reports, we are designating critical habitat only for those that are well-documented and essential for the conservation of the species (*i.e.,* Terra Ceia, Cayo Costa) (Bradley and Gann 1999, p. 77; Bradley *et al.* 2004, p. 4). These areas also still retain some or all of the elements of the physical or biological features.

(2) Provide areas of sufficient size to support ecosystem processes for populations of *Harrisia aboriginum.* These areas are essential for the conservation of the species because they will provide areas for population expansion and growth. Large contiguous parcels of habitat are more likely to be resilient to ecological processes of disturbance and succession, and support viable populations of *H. aboriginum.* The unoccupied areas selected were at least 30 ac (12 ha) or greater in size.

The amount and distribution of designated critical habitat will allow *Harrisia aboriginum* to:

(1) Maintain its existing distribution;

(2) Expand its distribution into historically occupied areas (needed to offset habitat loss and fragmentation);

(3) Use habitat depending on habitat availability (response to changing nature of coastal habitat including sea level rise) and support genetic diversity;

(4) Increase the size of each population to a level where the threats of genetic, demographic, and normal environmental uncertainties are diminished; and

(5) Maintain its ability to withstand local or unit-level environmental fluctuations or catastrophes.

When determining critical habitat boundaries within this final rule, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features for *Harrisia aboriginum.* The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this final rule have been excluded by text in the rule and are not designated as critical habitat. Therefore, a Federal action involving these lands will not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the adjacent critical habitat.

The critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document in the rule portion. We include more detailed information on the boundaries of the critical habitat designation in the preamble of this document. We will make the coordinates, plot points, or both on which each map is based available to the public on *http://www.regulations.gov* at Docket No. FWS–R4–ES–2014–0057, on our Internet site, *http://www.fws.gov/verobeach/,* and at the field office responsible for the designation (see **FOR FURTHER INFORMATION CONTACT** above).

Critical Habitat Designation for *Harrisia aboriginum*

We are designating 11 units as critical habitat for *Harrisia aboriginum.* The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for *H. aboriginum.* The 11 areas we designate as critical habitat are:

(1) Unit APA1 Terra Ceia, Manatee County, Florida;

(2) Unit APA2 Longboat Key, Sarasota County, Florida;

(3) Unit APA3 Osprey, Sarasota County, Florida;

(4) Unit APA4 Manasota Key, Sarasota and Charlotte Counties, Florida;

(5) Unit APA5 Charlotte Harbor, Charlotte County, Florida;

(6) Unit APA6 Gasparilla Island North, Charlotte and Lee Counties, Florida;

(7) Unit APA7 Gasparilla Island South, Lee County, Florida;

(8) Unit APA8 Cayo Pelau, Charlotte and Lee Counties, Florida;

(9) Unit APA9 Cayo Costa, Lee County, Florida;

(10) Unit APA10 Bocilla Island, Lee County, Florida; and

(11) Unit APA11 Sanibel Island and Buck Key, Lee County, Florida.

Land ownership within the designated critical habitat consists of Federal (11 percent), State (48 percent), County (15 percent), and private and other (26 percent). Table 2 summarizes these units.

TABLE 2—HARRISIA ABORIGINUM CRITICAL HABITAT UNITS

[All areas rounded to the nearest whole number, except where less than 1 acre (ac) or hectare (ha)]

Unit	Total ac (ha)	Federal ac (ha)	State ac (ha)	County ac (ha)	Private/Other ac (ha)	Occupied
APA1 Terra Ceia	222 (90)	0	66 (27)	70 (28)	87 (35)	No.
APA2 Longboat Key	54 (22)	0	0	0	54 (22)	Yes.
APA3 Osprey	116 (47)	0	0	50 (20)	66 (27)	Yes.

TABLE 2—HARRISIA ABORIGINUM CRITICAL HABITAT UNITS—Continued

[All areas rounded to the nearest whole number, except where less than 1 acre (ac) or hectare (ha)]

Unit	Total ac (ha)	Federal ac (ha)	State ac (ha)	County ac (ha)	Private/Other ac (ha)	Occupied
APA4 Manasota Key	415 (168)	0	58 (23)	111 (45)	245 (99)	Yes.
APA5 Charlotte Harbor	51 (21)	0	51 (21)	0	0	Yes.
APA6 Gasparilla North	98 (40)	0	0.06 (0.02)	22 (9)	77 (31)	Yes.
APA7 Gasparilla South	92 (37)	3 (1)	69 (28)	12 (5)	8 (3)	Yes.
APA8 Cayo Pelau	25 (10)	0	0	25 (10)	0	Yes.
APA9 Cayo Costa	1,702 (689)	0	1,379 (558)	94 (38)	230 (93)	No.
APA10 Bocilla	33 (13)	0	0	32 (13)	0.7 (0.3)	Yes.
APA11 Sanibel Island and Buck Key	635 (257)	373 (151)	47 (19)	90 (36)	126 (51)	Yes.
Total	3,444 (1,394)	376 (152)	1,669 (676)	505 (204)	893 (361)	
Percent of Total	100	11	48	15	26	

Note: Area sizes may not sum due to rounding.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for *Harrisia aboriginum,* below.

Unit APA1: Terra Ceia, Manatee County, Florida

Unit APA1 consists of approximately 222 ac (90 ha) in Manatee County, Florida. This unit is composed of State lands within Madira Bickel Mound State Historical Park, Terra Ceia Preserve State Park, Cockroach Bay State Buffer Preserve, and the Tampa Bay Estuarine System (66 ac (27 ha)); Manatee County lands at Emerson Point Preserve and parcels owned by the Manatee County Port Authority (70 ac (28 ha)); and parcels in private or other ownership (87 ac (35 ha)). This unit includes lands west of Highway 41 extending from just south of South Dock Street south to Snead Island. The unit also includes areas of Harbor Key, Mariposa Key, Horseshoe Key, Joe Island, Skeet Key, Paradise Island, Ed's Key, and Rattlesnake Key.

This unit was not occupied at the time the species was listed but is essential for the conservation of the species because it serves to protect habitat needed to recover the species, reestablish wild populations within the historical range of the species, and maintain populations throughout the historic distribution of the species in Manatee County, and will provide population redundancy in the case of stochastic events that otherwise hold the potential to eliminate the species from the one or more locations where it is presently found.

The Management Plan for Madira Bickel Mound State Historical Park, Terra Ceia Preserve State Park, Cockroach Bay State Buffer Preserve, and the Tampa Bay Estuarine System calls for the protection and restoration of habitats, but does not identify actions specific to *Harrisia aboriginum.* The FDEP conducts nonnative species control on their lands within the unit. Reintroduction of *H. aboriginum* within Madira Bickel Mound State Historical Park, Terra Ceia Preserve State Park, and the Tampa Bay Estuarine System is needed to restore the species to its historical distribution in Manatee County and reduce the risks to the species associated with hurricanes, storm surge, and sea level rise.

Unit APA2: Longboat Key, Sarasota County, Florida

Unit APA2 consists of approximately 54 ac (22 ha) in Sarasota County, Florida. This unit is composed entirely of parcels in private or other ownership. This unit includes lands west of Gulf of Mexico Drive, extending from 0.40 miles (mi) (0.6 kilometers (km)) south of the intersection of Bay Isles Parkway and Gulf of Mexico Drive, to the southern tip of Longboat Key. It also includes lands on the north side of Gulf of Mexico Drive, east of Longboat Club Key Drive, on the northwest tip of Longboat Key.

This unit was occupied at the time the species was listed and contains all the physical or biological features, including suitable climate, hydrology, substrate, associated native plant species, and disturbance regimes, essential to the conservation of the species, and the primary constituent elements of coastal strand, coastal berm, and maritime hammock. The physical or biological features in this unit may require special management considerations or protection to address threats of nonnative plant species and sea level rise. Augmentation of the *Harrisia aboriginum* population within the unit is needed to restore the species to its historical abundance and reduce the risks associated with small population size, hurricanes, storm surge, and sea level rise.

Unit APA3: Osprey, Sarasota County, Florida

Unit APA3 consists of approximately 116 ac (47 ha) in Sarasota County, Florida. This unit is composed of Sarasota County lands within Palmer Point County Park (50 ac (20 ha)) and parcels in private or other ownership (66 ac (27 ha)). This unit extends along the barrier island (Casey Key) from the south terminus of Blind Pass Road, south for approximately 1.2 mi (1.9 km) along North Casey Key Road. On the mainland, the unit includes lands bordered on the north by Vamo Way, to the east by Highway 41, and to the south by Palmetto Avenue.

This unit was occupied at the time the species was listed and contains the biological or physical features including suitable climate, hydrology, substrate, associated native plant species, and disturbance regimes essential to the conservation of the species and contains coastal strand, coastal berm, maritime hammock, and shell mound primary constituent elements. The physical or biological features in this unit may require special management considerations or protection to address threats of nonnative plant species, and sea level rise. Augmentation of the *Harrisia aboriginum* population within the unit is needed to restore the species to its historical abundance and reduce the risks associated with small population size, hurricanes, storm surge, and sea level rise.

Unit APA4: Manasota Key, Sarasota and Charlotte Counties, Florida

Unit APA4 consists of approximately 415 ac (168 ha) in Sarasota and Charlotte Counties, Florida. This unit is composed of State lands within Stump Pass Beach State Park (58 ac (23 ha));

County lands within Blind Pass Park, Brohard Beach and Paw Park, Manasota Beach Park, Casperson Beach Park, and Service Club Park (111 ac (45 ha)); and parcels in private or other ownership (245 ac (99 ha)). This unit extends from Beach Road in the City of Venice, south along Manasota Key to the barrier islands southern tip, including a portion of Peterson Island.

This unit was occupied at the time the species was listed and contains the physical or biological features, including suitable climate, hydrology, substrate, associated native plant species, and disturbance regimes essential to the conservation of the species and contains coastal strand, coastal berm, and maritime hammock primary constituent elements. The physical or biological features in this unit may require special management considerations or protection to address threats of nonnative plant species and sea level rise. The Management Plan for Stump Pass Beach State Park calls for the protection and restoration of habitats, but does not identify actions specific to *Harrisia aboriginum.* The FDEP conducts nonnative species control on their lands within the unit. Augmentation of the *H. aboriginum* population within the unit is needed to restore the species to its historical abundance and reduce the risks associated with small population size, hurricanes, storm surge, and sea level rise.

Unit APA5: Charlotte Harbor, Charlotte County, Florida

Unit APA5 consists of approximately 51 ac (21 ha) in Charlotte County, Florida. This unit is composed entirely of State lands within the Charlotte Harbor Preserve State Park. This unit includes the Big Mound, Boggess Ridge, and a shell mound located on the east side of Charlotte Harbor, south of the City of Charlotte Park. This unit was occupied at the time the species was listed and contains all the physical or biological features essential to the conservation of the species and contains coastal berm and shell mound primary constituent elements.

The physical or biological features in this unit may require special management considerations or protection to address threats of nonnative plant species and sea level rise. The Management Plan for Charlotte Harbor Preserve State Park calls for the protection and restoration of habitats, and identifies actions specific to *Harrisia aboriginum.* The FDEP conducts nonnative species control and monitors the *H. aboriginum* population in Charlotte Harbor Preserve State Park. Augmentation of the *H. aboriginum* population within the unit is needed to restore the species to its historical abundance and reduce the risks associated with small population size, hurricanes, storm surge, and sea level rise.

Unit APA6: Gasparilla North, Charlotte and Lee Counties, Florida

Unit APA6 consists of approximately 98 ac (40 ha) in Charlotte and Lee Counties, Florida. This unit is composed of State land (0.006 ac (0.02 ha)), county land (22 ac (9 ha)), and parcels in private or other ownership (77 ac (31 ha)). This unit includes most of Kitchen Key (Live Oak Key) and the area east of Gasparilla Road, from the intersection of Grouper Hole Road and Grouper Hole Court, south to 0.15 mi (0.24 km) north of Snail Island Court, from approximately 0.10 mi (0.21 km) south of 35th Street to 23rd Street, including the small island separated from Gasparilla Island by a canal; and from 22nd Street to 20th Street.

This unit was occupied at the time the species was listed and contains the physical or biological features including suitable climate, hydrology, substrate, associated native plant species, and disturbance regimes essential to the conservation of the species and contains coastal berm and maritime hammock primary constituent elements. The physical or biological features in this unit may require special management considerations or protection to address threats of nonnative plant species and sea level rise. Augmentation of the *Harrisia aboriginum* population within the unit is needed to restore the species to its historical abundance and reduce the risks associated with small population size, hurricanes, storm surge, and sea level rise.

Unit APA7: Gasparilla South, Lee County, Florida

Unit APA7 consists of approximately 92 ac (37 ha) in Lee County, Florida. This unit is composed of Federal land owned by the Service and Bureau of Land Management (BLM) (3 ac (1 ha)), State lands within Gasparilla Island State Park (69 ac (28 ha)), Lee County lands (12 ac (5 ha)), and parcels in private or other ownership (8 ac (3 ha)). This unit includes lands located from south of 1st Street to the southern tip of Gasparilla Island.

This unit was occupied at the time the species was listed and contains the physical or biological features, including suitable climate, hydrology, substrate, associated native plant species, and disturbance regimes essential to the conservation of the species and contains coastal strand, coastal berm, and maritime hammock primary constituent elements. The physical or biological features in this unit may require special management considerations or protection to address threats of nonnative plant species and sea level rise. The Management Plan for Gasparilla Island State Park calls for the protection and restoration of habitats, but does not identify actions specific to *Harrisia aboriginum.* The FDEP conducts nonnative species control on its lands within the unit. Augmentation of the *H. aboriginum* population within the unit is needed to restore the species to its historical abundance and reduce the risks associated with small population size, hurricanes, storm surge, and sea level rise.

Unit APA8: Cayo Pelau, Charlotte and Lee Counties, Florida

Unit APA8 consists of approximately 25 ac (10 ha) in Charlotte and Lee Counties, Florida. This unit is composed of Lee County lands within Cayo Pelau Preserve, and parcels in private or other ownership (0.6 ac (0.2 ha)). This unit includes lands located from 0.13 mi (0.21 km) south of the northern tip of Cayo Pelau, extending south to the southeastern tip of Cayo Pelau.

This unit was occupied at the time the species was listed and contains the physical or biological features including suitable climate, hydrology, substrate, associated native plant species, and disturbance regimes essential to the conservation of the species and contains coastal berm and shell mound primary constituent elements. The physical or biological features in this unit may require special management considerations or protection to address threats of nonnative plant species and sea level rise. Augmentation of the *Harrisia aboriginum* population within the unit is needed to restore the species to its historical abundance and reduce the risks associated with small population size, hurricanes, storm surge, and sea level rise.

Unit APA9: Cayo Costa, Lee County, Florida

Unit APA9 consists of approximately 1,702 ac (689 ha) in Lee County, Florida. This unit is composed of State lands within Cayo Costa State Park (1,379 ac (558 ha)), lands owned by Lee County (94 ac (38 ha)), and parcels in private or other ownership (230 ac (93 ha)). This unit includes lands located from the northern tip to the southern tip of Cayo Costa.

This unit was not occupied at the time the species was listed but is

essential for the conservation of the species because it serves to protect habitat needed to recover the species, reestablish wild populations within the historical range of the species, maintain populations throughout the historic distribution of the species in Manatee County, and provide population redundancy in the case of stochastic events that otherwise hold the potential to eliminate the species from the one or more locations where it is presently found. The Management Plan for Cayo Costa State Park calls for the protection and restoration of habitats and identifies actions specific to *Harrisia aboriginum.* The FDEP conducts nonnative species control and monitored the population at Cayo Costa State Park until the last plant died in 2007. Reintroduction of *H. aboriginum* within Cayo Costa State Park is needed to restore the species to its historical distribution and reduce the risks to the species associated with hurricanes, storm surge, and sea level rise.

Unit APA10: Bocilla, Lee County, Florida

Unit APA10 consists of approximately 33 ac (13 ha) in Lee County, Florida. This unit is composed of Lee County lands within the Bocilla Preserve (32 ac (13 ha)) and parcels in private or other ownership (0.7 ac (0.3 ha)). This unit includes lands located on the undeveloped portion of Bokeelia Island from 0.02 mi (0.03 km) west of the terminus of Ebbtide Way, extending south and west to the northwest and southeast corners of Bokeelia Island.

This unit was occupied at the time the species was listed and contains the physical or biological features, including suitable climate, hydrology, substrate, associated native plant species, and disturbance regimes essential to the conservation of the species and contains the coastal berm primary constituent element. The physical or biological features in this unit may require special management considerations or protection to address threats of nonnative plant species and sea level rise. The Management Plan for Bocilla Preserve calls for the protection and restoration of habitats and identifies actions specific to *Harrisia aboriginum.*

Unit APA11: Sanibel Island and Buck Key, Lee County, Florida

Unit APA11 consists of approximately 635 ac (257 ha) in Lee County, Florida. This unit is composed of Federal lands owned by the Bureau of Land Management, and Service lands within the JDDNWR (373 ac (151 ha)), State lands (47 ac (13 ha)), lands owned by Lee County (90 ac (36 ha)), and parcels in private or other ownership (126 ac (51 ha)). This unit includes lands on Buck Key, Runyan Key, and Sanibel Island. On Sanibel Island, the unit includes a portion of Bowman's Beach, from just south of Silver Key to the western terminus of Water's Edge Lane; uplands within JDDNWR; and a shell mound located near the northern terminus of Tarpon Bay Road.

This unit was occupied at the time the species was listed and contains the physical or biological features, including suitable climate, hydrology, substrate, associated native plant species, and disturbance regimes essential to the conservation of the species and contains the maritime hammock primary constituent elements. The physical or biological features in this unit may require special management considerations or protection to address threats of nonnative plant species and sea level rise. The CCP for JDDNWR promotes the protection and restoration of habitats, and identifies actions specific to *Harrisia aboriginum.* The Service conducts nonnative species control and monitors the population at JDDNWR.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action that is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of proposed critical habitat.

Decisions by the 5th and 9th Circuit Courts of Appeals have invalidated our regulatory definition of ''destruction or adverse modification'' (50 CFR 402.02) (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service,* 378 F. 3d 1059 (9th Cir. 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service,* 245 F.3d 434 (5th Cir. 2001)), and we do not rely on this regulatory definition when analyzing whether an action is likely to destroy or adversely modify critical habitat. Under the statutory provisions of the Act, we determine destruction or adverse modification on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species.

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Examples of actions that are subject to the section 7 consultation process are actions on State, tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local, or private lands that are not federally funded or authorized, do not require section 7 consultation.

As a result of section 7 consultation, we document compliance with the requirements of section 7(a)(2) through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define ''reasonable and prudent alternatives'' (at 50 CFR 402.02) as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Director's opinion, avoid the likelihood of jeopardizing the continued existence of the listed species and/or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or

relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law). Consequently, Federal agencies sometimes may need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

Application of the ''Adverse Modification'' Standard

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species. Activities that may destroy or adversely modify critical habitat are those that alter the physical or biological features to an extent that appreciably reduces the conservation value of critical habitat for *Consolea corallicola* and *Harrisia aboriginum.* As discussed above, the role of critical habitat is to support life-history needs of the species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation.

Activities that may affect critical habitat, when carried out, funded, or authorized by a Federal agency, should result in consultation for the *Consolea corallicola* and *Harrisia aboriginum.* These activities include, but are not limited to:

(1) Actions that would significantly alter the hydrology or substrate, such as ditching or filling. Such activities may include, but are not limited to, road construction or maintenance, and residential, commercial, or recreational development.

(2) Actions that would significantly alter vegetation structure or composition, such as clearing vegetation for construction of roads, residential and commercial development, and recreational facilities, and trails.

(3) Actions that would introduce nonnative species that would significantly alter vegetation structure or composition. Such activities may include, but are not limited to, residential and commercial development and road construction.

Exemptions

Application of Section 4(a)(3) of the Act

Section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that: ''The Secretary shall not designate as critical habitat any lands or other geographic areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan (INRMP) prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.'' There are no Department of Defense lands with a completed INRMP within the critical habitat for *Consolea corallicola* or *Harrisia aboriginum.*

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if she determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless she determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the statute on its face, as well as the legislative history, are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

Consideration of Economic Impacts

Under section 4(b)(2) of the Act, we consider the economic impacts of specifying any particular area as critical habitat. In order to consider economic impacts, we prepared an incremental effects memorandum (IEM) and screening analysis which together with our narrative and interpretation of effects we consider our draft economic analysis (DEA) of the proposed critical habitat designation and related factors (Industrial Economics, Incorporated (IEc) 2014, entire). The analysis, dated October 15, 2014, was made available for public review from January 22, 2015, through March 23, 2015 (80 FR 3316). The DEA addressed probable economic impacts of critical habitat designation for *Consolea corallicola* and *Harrisia aboriginum.* Following the close of the comment period, we reviewed and evaluated all information submitted during the comment period that may pertain to our consideration of the probable incremental economic impacts of this critical habitat designation. We did not receive any comments regarding the DEA; therefore, we consider the DEA to be the final economic analysis. Additional information relevant to the probable incremental economic impacts of critical habitat designation for the *Consolea corallicola* and *Harrisia aboriginum* is summarized below and available in the screening analysis for these species (IEc 2014), available at *http://www.regulations.gov.*

The following provides a summary of the DEA. For more information regarding the Service's economic analysis process, please see Consideration of Impacts Under Section 4(b)(2) of the Act in the proposed rule (80 FR 3316, 3331–3334).

In our evaluation of the probable incremental economic impacts that may result from the designation of critical habitat for *Consolea corallicola* and *Harrisia aboriginum,* first we identified, in the IEM dated July 30, 2014, probable incremental economic impacts associated with the following categories of activities:

(1) Federal lands management (NPS, Service, BLM);

(2) Roadway and bridge construction;

(3) Dredging;

(4) Commercial or residential development;

(5) Recreation (including construction of recreation infrastructure).

We considered each industry or category individually. Additionally, we considered whether these activities have any Federal involvement. Critical habitat designation will not affect activities that do not have any Federal involvement; designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. In areas where *Consolea corallicola* or *Harrisia aboriginum* is present, Federal agencies already are required to consult with the Service under section 7 of the Act on activities they authorize, fund, or carry out that may affect the species. Once critical habitat is designated, consultations to avoid the destruction or

adverse modification of critical habitat would be incorporated into the existing consultation process. Therefore, disproportionate impacts to any geographic area or sector are not likely as a result of this critical habitat designation.

In our IEM, we attempted to clarify the distinction between the effects that will result from the species being listed and those attributable to the critical habitat designation (*i.e.,* difference between the jeopardy and adverse modification standards) for *Consolea corallicola's* and *Harrisia aboriginum's* critical habitat. Because the designation of critical habitat for *Consolea corallicola* and *Harrisia aboriginum* was proposed soon after the listing, it has been our experience that it is more difficult to discern which conservation efforts are attributable to the species being listed and those which will result solely from the designation of critical habitat. However, the following specific circumstances in this case help to inform our evaluation: (1) The essential physical or biological features identified for critical habitat are the same features essential for the life requisites of the species and (2) any actions that would result in sufficient harm or harassment to constitute jeopardy to *Consolea corallicola* or *Harrisia aboriginum* would also likely adversely affect the essential physical or biological features of critical habitat. The IEM outlined our rationale concerning this limited distinction between baseline conservation efforts and incremental impacts of the designation of critical habitat for these species. This evaluation of the incremental effects was used as the basis to evaluate the probable incremental economic impacts of the proposed rule to designate critical habitat.

Consolea corallicola

The critical habitat designation for *Consolea corallicola* totals approximately 4,411 ac (1,785 ha) across four units in Miami-Dade and Monroe Counties, Florida, all of which was occupied by the species at the time of listing. The critical habitat includes lands under Federal (28 percent), State (58 percent), county (1 percent), and private or other (13 percent) ownership. In these areas any actions that may affect the species or its habitat would also affect designated critical habitat, and it is unlikely that any additional conservation efforts would be recommended to address the adverse modification standard over and above those recommended as necessary to avoid jeopardizing the continued existence of *C. corallicola.* Therefore, only administrative costs are expected in the critical habitat designation. While this additional analysis will require time and resources by both the Federal action agency and the Service, in most circumstances, these costs would predominantly be administrative in nature and would not be significant.

Based on the available information, we anticipate no more than three consultations per year within the critical habitat units. Communications with affected entities indicate that critical habitat designation is likely to result in no more than a few consultations, with minor conservation efforts that would likely result in relatively low probable economic impacts. Unit costs of such administrative efforts range from approximately $410 to $5,000 per consultation (2014 dollars, total cost for all parties participating in a single consultation) (IEc 2014, p. 10). Applying these unit cost estimates, this analysis conservatively estimates that the administrative cost of considering adverse modification in section 7 consultation will result in incremental costs of up to $7,100 (2014 dollars) in a given year for *Consolea corallicola* (IEc 2014, pp. 10–11).

The entities most likely to incur incremental costs are parties to section 7 consultations, including Federal action agencies and, in some cases, third parties, most frequently State agencies or municipalities. Activities we expect will be subject to consultations that may involve private entities as third parties are residential and commercial development that may occur on private lands. However, based on coordination efforts with State and local agencies, the cost to private entities within these sectors is expected to be relatively minor (administrative costs of $5,000 or less per consultation effort) and, therefore, would not be significant.

The probable incremental economic impacts of *Consolea corallicola* critical habitat designation are expected to be limited to additional administrative effort as well as minor costs of conservation efforts resulting from a small number of future section 7 consultations. This estimation is due to two factors: (1) The critical habitat units are all considered to be occupied by the species, and incremental economic impacts of critical habitat designation, other than administrative costs, are unlikely; and (2) few actions are anticipated that will result in section 7 consultation or associated project modifications.

Harrisia aboriginum

The critical habitat designation for *Harrisia aboriginum* totals approximately 3,444 ac (1,394 ha) across 11 units in Manatee, Sarasota, Charlotte, and Lee County. Nine of these units (approximately 44 percent of the area) were occupied by the species at the time of listing; the remaining two units (approximately 56 percent of the area) were unoccupied. The critical habitat includes lands under Federal (11 percent), State (48 percent), county (15 percent), and private or other (26 percent) ownership.

Based on the available information, we anticipate no more than four consultations per year within the occupied critical habitat units. In the occupied areas, any actions that may affect the species or its habitat would also affect designated critical habitat and it is unlikely that any additional conservation efforts would be recommended to address the adverse modification standard over and above those recommended as necessary to avoid jeopardizing the continued existence of *Harrisia aboriginum.* Therefore, only administrative costs are expected in approximately 44 percent of the critical habitat designation. While this additional analysis will require time and resources by both the Federal action agency and the Service, in most circumstances, these costs would predominantly be administrative in nature and would not be significant. Unit costs of such administrative efforts range from approximately $410 to $5,000 per consultation (2014 dollars, total cost for all parties participating in a single consultation) (IEc 2014, p. 10). Applying these unit cost estimates to the occupied units, this analysis conservatively estimates that the administrative cost of considering adverse modification in section 7 consultation will result in incremental costs of up to $7,000 (2014 dollars) in a given year for *H. aboriginum* (IEc 2014, p. 11).

In the unoccupied areas, any conservation efforts or associated probable impacts would be considered incremental effects attributed to the critical habitat designation. However, within the unoccupied critical habitat, few actions are expected to occur that will result in section 7 consultations or associated project modifications because no Federal lands are included in these units. Based on the results from past consultation history for these areas and communications with potentially affected entities, we anticipate that an additional six projects will result in section 7 consultation (two formal and

four informal) within the unoccupied units per year, with minor conservation efforts that would likely result in relatively low probable economic impacts. Unit costs of such administrative efforts range from approximately $1,200 to $15,000 per consultation (2014 dollars, total cost for all parties participating in a single consultation) (IEc 2014, p. 10). Applying these unit cost estimates to the unoccupied units, this analysis conservatively estimates that the administrative cost of considering adverse modification in section 7 consultation will result in incremental costs of up to $60,000 (2014 dollars) in a given year for *H. aboriginum* (IEc 2014, pp. 10–11). Therefore, the estimate of incremental costs for all units (occupied and unoccupied) is $67,000 (2014 dollars) in a given year for *H. aboriginum* (IEc 2014, pp. 10–11).

The entities most likely to incur incremental costs are parties to section 7 consultations, including Federal action agencies and, in some cases, third parties which will most frequently be State agencies or municipalities. Activities that we expect will be subject to consultations that may involve private entities as third parties are residential and commercial development that may occur on private lands. However, based on coordination efforts with State and local agencies, the cost to private entities within these sectors is expected to be relatively minor (administrative costs of less than $5,000 (occupied) or $15,000 (unoccupied) per consultation effort), and any costs from required conservation measures, therefore, would not be significant.

The probable incremental economic impacts of *Harrisia aboriginum* critical habitat designation are expected to be limited to additional administrative effort as well as minor costs of conservation efforts resulting from a small number of future section 7 consultations. This estimation is due to two factors: (1) Incremental economic impacts of critical habitat designation, other than administrative costs, are unlikely; and (2) in units that are not occupied by *H. aboriginum* (56 percent), few actions are anticipated that will result in section 7 consultation or associated project modifications.

For both species, the DEA also discusses the potential for incremental costs to occur outside of the section 7 consultation process, including costs associated with the potential triggering of additional requirements or project modifications under State laws or regulations, and perceptional effects on markets. It is unlikely that the designation of critical habitat will trigger additional State or local restrictions (IEc 2014, pp. 11–12). Public perception of critical habitat may result in landowners or buyers believing that the rule will restrict land or water use activities in some way and, therefore, valuing the resource less than they would have absent critical habitat. This is a perceptional, or stigma, effect of critical habitat on markets. Costs resulting from public perception of the impact of critical habitat, if they occur, are more likely to occur on private lands. However, based on the economic analysis, ''possible costs resulting from public perception of the effect of critical habitat designation, when combined with section 7 costs, are unlikely to exceed the threshold for an economically significant rulemaking under [Executive Order] 12866'' (IEc 2014, p. 13). Under Executive Order 12866, agencies must assess the potential costs and benefits of regulatory actions and quantify those costs and benefits if that action may have an effect on the economy of $100 million or more annually.

Exclusions Based on Economic Impacts

Our economic analysis did not identify any disproportionate costs that are likely to result from the designation. Consequently, the Secretary is not exercising her discretion to exclude any areas from this designation of critical habitat for *Consolea corallicola* or *Harrisia aboriginum* based on economic impacts.

A copy of the IEM and screening analysis with supporting documents may be obtained by contacting the South Florida Ecological Services Office (see **ADDRESSES**) or by downloading from the Internet at *http://www.regulations.gov.*

Exclusions Based on National Security Impacts

Under section 4(b)(2) of the Act, we consider whether there are lands owned or managed by the Department of Defense where a national security impact might exist. In preparing this final rule, we have determined that no lands within the designation of critical habitat for *Consolea corallicola* or *Harrisia aboriginum* are owned or managed by the Department of Defense or Department of Homeland Security, and, therefore, we anticipate no impact on national security. Consequently, the Secretary is not exercising her discretion to exclude any areas from this final designation based on impacts on national security.

Exclusions Based on Other Relevant Impacts

Under section 4(b)(2) of the Act, we also consider any other relevant impacts resulting from the designation of critical habitat. We consider a number of factors, including whether the landowners have developed any HCPs or other management plans for the area, or whether there are conservation partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at any tribal issues, and consider the government-to-government relationship of the United States with tribal entities. We also consider any social impacts that might occur because of the designation.

We have determined that the Monroe County HCP for Big Pine and No Name Keys is the only HCP or other management plan that will be affected by either species' critical habitat designation. The Monroe County HCP for Big Pine and No Name Keys, which covers a portion of unit FSC3, does not include *Consolea corallicola* as a ''Covered Species,'' and *C. corallicola* is not mentioned specifically anywhere in the HCP document. Further, the critical habitat designation does not include any tribal lands or trust resources. Therefore, we anticipate no impact on tribal lands, partnerships, or other HCPs from this final critical habitat designation. Accordingly, the Secretary is not exercising her discretion to exclude any areas from this final designation based on other relevant impacts.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for

public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as the types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

The Service's current understanding of the requirements under the RFA, as amended, and following recent court decisions, is that Federal agencies are required to evaluate the potential incremental impacts of rulemaking only on those entities directly regulated by the rulemaking itself and, therefore, not required to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried by the Agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7 only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, it is our position that only Federal action agencies will be directly regulated by this designation. There is no requirement under the RFA to evaluate the potential impacts to entities not directly regulated. Therefore, because no small entities are directly regulated by this rulemaking, the Service certified, in the proposed rule, that, if promulgated, the final critical habitat designation would not have a significant economic impact on a substantial number of small entities.

During the development of this final rule we reviewed and evaluated all information submitted during the comment period that may pertain to our consideration of the probable incremental economic impacts of this critical habitat designation. Based on this information, we affirm our certification that this final critical habitat designation will not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

Energy Supply, Distribution, or Use—Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. OMB has provided guidance for implementing this Executive Order that outlines nine outcomes that may constitute ''a significant adverse effect'' when compared to not taking the regulatory action under consideration. The economic analysis finds that none of these criteria are relevant to this analysis. Thus, based on information in the economic analysis, energy-related impacts associated with *Consolea corallicola* or *Harrisia aboriginum* conservation activities within critical habitat are not expected. As such, the designation of critical habitat is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(1) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for

an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule would significantly or uniquely affect small governments. The government lands being designated as critical habitat are owned by the Town of Longboat Key, the State of Florida, and BLM, NPS, and the Service. None of these government entities fit the definition of ''small governmental jurisdiction.'' Consequently, we do not believe that the critical habitat designation would significantly or uniquely affect small government entities. As such, a Small Government Agency Plan is not required.

Takings—Executive Order 12630

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of designating critical habitat for *Consolea corallicola* or *Harrisia aboriginum* in a takings implications assessment. As discussed above, the designation of critical habitat affects only Federal actions. Critical habitat designation does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. Due to current public knowledge of the species protections and the prohibition against take of the species both within and outside of the designated areas, we do not anticipate that property values will be affected by the critical habitat designation. Based on the best available information, the takings implications assessment concludes that this designation of critical habitat for *Consolea corallicola* or *Harrisia aboriginum* does not pose significant takings implications.

Federalism—E.O. 13132

In accordance with E.O. 13132 (Federalism), this rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Department of Commerce policy, we request information from, and coordinated development of, this critical habitat designation with appropriate State resource agencies in Florida. We received comments from FDACS DPI and have addressed them in the Summary of Comments and Recommendations section of the rule. From a Federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, the rule does not have substantial direct effects either on the States, or on the relationship between the national government and the States, or on the distribution of powers and responsibilities among the various levels of government. The designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more clearly defined, and the physical or biological features of the habitat necessary to the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist these local governments in long-range planning (because these local governments no longer have to wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform—E.O. 12988

In accordance with E.O. 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the applicable standards set forth in sections 3(a) and 3(b)(2) of the Order. We are designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, the rule identifies the elements of physical or biological features essential to the conservation of the species. The designated areas of critical habitat are presented on maps, and the rule provides several options for the interested public to obtain more detailed location information, if desired.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. As discussed above, we have

determined that there are no tribal lands occupied by *Consolea corallicola* or *Harrisia aboriginum* at the time of listing that contain the physical or biological features essential to conservation of these species, and no tribal lands unoccupied by *C. corallicola* or *H. aboriginum* that are essential for the conservation of the species.

References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* and upon request from the South Florida Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this package are the staff members of the South Florida Ecological Services Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245, unless otherwise noted.

■ 2. In § 17.12(h), revise the entries for ''*Consolea corallicola* Cactus, Florida semaphore'' and ''*Harrisia aboriginum* Prickly-apple, aboriginal'' under ''Flowering Plants'' in the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*		*
Consolea corallicola	Cactus, Florida semaphore.	U.S.A. (FL)	Cactaceae	E	826	17.96(a)	NA
*	*	*	*	*	*		*
Harrisia aboriginum	Prickly-apple, aboriginal.	U.S.A. (FL)	Cactaceae	E	826	17.96(a)	NA
*	*	*	*	*	*		*

■ 3. Amend § 17.96(a) by adding entries for ''*Consolea corallicola* (Florida semaphore cactus)'' and ''*Harrisia aboriginum* (aboriginal prickly-apple)'' in alphabetical order under the family Cactaceae, to read as follows:

§ 17.96 Critical habitat—plants.

(a) *Flowering plants.*

* * * * *

Family Cactaceae: *Consolea corallicola* (Florida semaphore cactus)

(1) Critical habitat units are depicted for Miami-Dade and Monroe Counties, Florida, on the maps below.

(2) Within these areas, the primary constituent elements of the physical or biological features essential to the conservation of *Consolea corallicola* are:

(i) Areas of upland habitats consisting of coastal berm, rockland hammocks, and buttonwood forest.

(A) Coastal berm habitat that contains:

(1) Open to semi-open canopy, subcanopy, and understory; and

(2) Substrate of coarse, calcareous, and storm-deposited sediment.

(B) Rockland hammock habitat that contains:

(1) Canopy gaps and edges with an open to semi-open canopy, subcanopy, and understory; and

(2) Substrate with a thin layer of highly organic soil covering limestone or organic matter that accumulates on top of the limestone.

(C) Buttonwood forest habitat that contains:

(1) Open to semi-open canopy and understory; and

(2) Substrate with calcareous marl muds, calcareous sands, or limestone rock.

(ii) A plant community of predominately native vegetation with no invasive, nonnative animal or plant species or such species in quantities low enough to have minimal effect on survival of *Consolea corallicola.*

(iii) A disturbance regime, due to the effects of strong winds or saltwater inundation from storm surge or infrequent tidal inundation, that creates canopy openings in coastal berm, rockland hammocks, and buttonwood forest.

(iv) Habitats that are connected and of sufficient size to sustain viable populations in coastal berm, rockland hammocks, and buttonwood forest.

(v) Habitats that provide populations of the generalist pollinators that visit the flowers of *Consolea corallicola.*

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located that exists within the legal boundaries on February 22, 2016.

(4) *Critical habitat map units.* Data layers defining map units were developed using ESRI ArcGIS mapping software along with various spatial data layers. ArcGIS was also used to calculate area. The projection used in mapping and calculating distances and locations within the units was North American Albers Equal Area Conic, NAD 83. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates, plot points, or both on which each map is based are available to the public at the Service's Internet site at *http://www.fws.gov/verobeach/,* at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2014–0057, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) Index map of all critical habitat units for *Consolea corallicola* follows:

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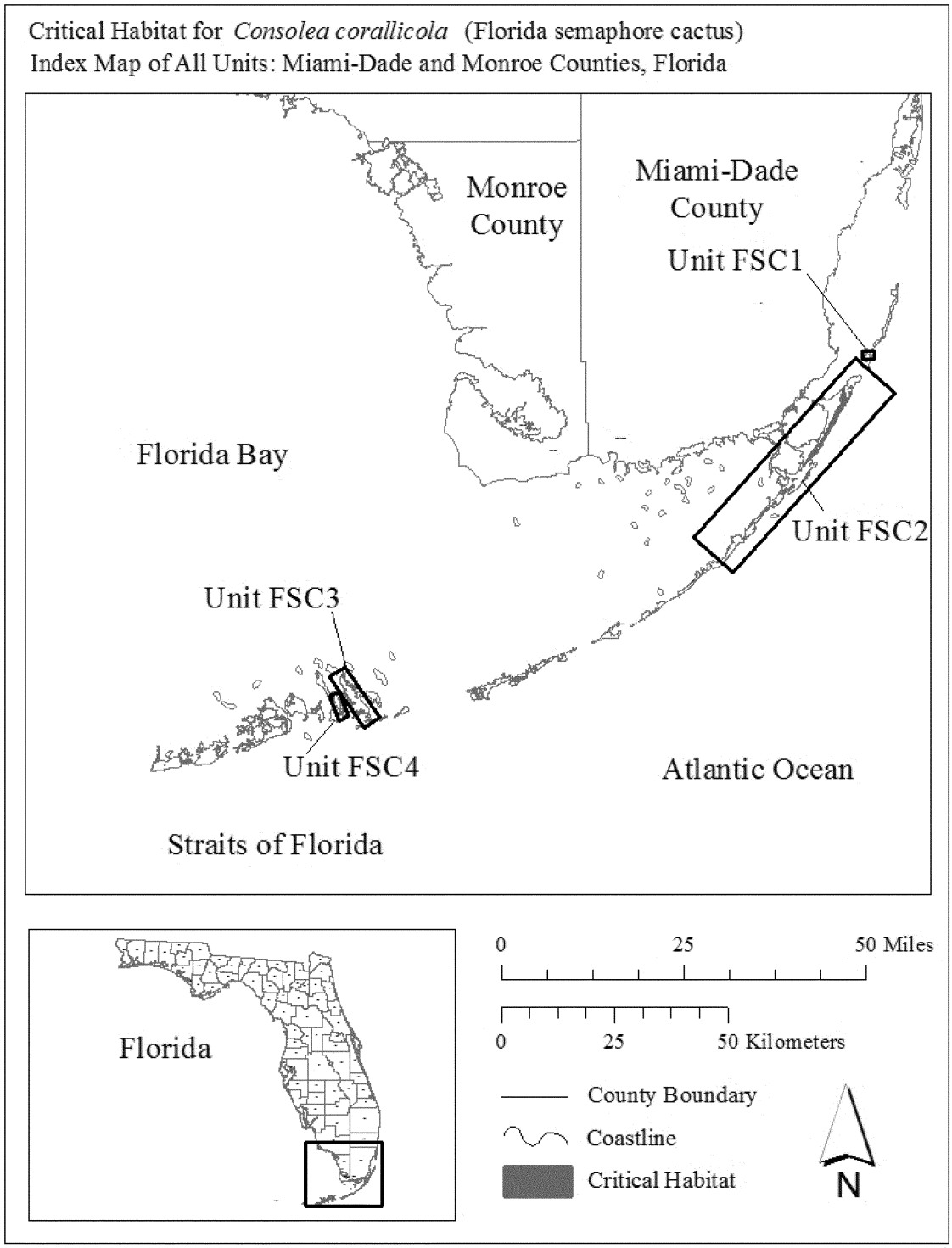
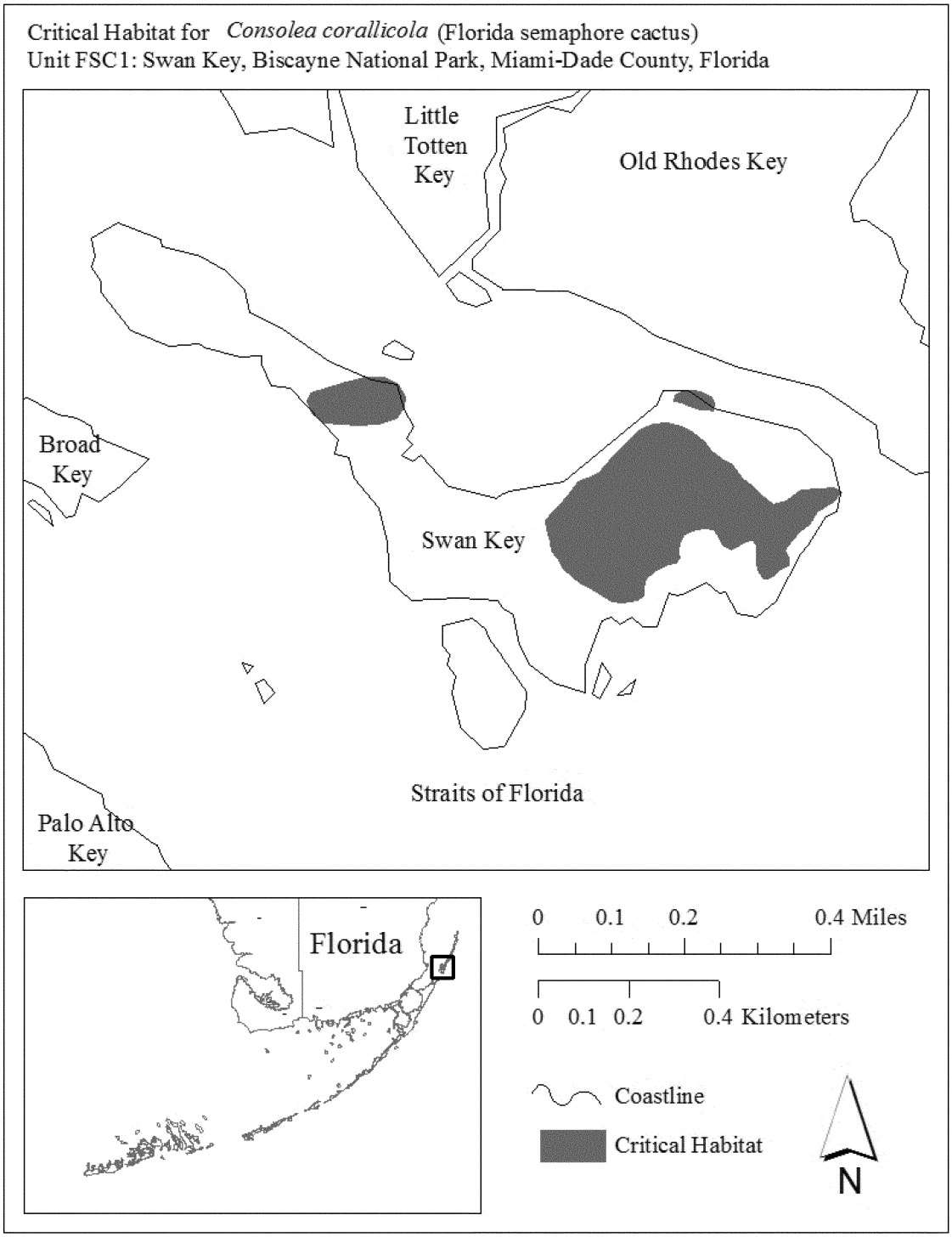


(6) Unit FSC1: Swan Key, Biscayne National Park, Miami-Dade County, Florida.

(i) *General Description:* Unit FSC1 consists of 37 ac (15 ha) in Miami-Dade County. This unit is composed entirely of lands in Federal ownership, 100 percent of which are located on Swan Key within Biscayne National Park. The unit includes all upland rockland hammock habitat on Swan Key, most of which is located on the eastern side of Swan Key, surrounded by the island's mangrove fringe. A second, smaller area is located on the island's elongate western half and is also surrounded by mangroves.

(ii) Map of Unit FSC1 follows:

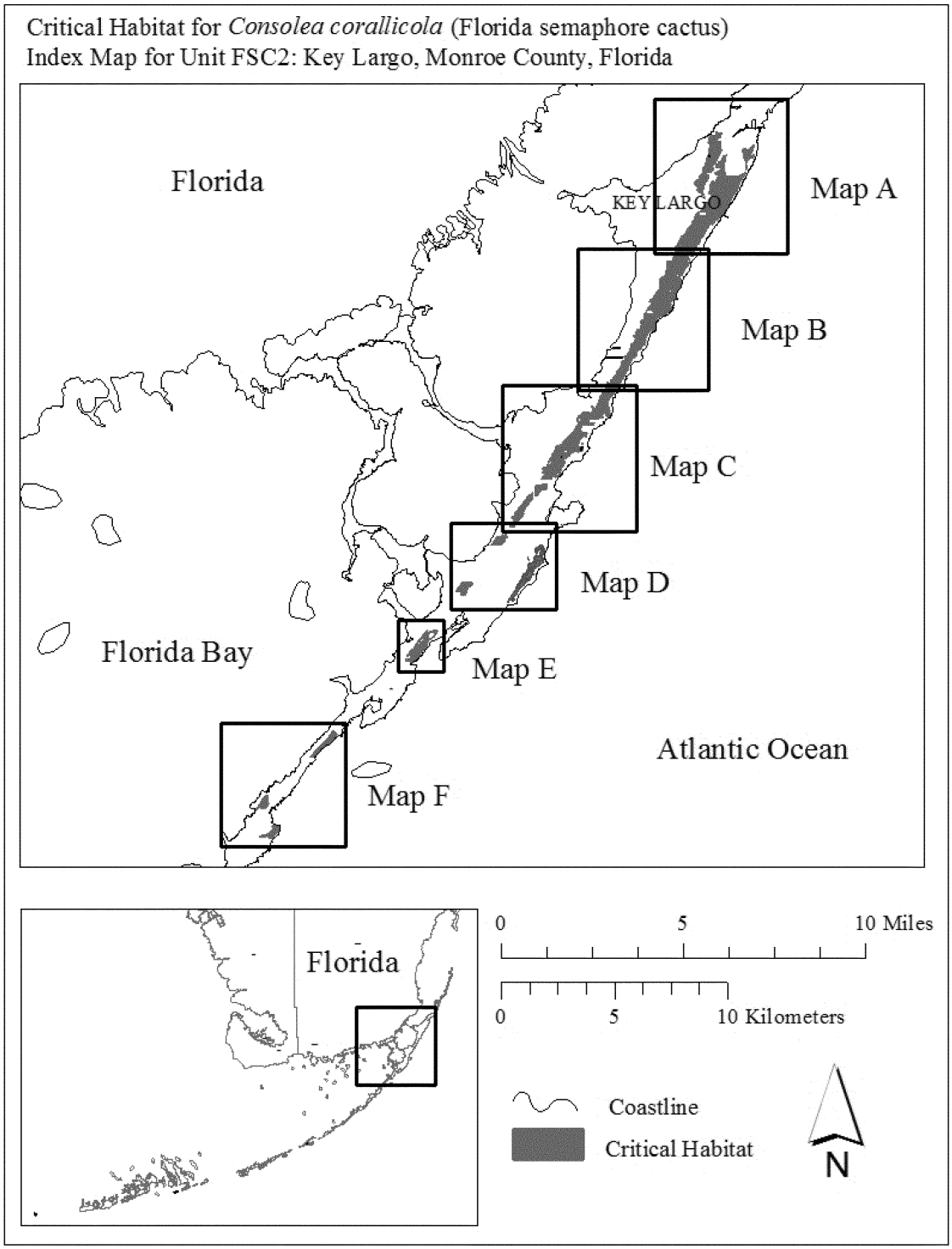


(7) Unit FSC2: Key Largo, Monroe County, Florida.

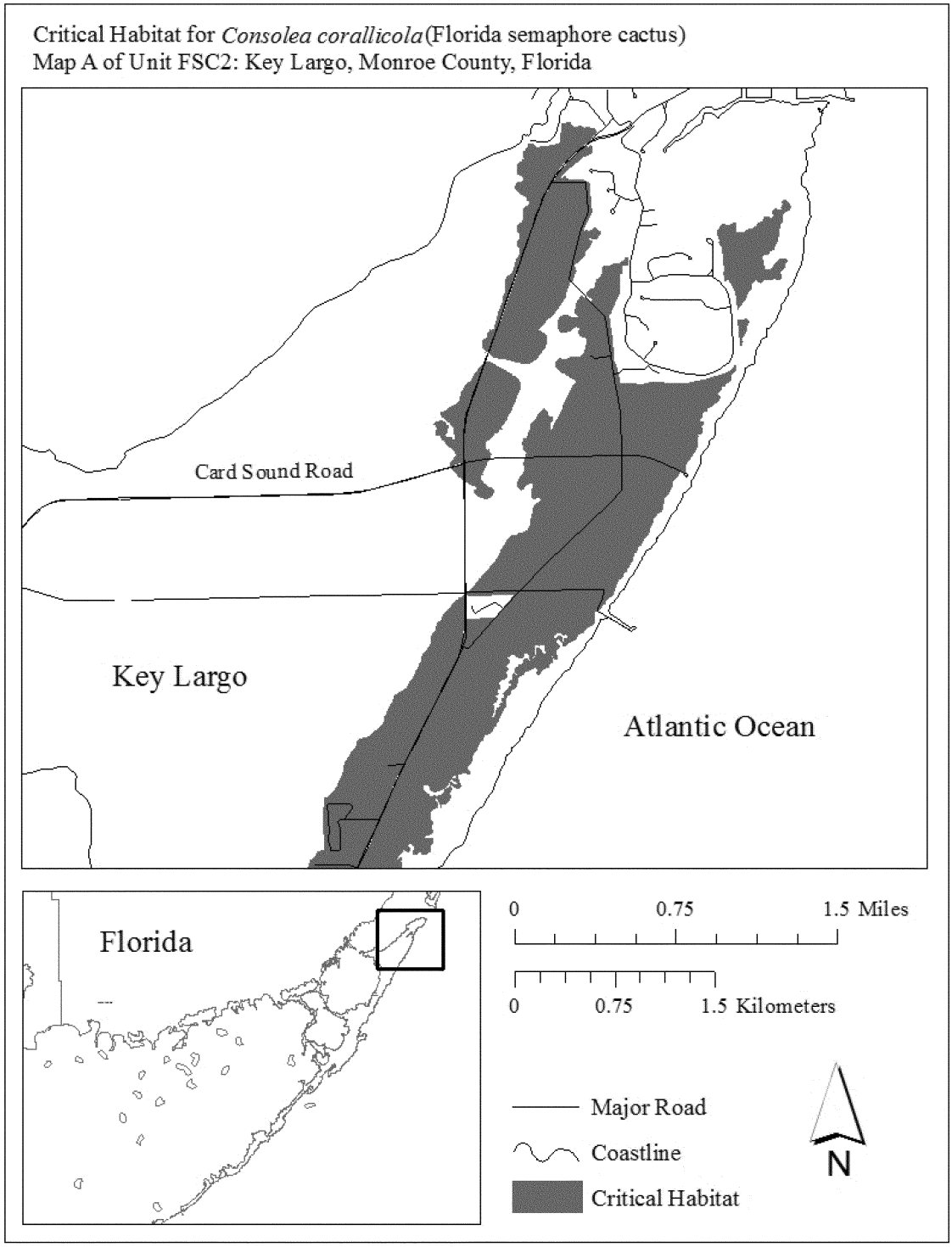
(i) *General Description:* Unit FSC2 consists of 3,434 ac (1,389 ha) in Monroe County. This unit is composed of Federal lands within Crocodile Lake National Wildlife Refuge (NWR) (702 ac (284 ha)); State lands within Dagny Johnson Botanical State Park, John Pennekamp Coral Reef State Park, and the Florida Keys Wildlife and Environmental Area (2,331 ac (943 ha)); lands owned by Monroe County (17 ac (7 ha)); and parcels in private or other ownership (384 ac (155 ha)). This unit extends from near the northern tip of Key Largo, along the length of Key Largo, beginning at the south shore of Ocean Reef Harbor near South Marina Drive and the intersection of County Road (CR) 905 and Clubhouse Road on the west side of CR 905, and between CR 905 and Old State Road 905, then extending to the shoreline south of South Harbor Drive. The unit then continues on both sides of CR 905 through the Crocodile Lake NWR, Dagny

Johnson Key Largo Hammock Botanical State Park, and John Pennekamp Coral Reef State Park. The unit then terminates near the junction of U.S. 1 and CR 905 and Garden Cove Drive. The unit resumes on the east side of U.S. 1 from South Andros Road to Key Largo Elementary; then from the intersection of Taylor Drive and Pamela Street to Avenue A, then from Sound Drive to the intersection of Old Road and Valencia Road, then resumes on the east side of U.S. 1 from Hibiscus Lane and Ocean Drive. The unit continues south near the Port Largo Airport from Poisonwood Road to Bo Peep Boulevard. The unit resumes on the west side of U.S. 1 from the intersection of South Drive and Meridian Avenue to Casa Court Drive. The unit then continues on the west side of U.S. 1 from the point on the coast directly west of Peace Avenue south to Caribbean Avenue. The unit also includes a portion of the barrier island (El Radabob Key) in Largo Sound located directly east of Avenue A, extending south to a point directly east of Mahogany Drive.

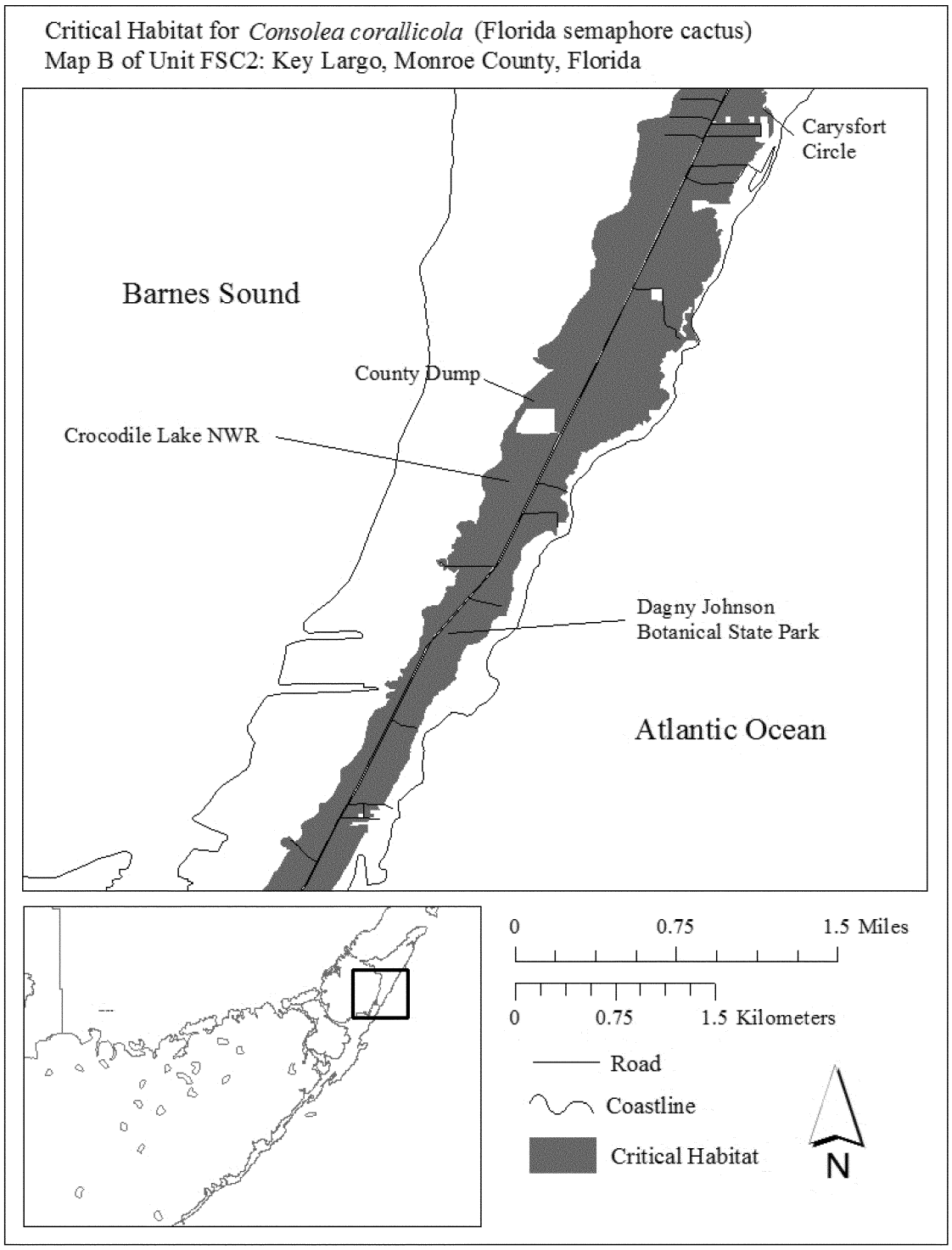
(ii) Index map of Unit FSC2 follows:



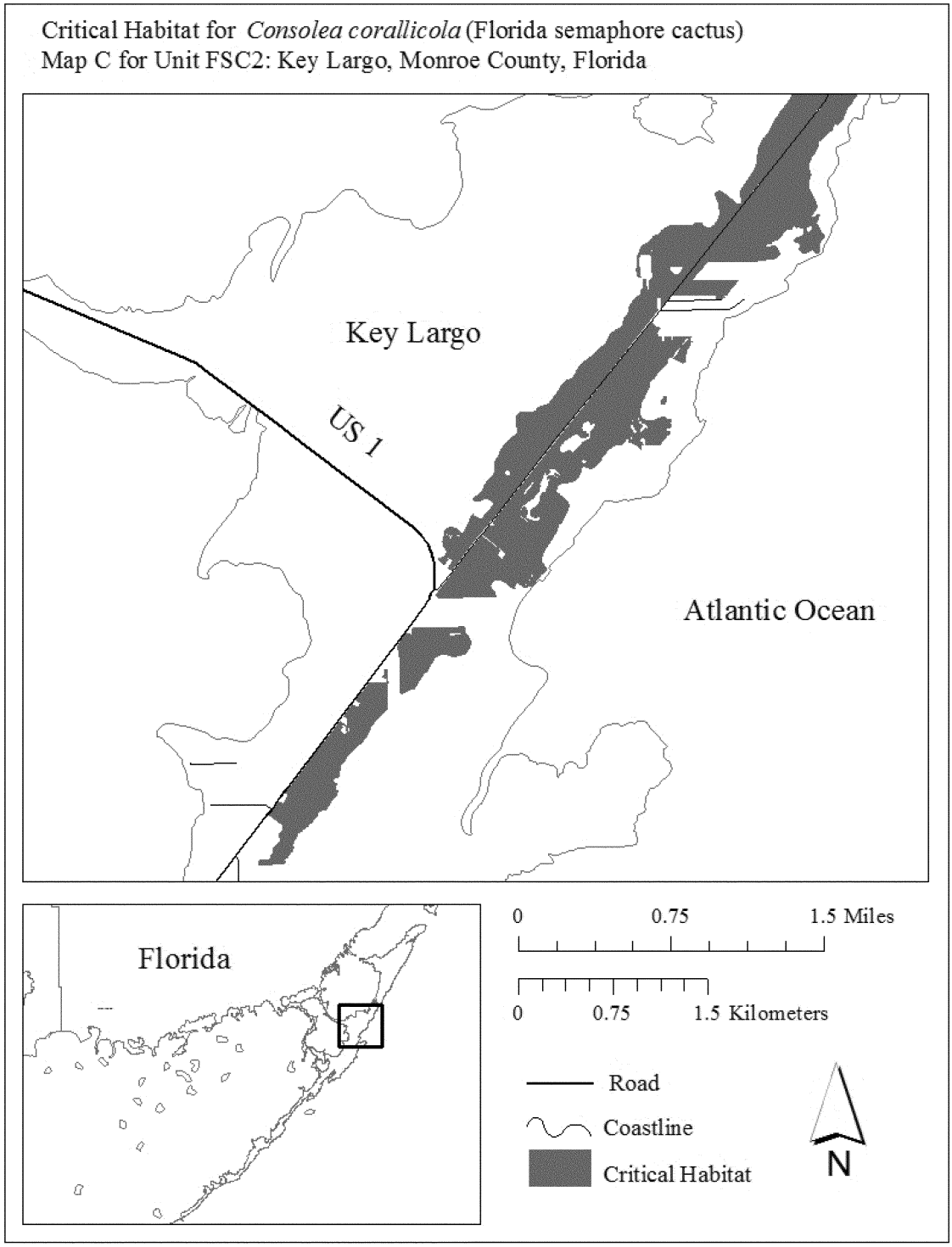
(iii) Map A of Unit FSC2 follows:



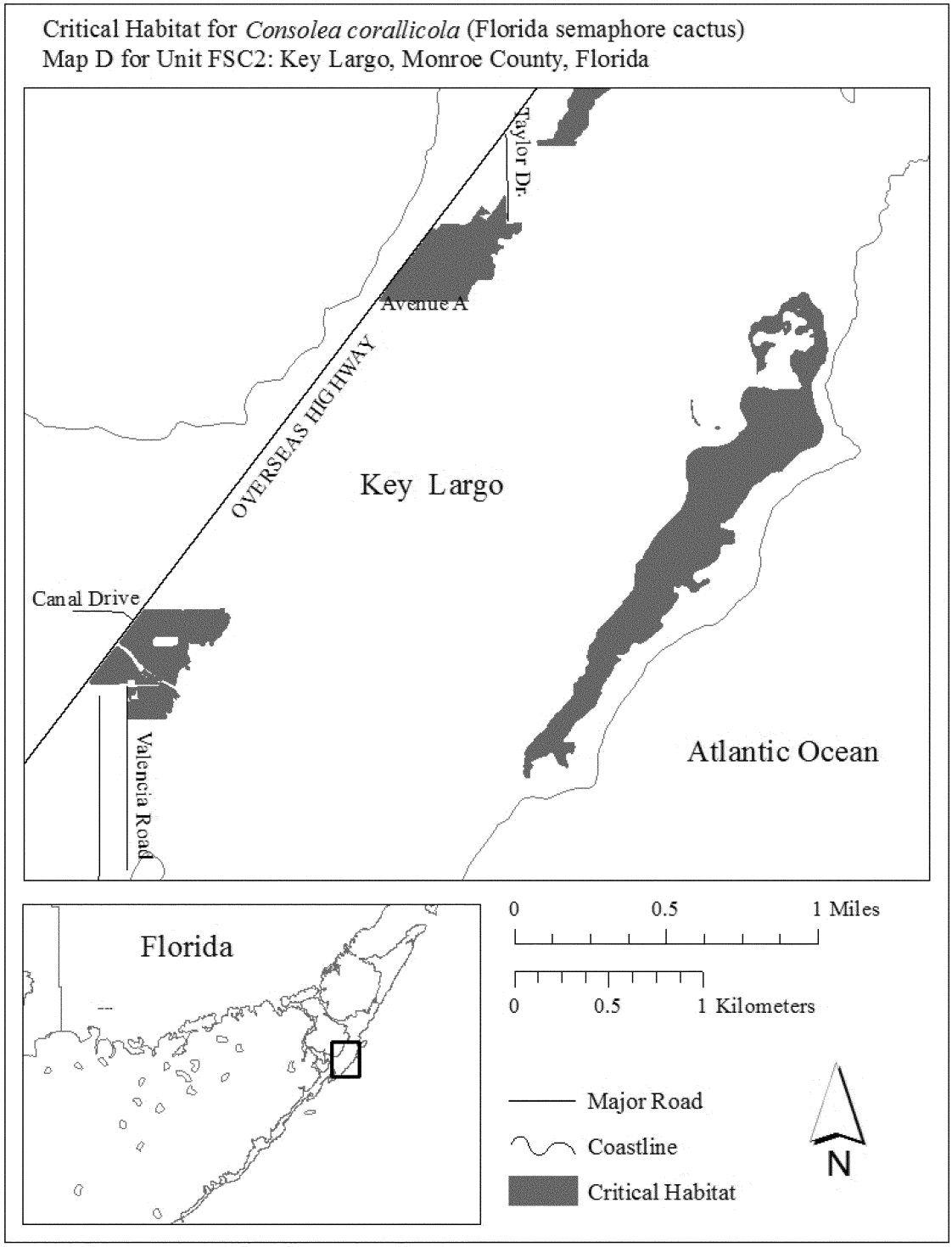
(iv) Map B of Unit FSC2 follows:



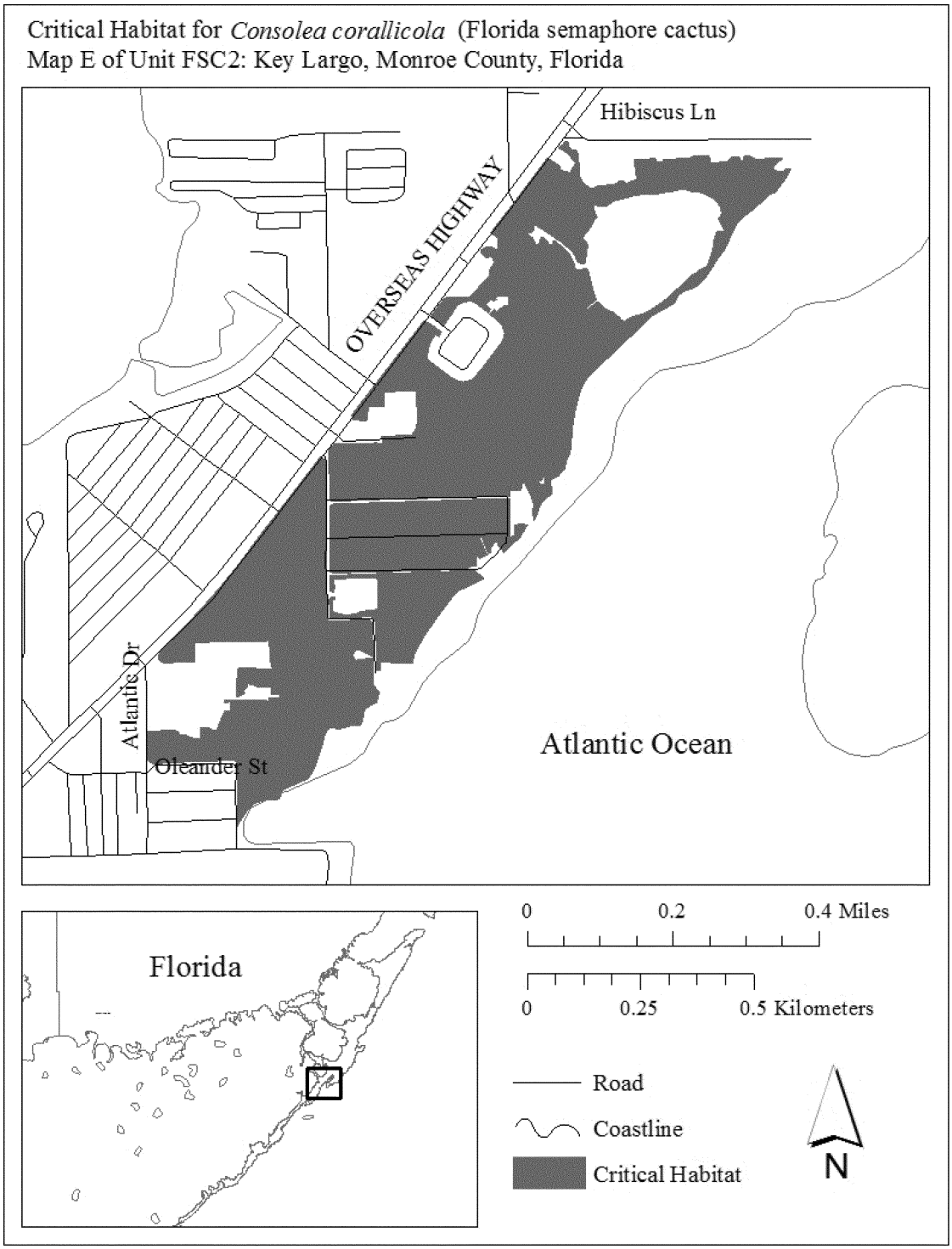
(v) Map C of Unit FSC2 follows:



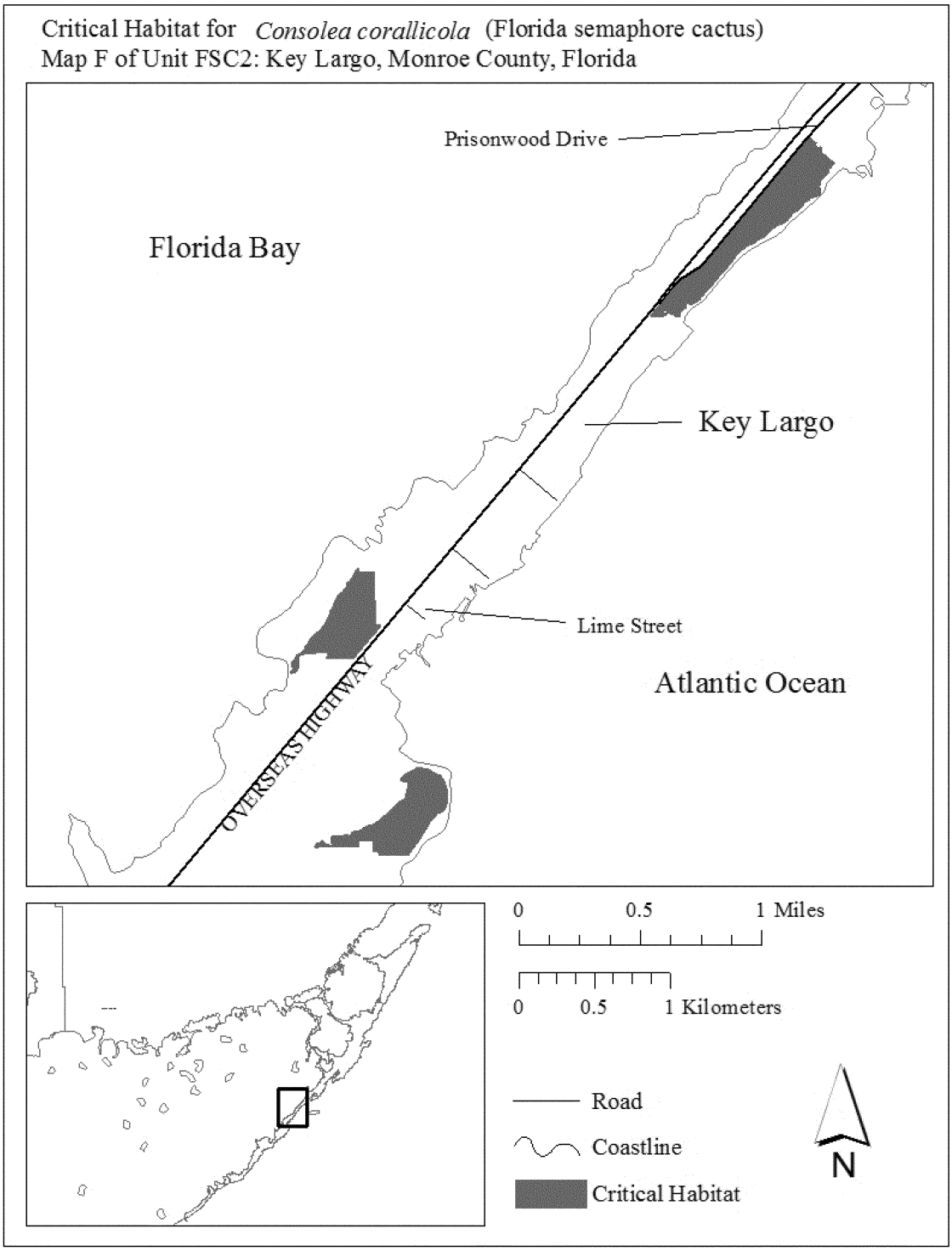
(vi) Map D of Unit FSC2 follows:



(vii) Map E of Unit FSC2 follows:



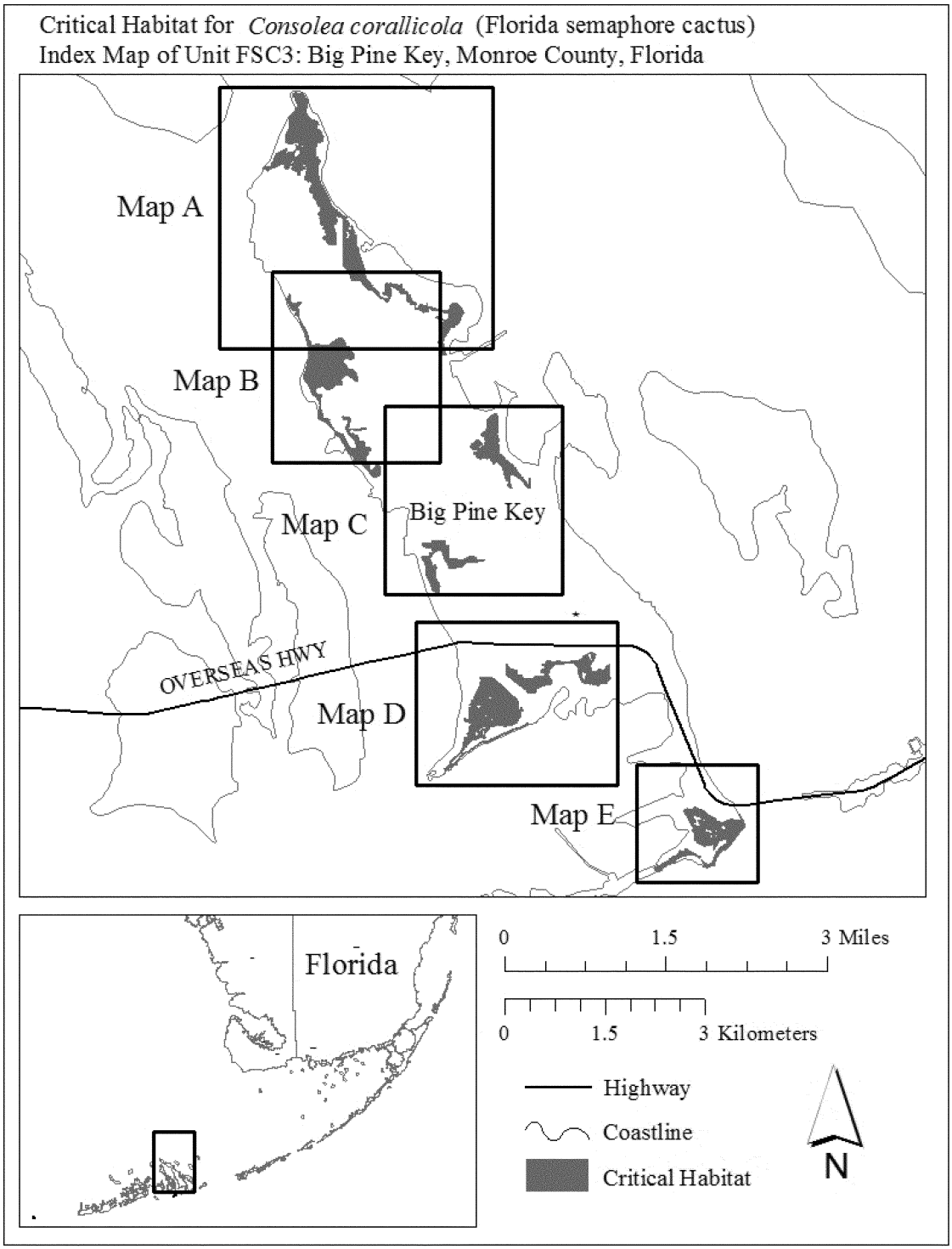
(viii) Map F of Unit FSC2 follows:



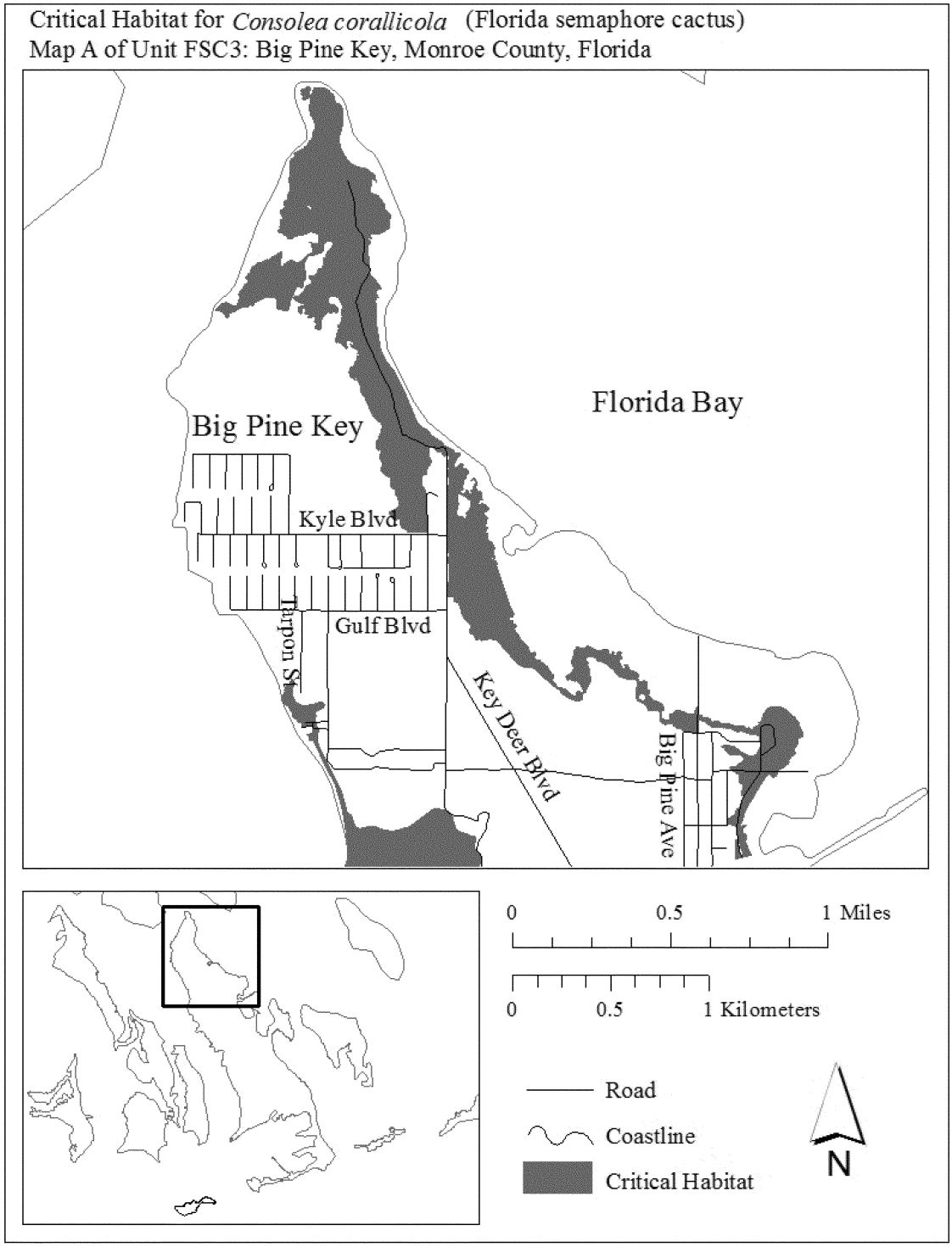
(8) Unit FSC3: Big Pine Key, Monroe County, Florida.

(i) *General Description:* Unit FSC3 consists of 772 ac (313 ha) in Monroe County. This unit is composed of Federal land within the National Key Deer Refuge (NKDR) (508 ac (205 ha)), State land managed as part of the NKDR (172 ac (70 ha)), lands owned by Monroe County (11 ac (5 ha)), and parcels in private or other ownership (81 ac (33 ha)). This unit extends from near the northern tip of Big Pine Key along the eastern shore to the vicinity of Hellenga Drive and Watson Road; from Gulf Boulevard south to West Shore Drive; Big Pine Avenue and Elma Avenues on the east, Coral and Yacht Club Road, and U.S. 1 on the north, and Industrial Avenue on the east from the southeastern tip of Big Pine Key to Avenue A.

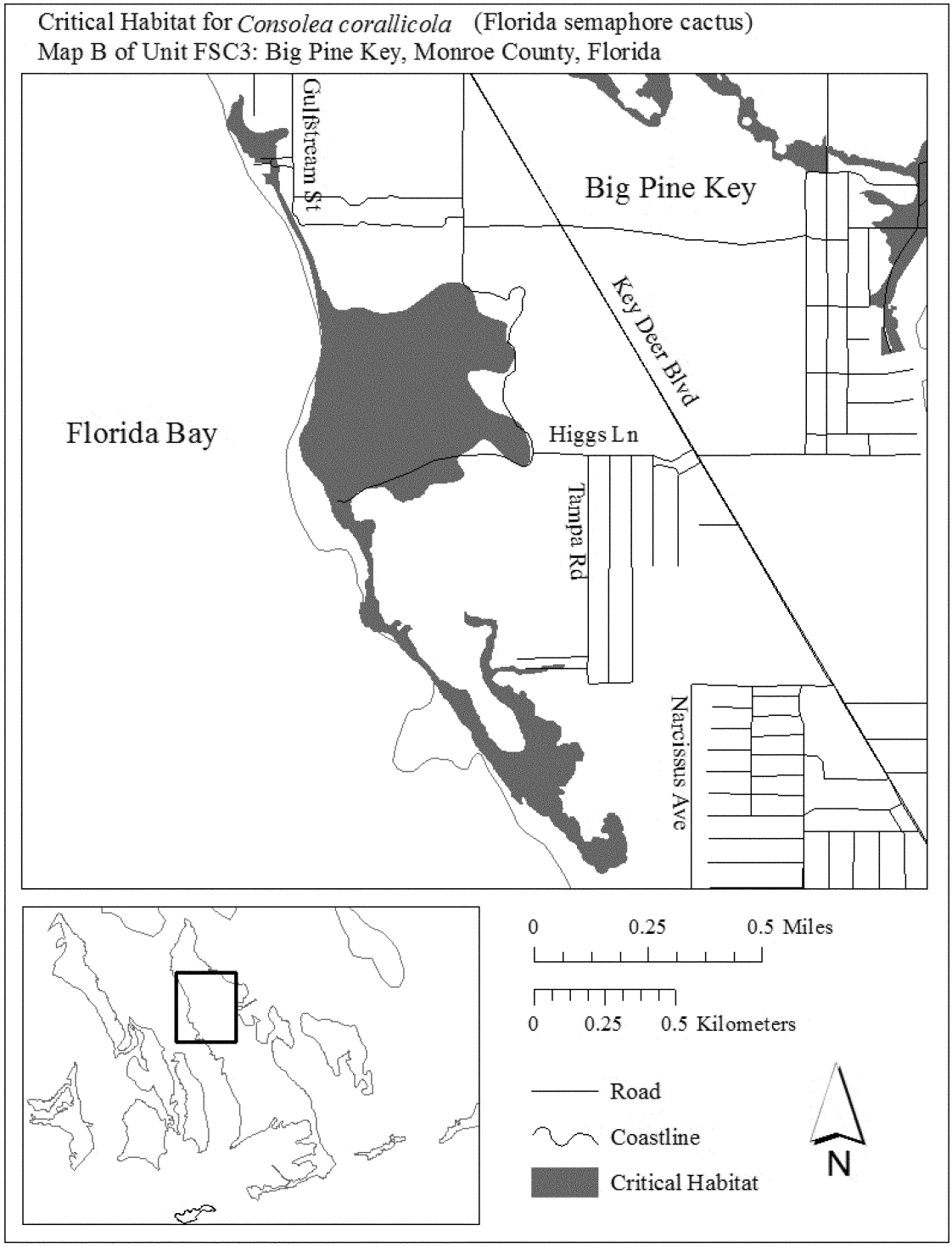
(ii) Index map of Unit FSC3 follows:



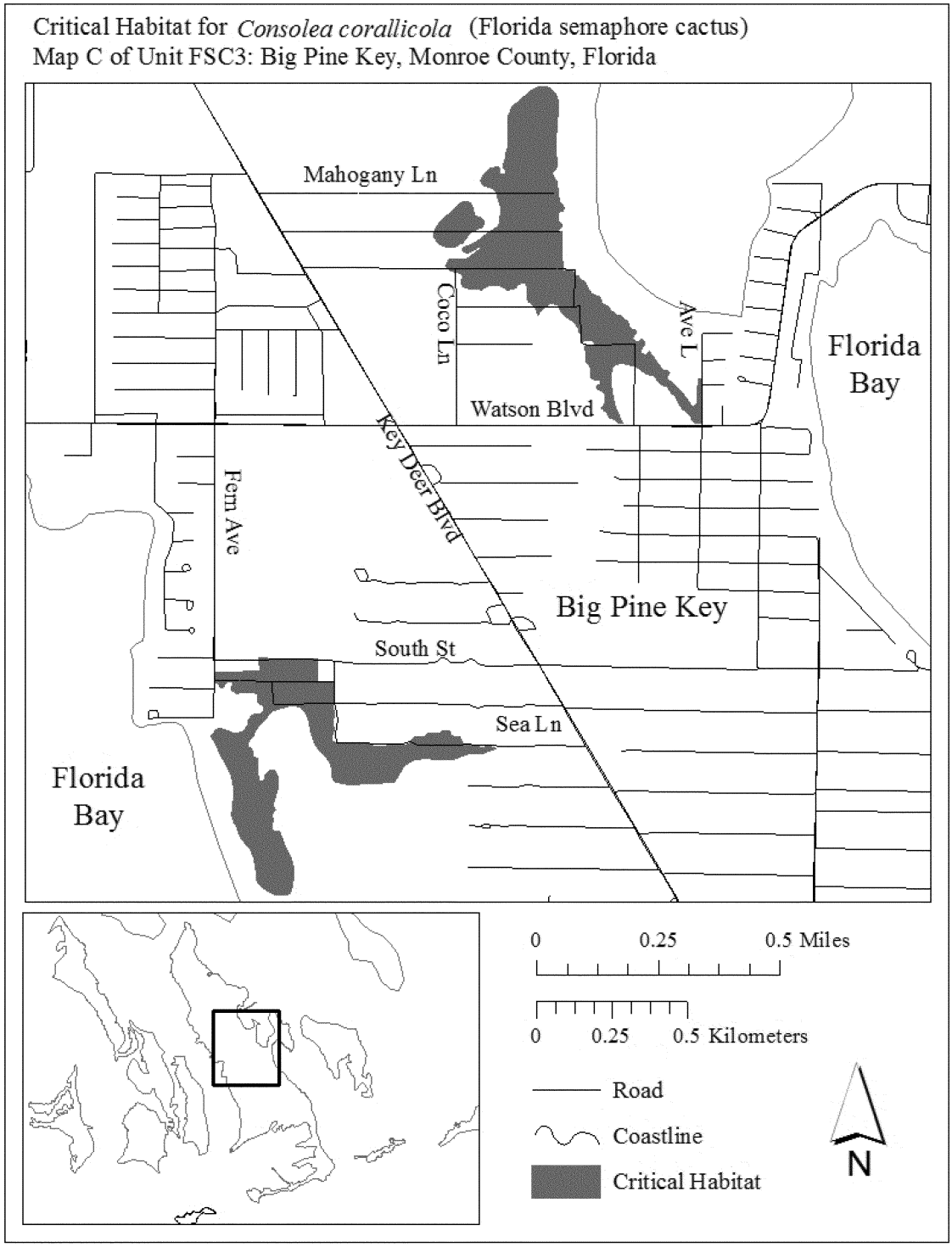
(iii) Map A of Unit FSC3 follows:



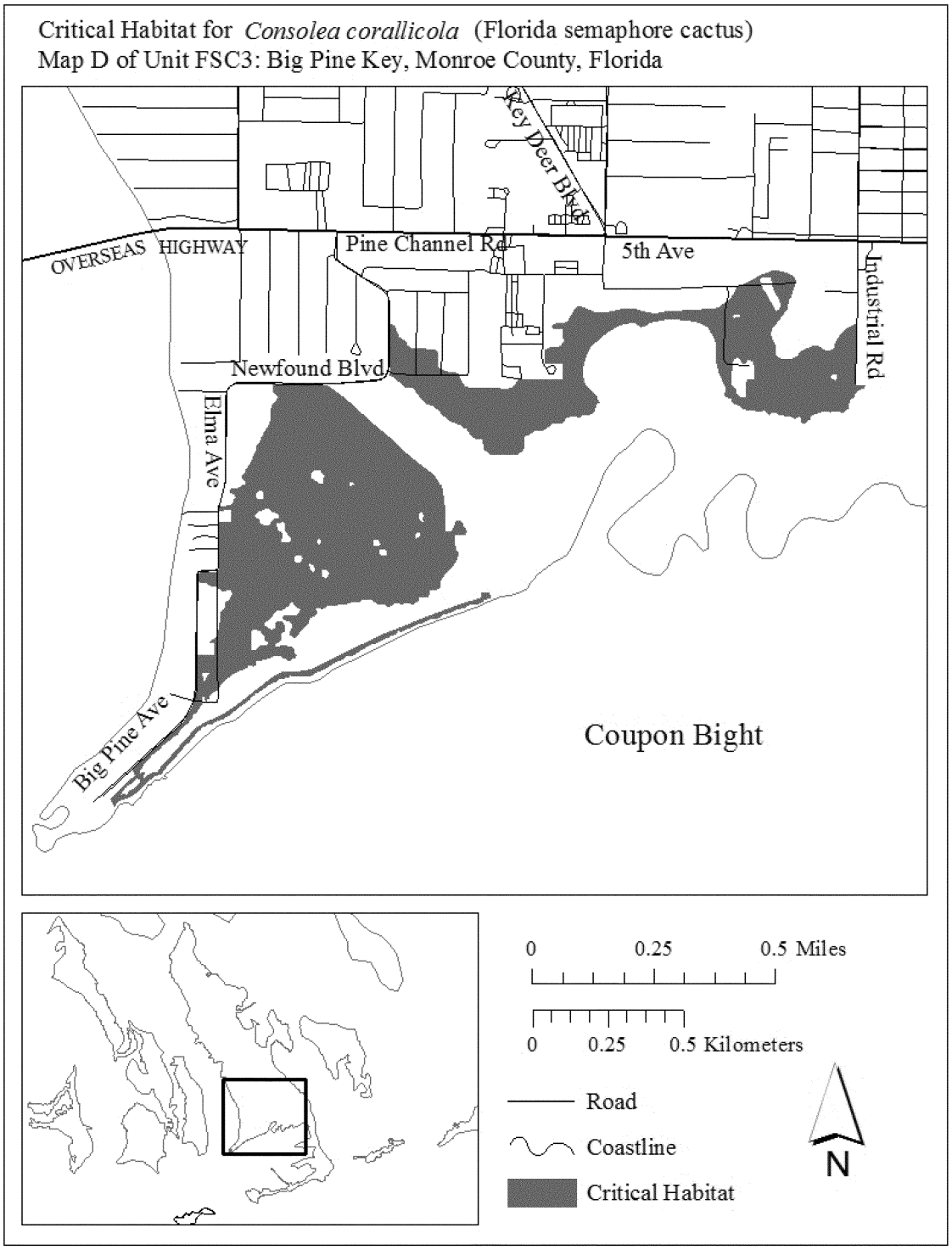
(iv) Map B of Unit FSC3 follows:



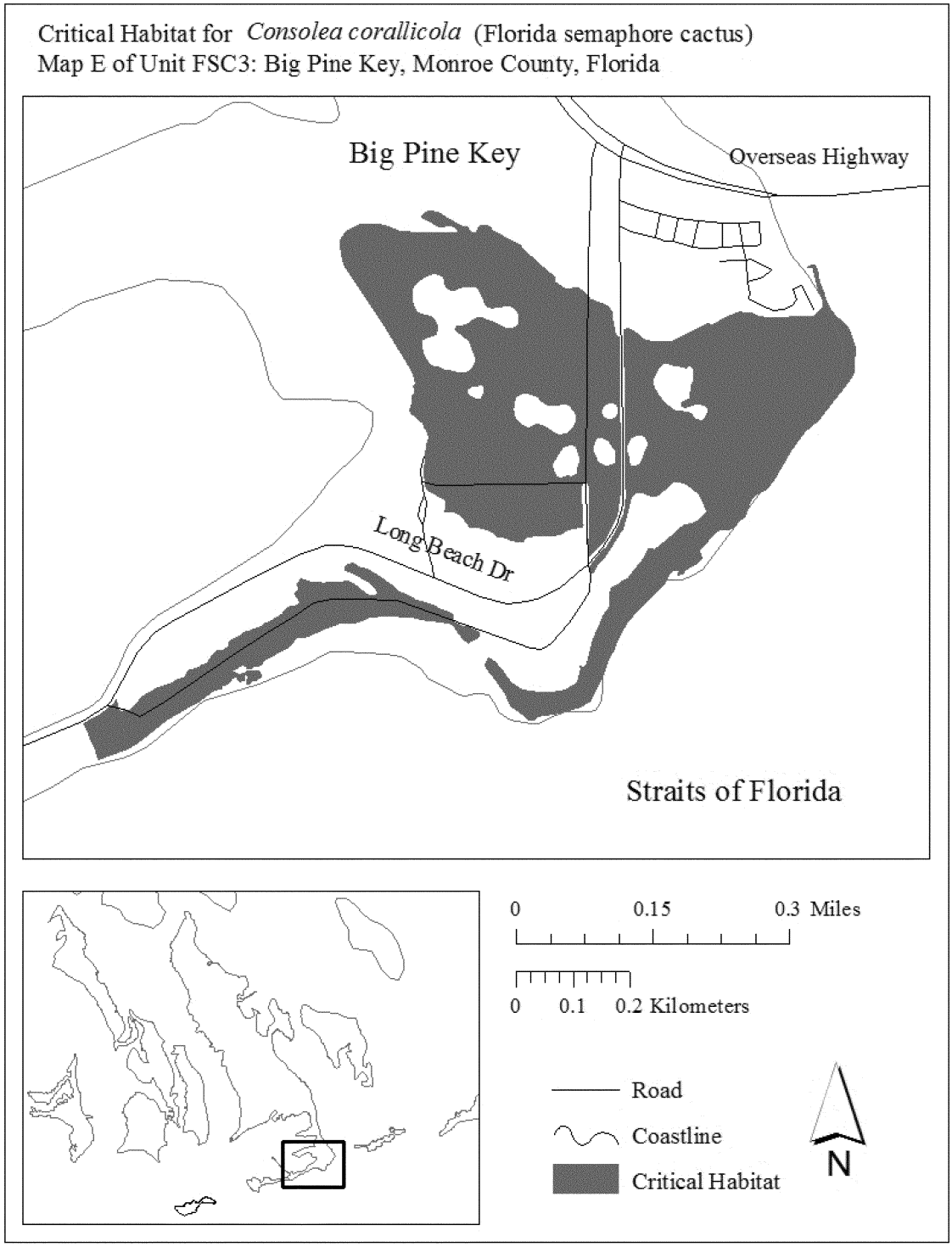
(v) Map C of Unit FSC3 follows:



(vi) Map D of Unit FSC3 follows:



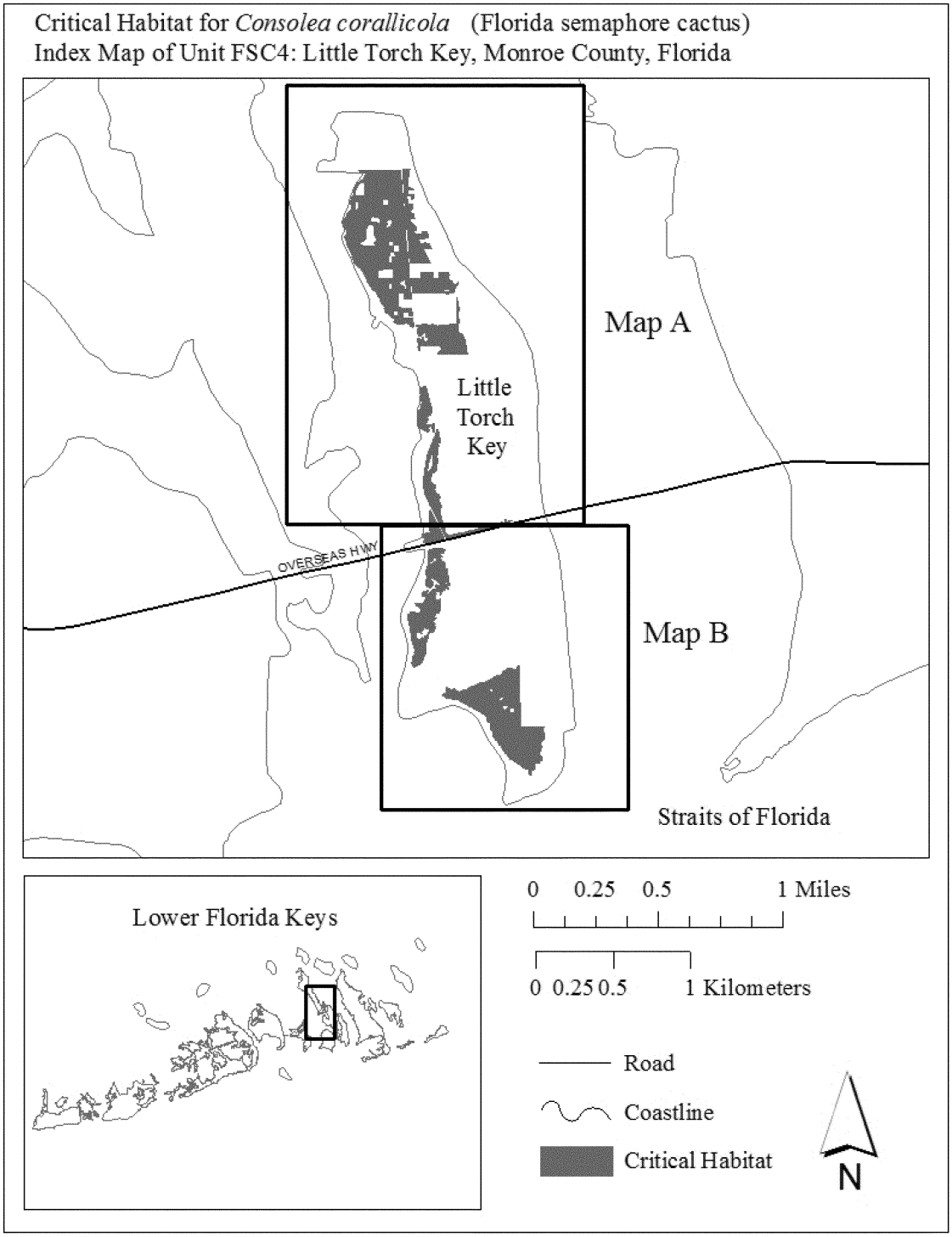
(vii) Map E of Unit FSC3 follows:



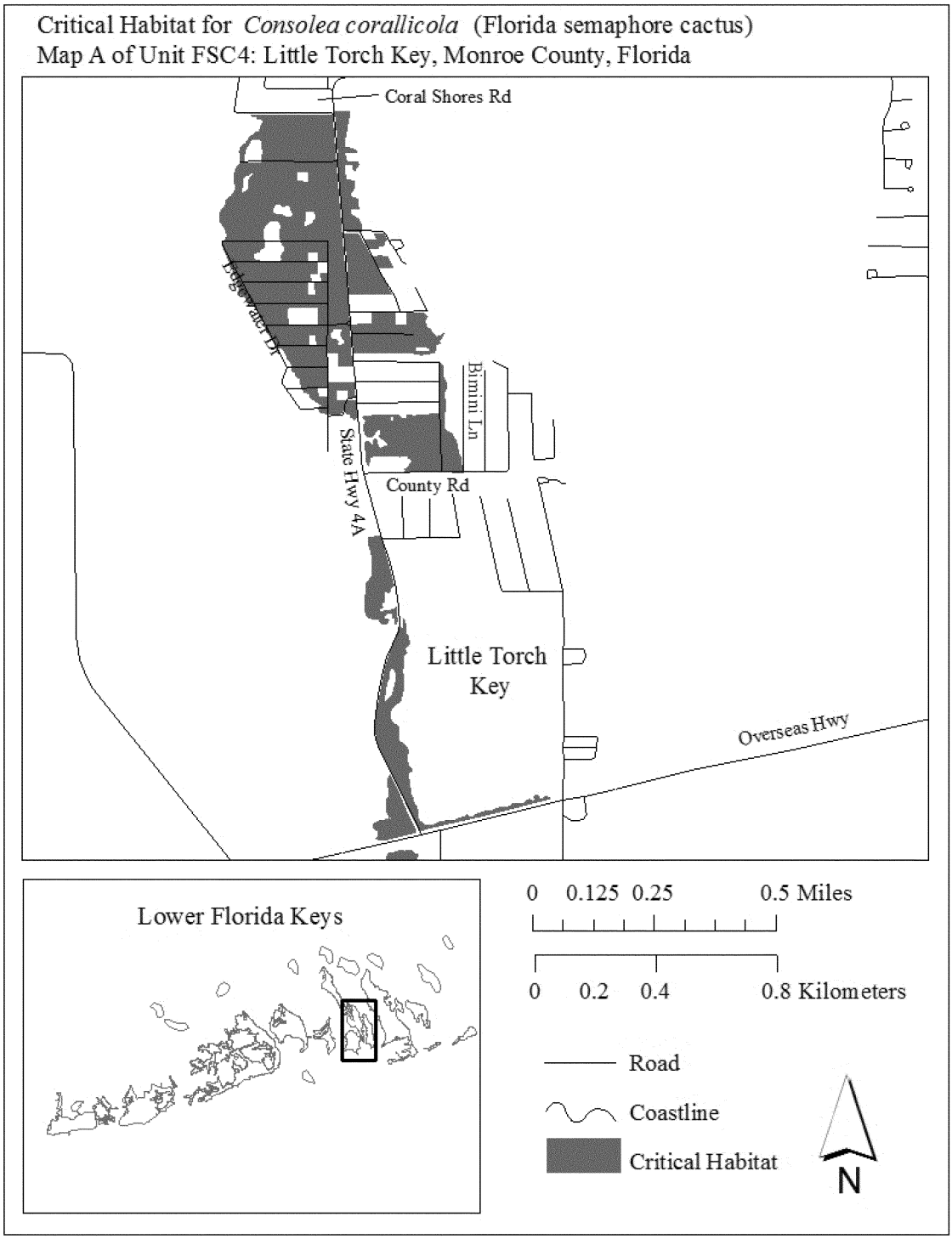
(9) Unit FSC4: Little Torch Key, Monroe County, Florida.

(i) *General Description:* Unit FSC4 consists of 168 ac (68 ha) in Monroe County. This unit is composed of State lands (47 ac (19 ha)), lands owned by Monroe County (10 ac (4 ha)), and parcels in private and other ownership (111 ac (45 ha)). This unit extends along State Highway 4A, from Coral Shores Road, south to County Road, resuming at Linda Street and extending south to the Overseas Highway. South of the Overseas Highway, the unit includes areas west of Kings Cove Road, and an area comprising the southern tip of Little Torch Key that includes portions of the John J. Pescatello Torchwood Hammock Preserve.

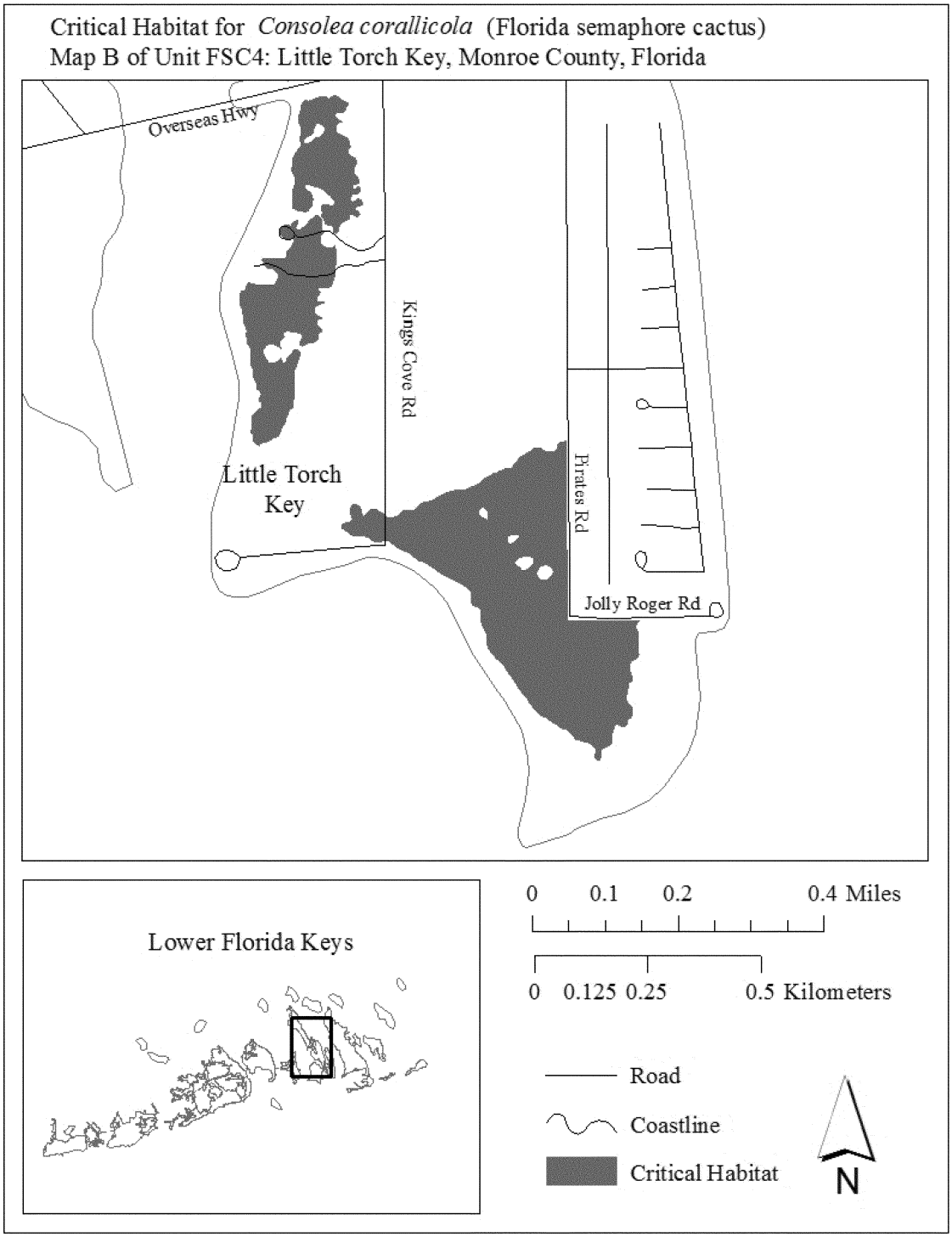
(ii) Index map of Unit FSC4 follows:



(iii) Map A of Unit FSC4 follows:



(iv) Map B of Unit FSC4 follows:



* * * * *

Family Cactaceae: *Harrisia aboriginum* (aboriginal prickly-apple)

(1) Critical habitat units for *Harrisia aboriginum* are depicted for Manatee, Charlotte, Sarasota, and Lee Counties, Florida, on the maps below.

(2) Within these areas, the primary constituent elements of the physical or biological features essential to the conservation of *Harrisia aboriginum* are:

(i) Areas of upland habitats consisting of coastal strand, coastal grassland, coastal berm, maritime hammocks, and shell mounds.

(A) Coastal strand habitat that contains:

(1) Open to semi-open canopy and understory, and

(2) Substrate of sand and shell fragments of stabilized coastal dunes.

(B) Coastal grassland habitat that contains:

(1) No canopy and an open understory, and

(2) Substrate of sand and shell fragments.

(C) Coastal berm habitat that contains:

(1) Open to semi-open canopy, subcanopy, and understory, and

(2) Substrate of coarse, calcareous, storm-deposited sediment.

(D) Maritime hammock habitat that contains:

(1) Canopy gaps and edges with an open to semi-open canopy, subcanopy, and understory; and

(2) Substrate of calcareous sand and shell fragments.

(E) Shell mound habitat that contains:

(1) Open to semi-open canopy and understory, and

(2) Substrate of soil derived from calcareous shells deposited by Native Americans during prehistoric times.

(ii) A plant community of predominately native vegetation with no invasive, nonnative animal or plant species or such species in quantities low enough to have minimal effect on survival of *Harrisia aboriginum.*

(iii) Canopy openings in coastal strand, coastal grassland, coastal berm, maritime hammock, and shell mound habitats that are created by the effects of strong winds or saltwater inundation from storm surge or infrequent tidal inundation.

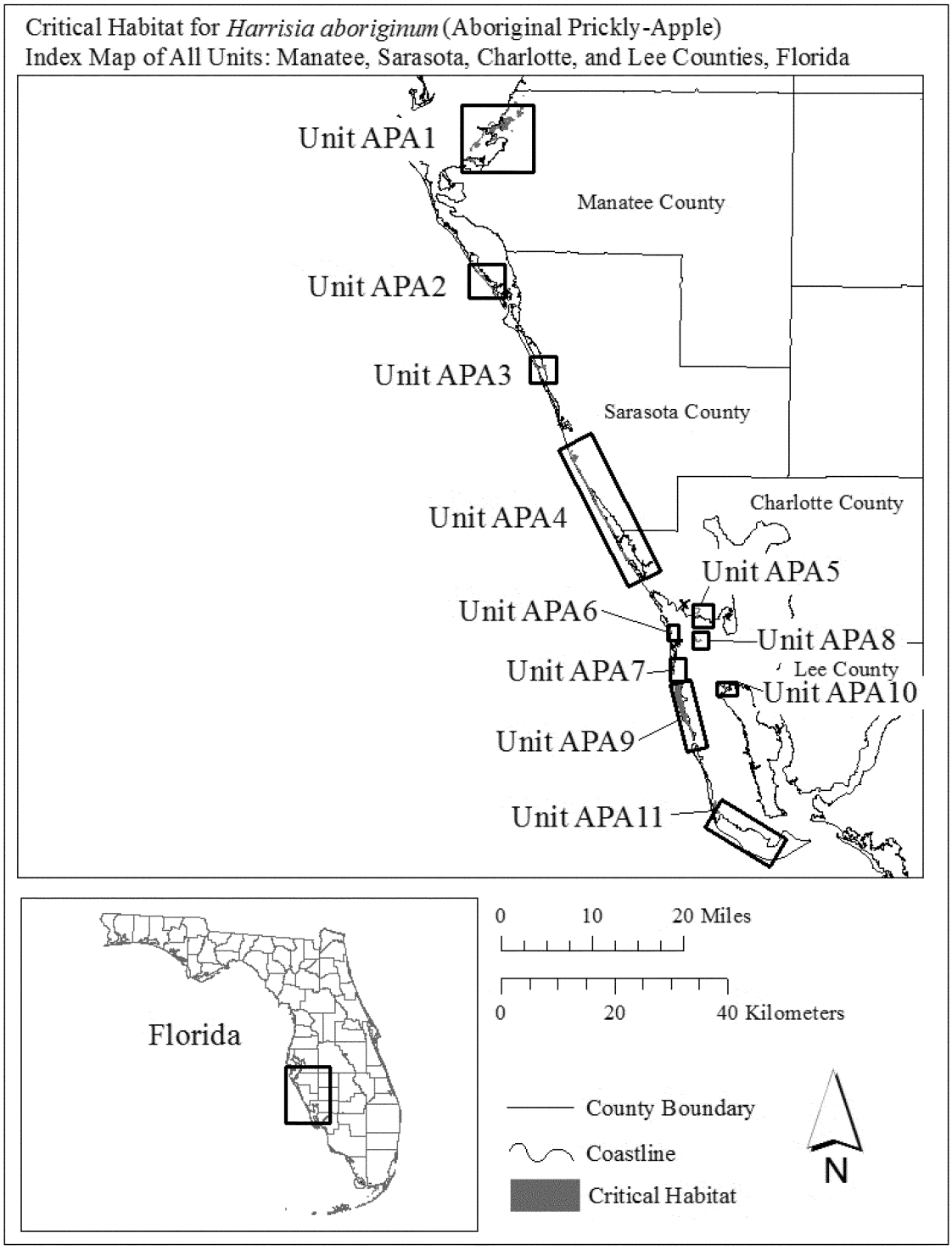
(iv) Habitats that are connected and of sufficient size to sustain viable populations in coastal strand, coastal grassland, coastal berm, maritime hammock, and shell mound habitats.

(v) Habitats that provide populations of the generalist pollinators that visit the flowers of *Harrisia aboriginum.*

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located that exists within the legal boundaries on February 22, 2016.

(4) *Critical habitat map units.* Unit maps were developed using ESRI ArcGIS mapping software along with various spatial data layers. ArcGIS was also used to calculate area. The projection used in mapping and calculating distances and locations within the units was North American Albers Equal Area Conic, NAD 83. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's Internet site at *http://www.fws.gov/verobeach/,* at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2014–0057, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

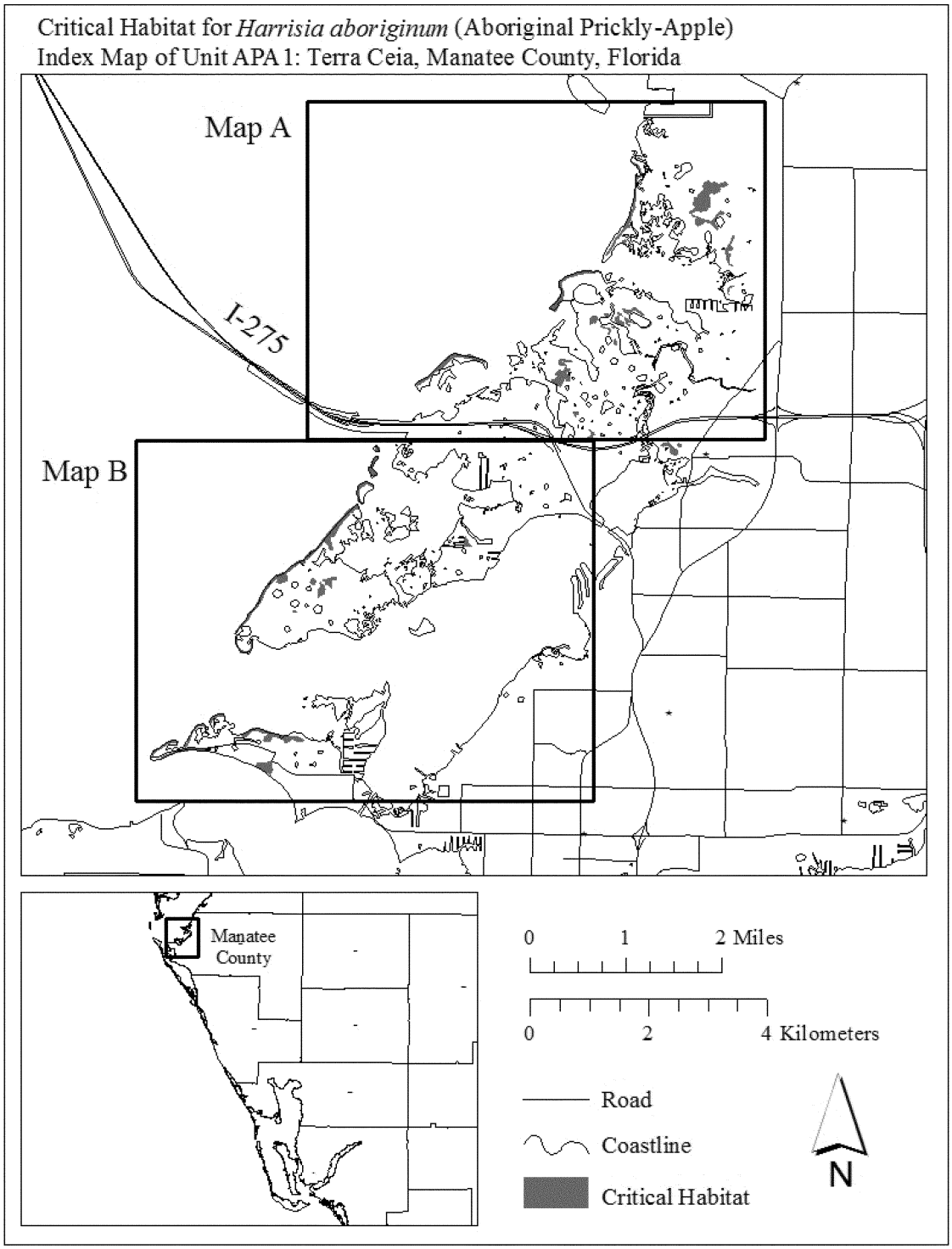
(5) Index map of all critical habitat units for *Harrisia aboriginum* follows:



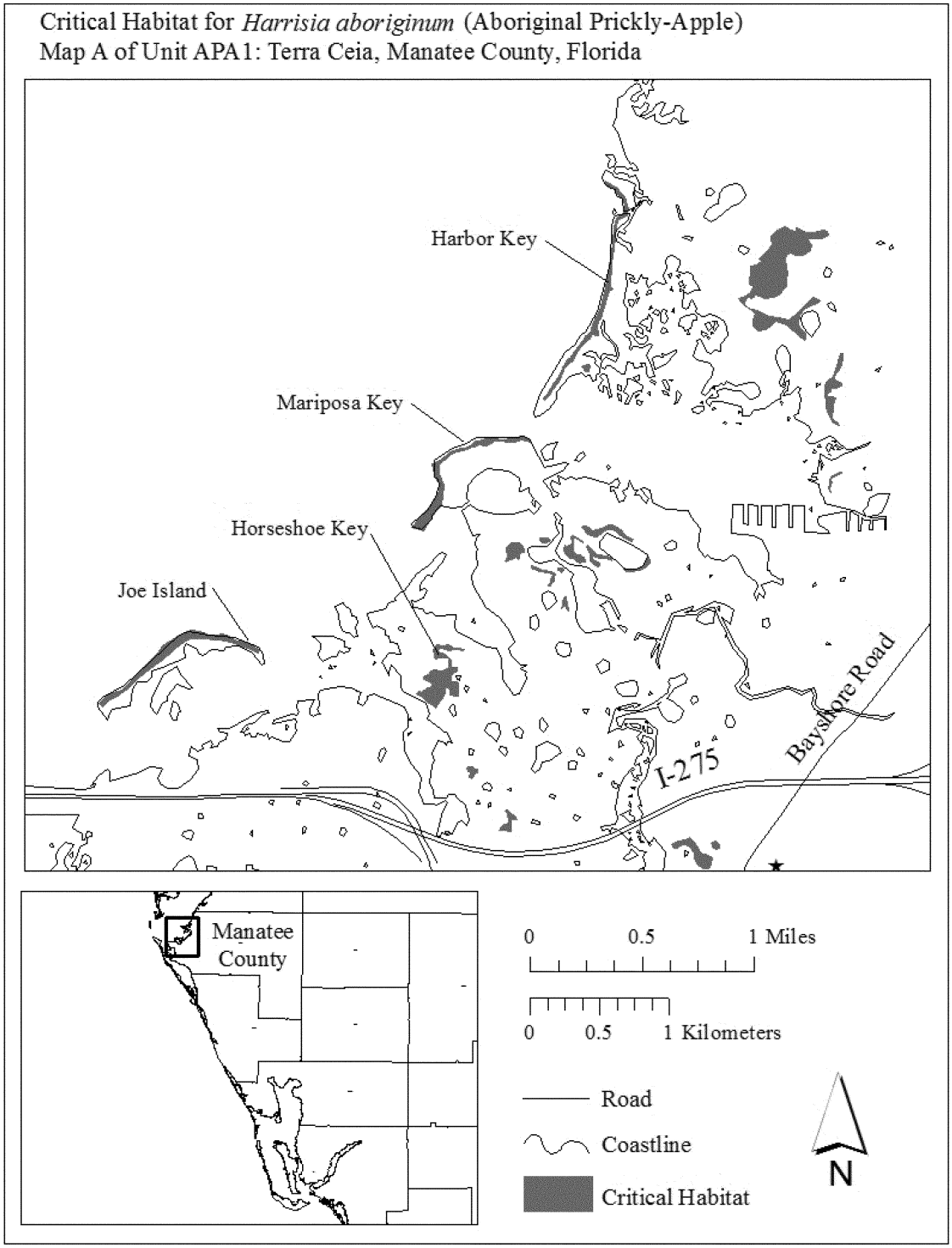
(6) Unit APA1: Terra Ceia, Manatee County, Florida.

(i) *General Description:* Unit APA1 consists of approximately 222 ac (90 ha) in Manatee County, Florida. This unit is composed of State lands within Madira Bickel Mound State Historical Park, Terra Ceia Preserve State Park, Cockroach Bay State Buffer Preserve, and the Tampa Bay Estuarine System (66 ac (27 ha)); Manatee County lands at Emerson Point Preserve and parcels owned by the Manatee County Port Authority (70 ac (28 ha)); and parcels in private or other ownership (87 ac (35 ha)). This unit includes lands west of Highway 41 extending from just south of South Dock Street south to Snead Island. The unit also includes areas of Harbor Key, Mariposa Key, Horseshoe Key, Joe Island, Skeet Key, Paradise Island, Ed's Key, and Rattlesnake Key.

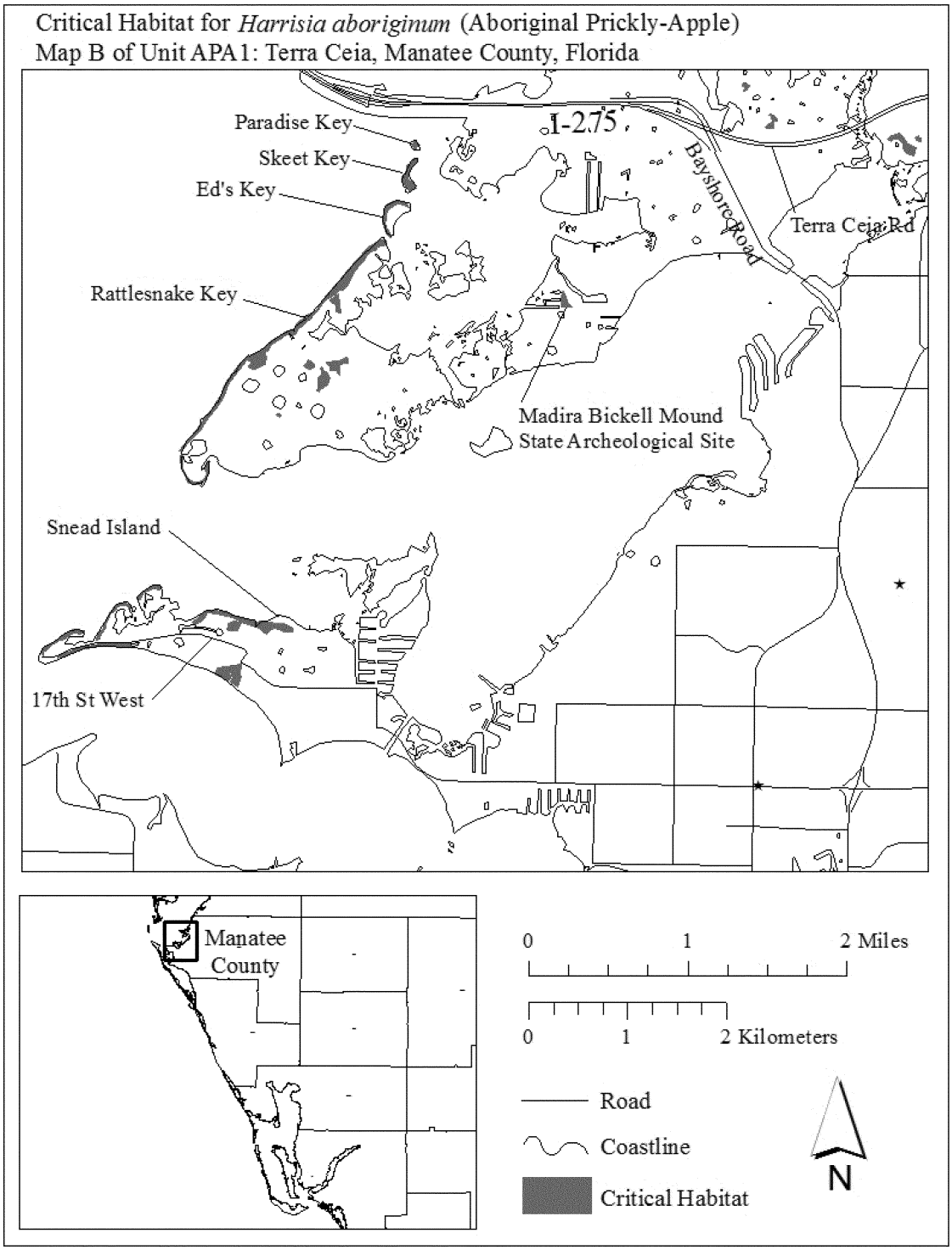
(ii) Index map of Unit APA1 follows:



(iii) Map A of Unit APA1 follows:



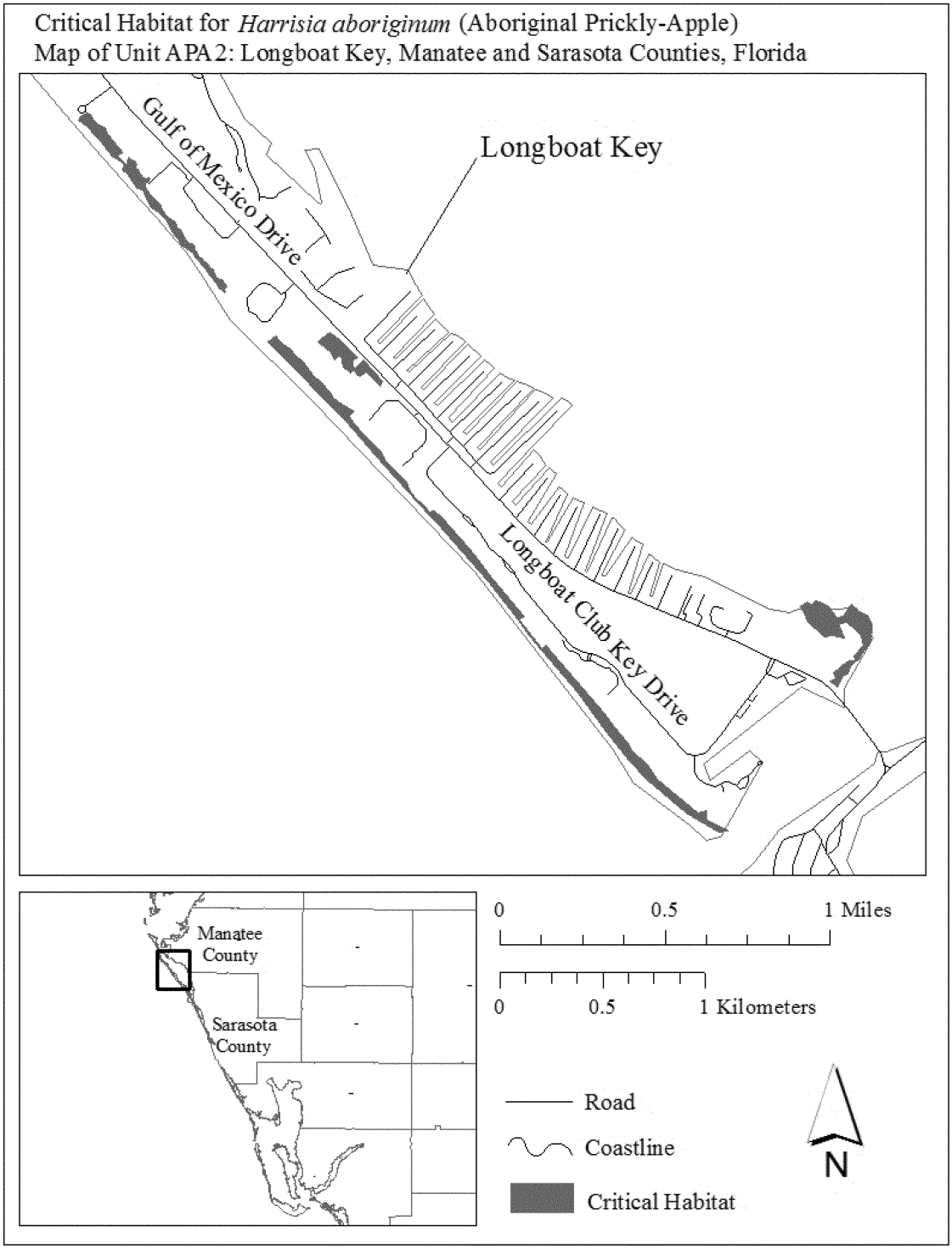
(iv) Map B of Unit APA1 follows:



(7) Unit APA2: Longboat Key, Sarasota County, Florida.

(i) *General description:* Unit APA2 consists of approximately 54 ac (22 ha) in Sarasota County, Florida. This unit is composed entirely of parcels in private or other ownership. This unit includes lands west of Gulf of Mexico Drive, extending from 0.40 mi (0.6 km) south of the intersection of Bay Isles Parkway and Gulf of Mexico Drive, to the southern tip of Longboat Key. It also includes lands on the north side of Gulf of Mexico Drive, east of Longboat Club Key Drive, on the northwest tip of Longboat Key.

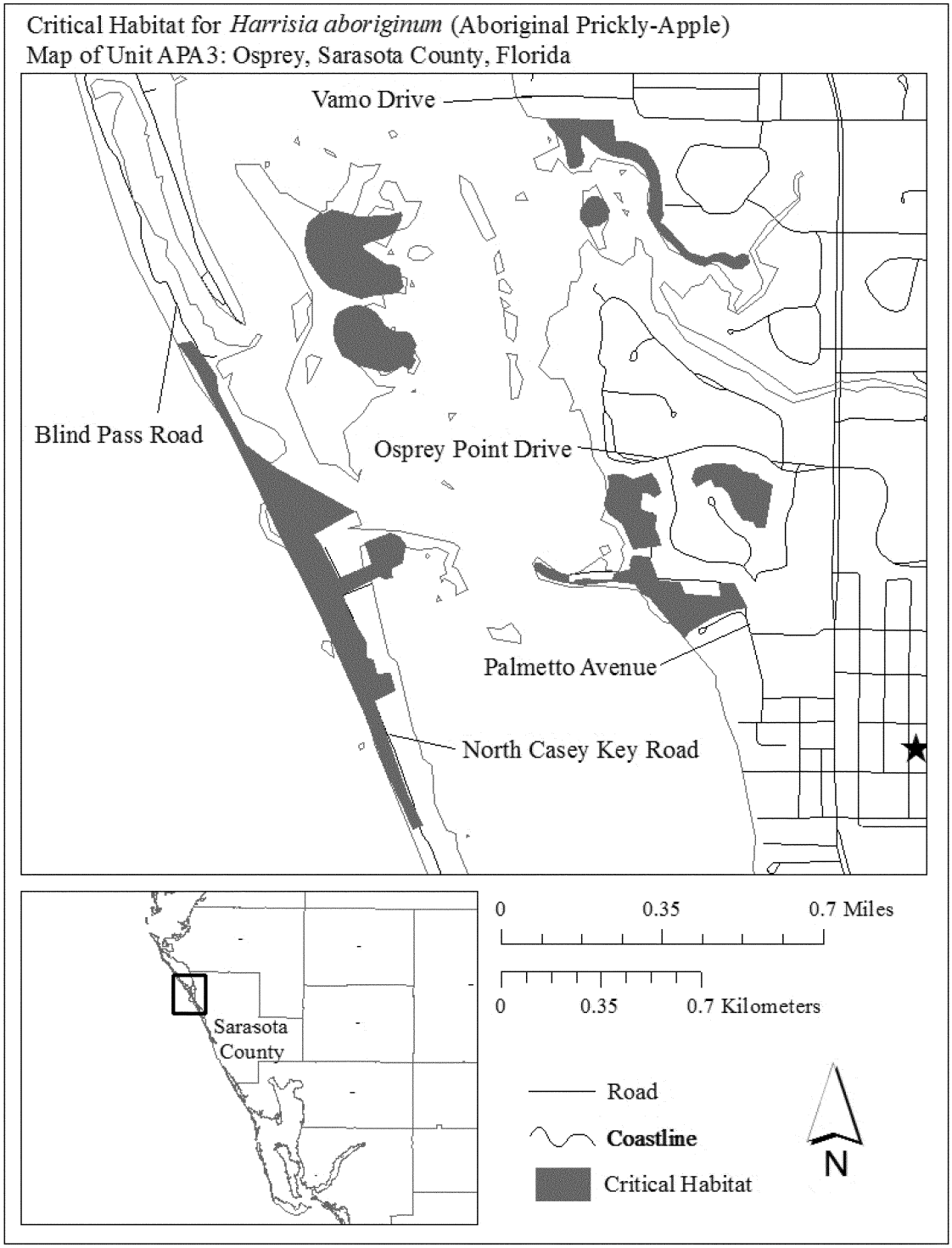
(ii) Map of Unit APA2 follows:



(8) Unit APA3: Osprey, Sarasota County, Florida.

(i) *General Description:* Unit APA3 consists of approximately 116 ac (47 ha) in Sarasota County, Florida. This unit is composed of Sarasota County lands within Palmer Point County Park (50 ac (20 ha)) and parcels in private or other ownership (66 ac (27 ha)). This unit extends along the barrier island (Casey Key) from the south terminus of Blind Pass Road, south for approximately 1.2 mi (1.9 km) along North Casey Key Road. On the mainland, the unit includes lands bordered on the north by Vamo Way, to the east by Highway 41, and to the south by Palmetto Avenue.

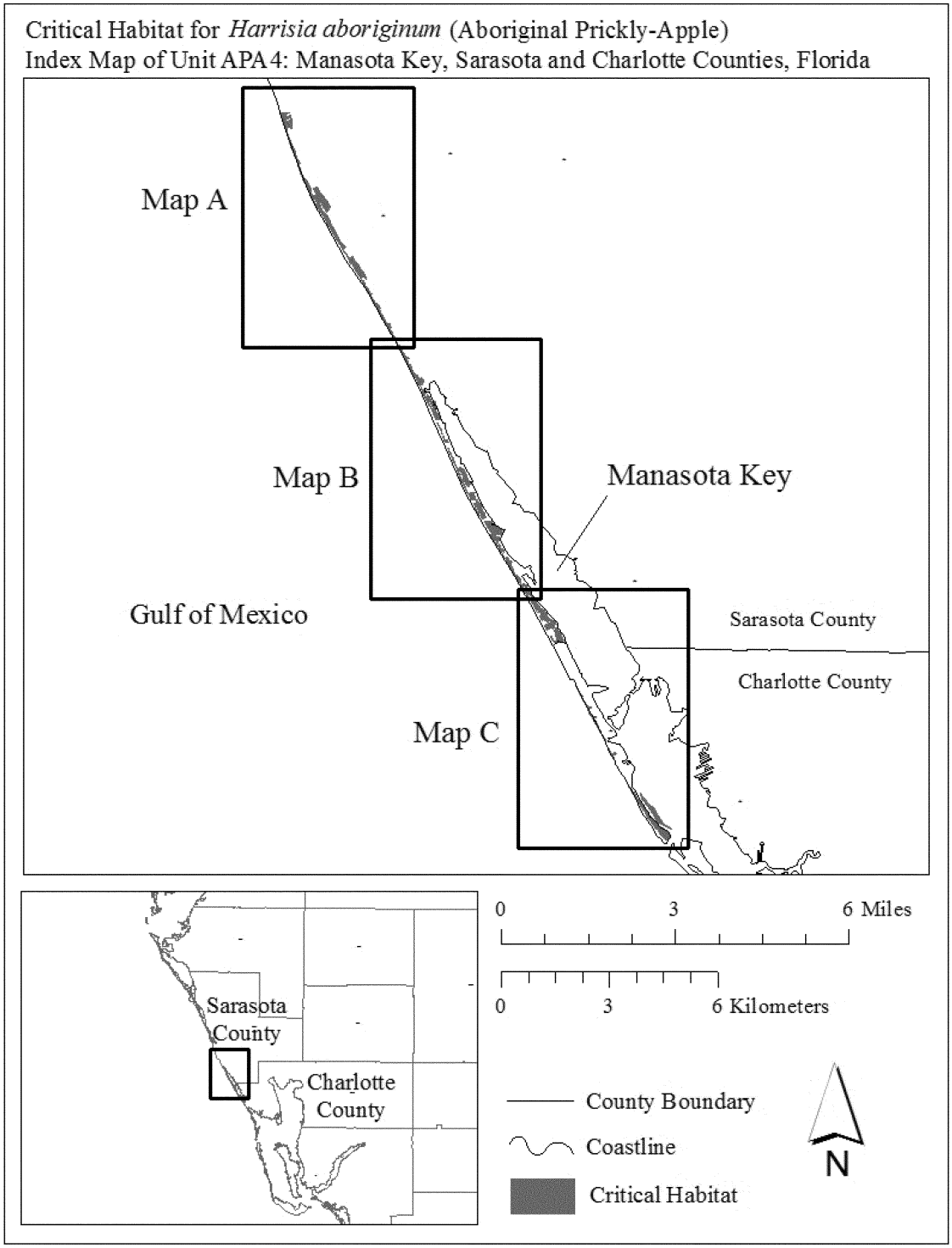
(ii) Map of Unit APA3 follows:



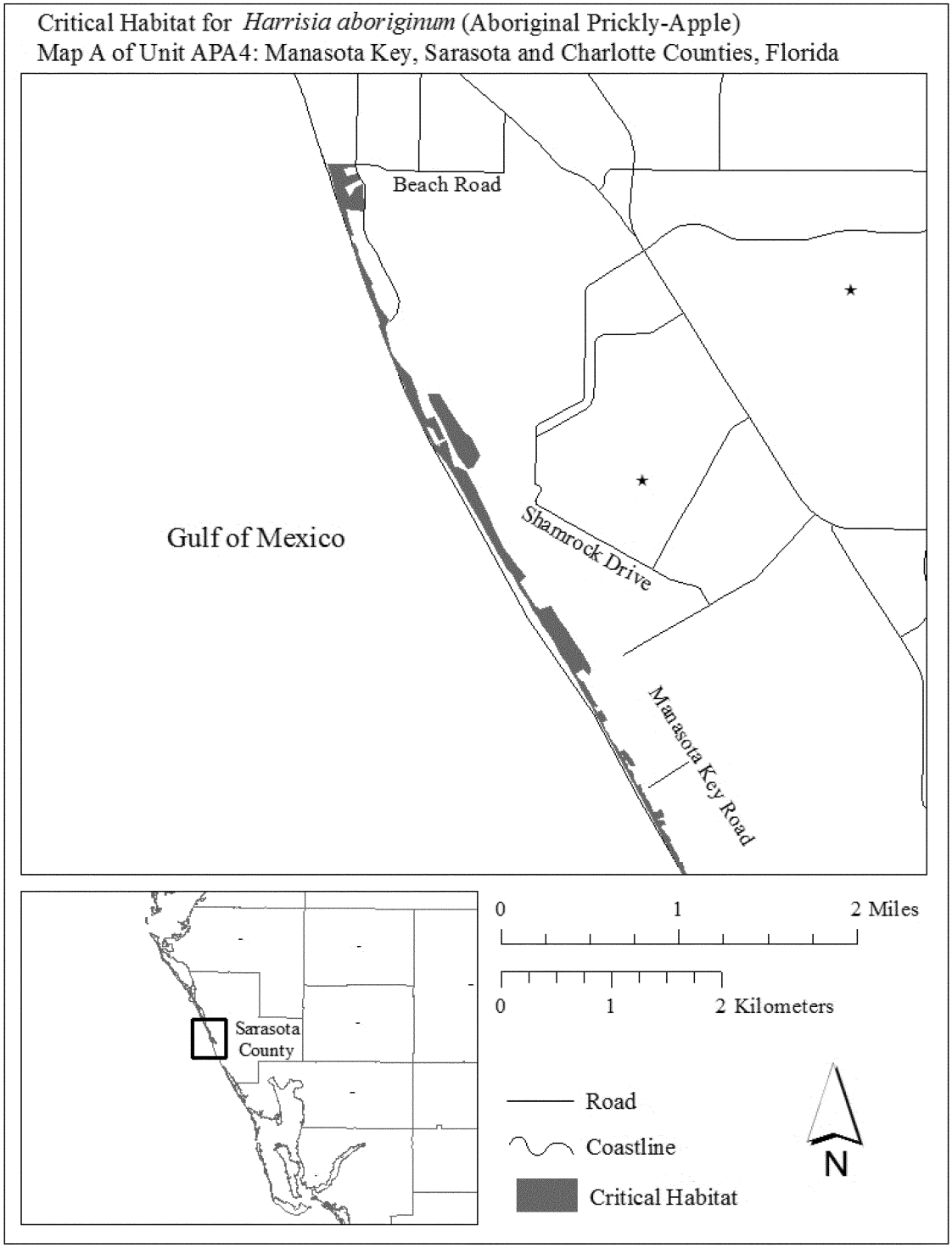
(9) Unit APA4: Manasota Key, Sarasota and Charlotte Counties, Florida.

(i) *General Description:* Unit APA4 consists of approximately 415 ac (168 ha) in Sarasota and Charlotte Counties, Florida. This unit is composed of State lands within Stump Pass Beach State Park (58 ac (23 ha)); County lands within Blind Pass Park, Brohard Beach and Paw Park, Manasota Beach Park, Casperson Beach Park, and Service Club Park (111 ac (45 ha)); and parcels in private or other ownership (245 ac (99 ha)). This unit extends from Beach Road in the City of Venice, south along Manasota Key to the barrier islands southern tip, including a portion of Peterson Island.

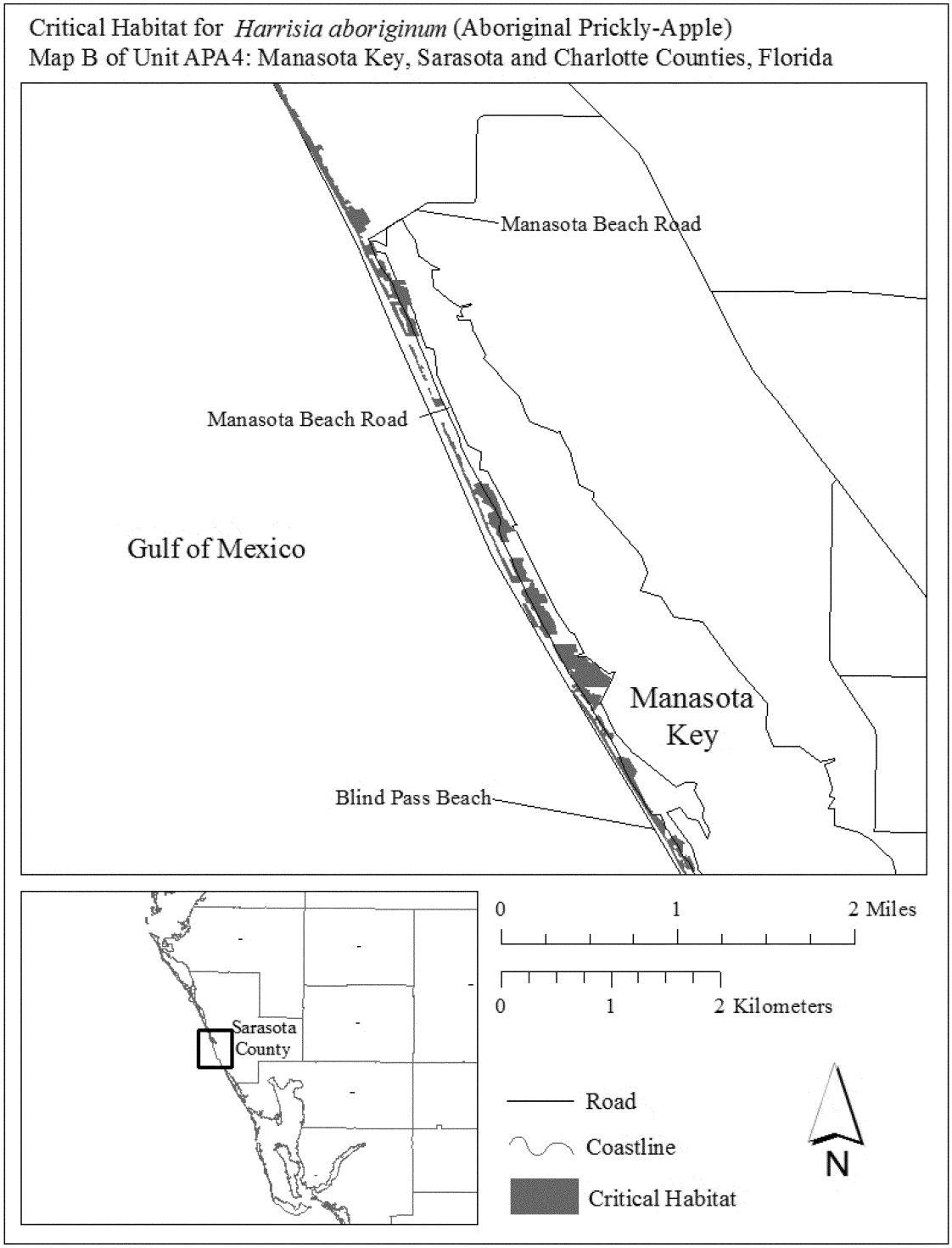
(ii) Index map of Unit APA4 follows:



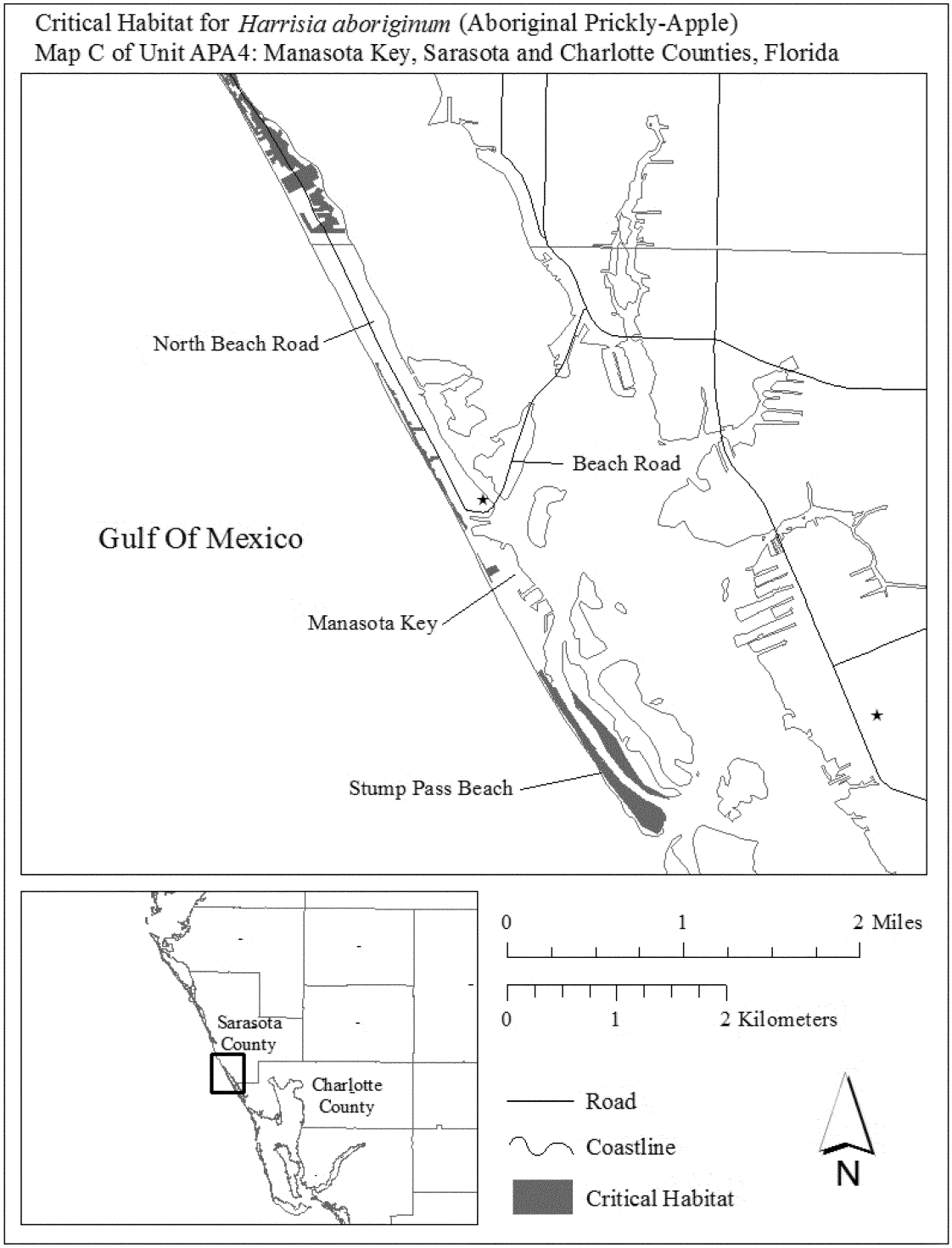
(iii) Map A of Unit APA4 follows:



(iv) Map B of Unit APA4 follows:



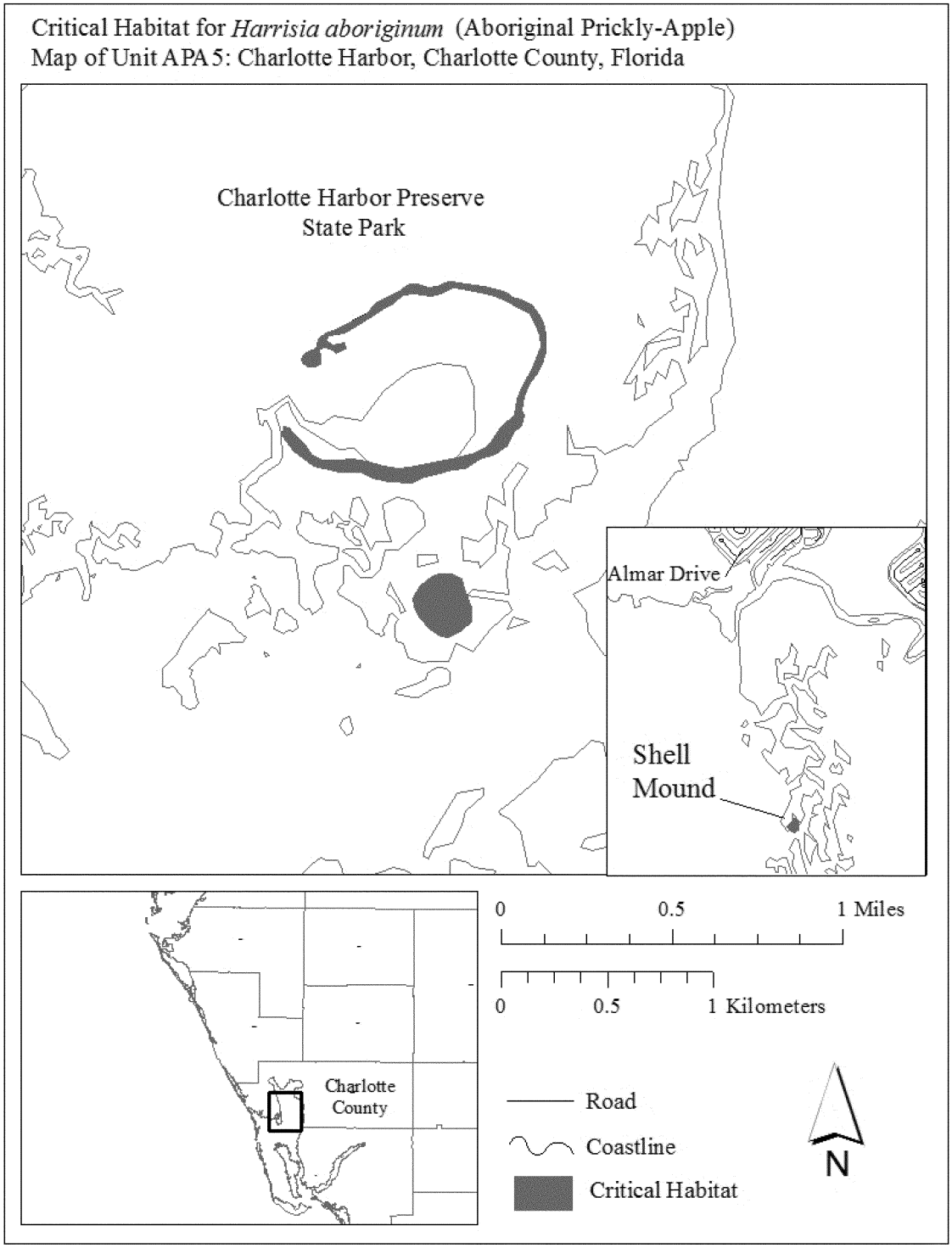
(v) Map C of Unit APA4 follows:



(10) Unit APA5: Charlotte Harbor, Charlotte County, Florida.

(i) *General Description:* Unit APA5 consists of 51 ac (21 ha) in Charlotte County, Florida. This unit is composed entirely of State lands within the Charlotte Harbor Preserve State Park. This unit includes the Big Mound, Boggess Ridge, and a shell mound located on the east side of Charlotte Harbor, south of the City of Charlotte Park.

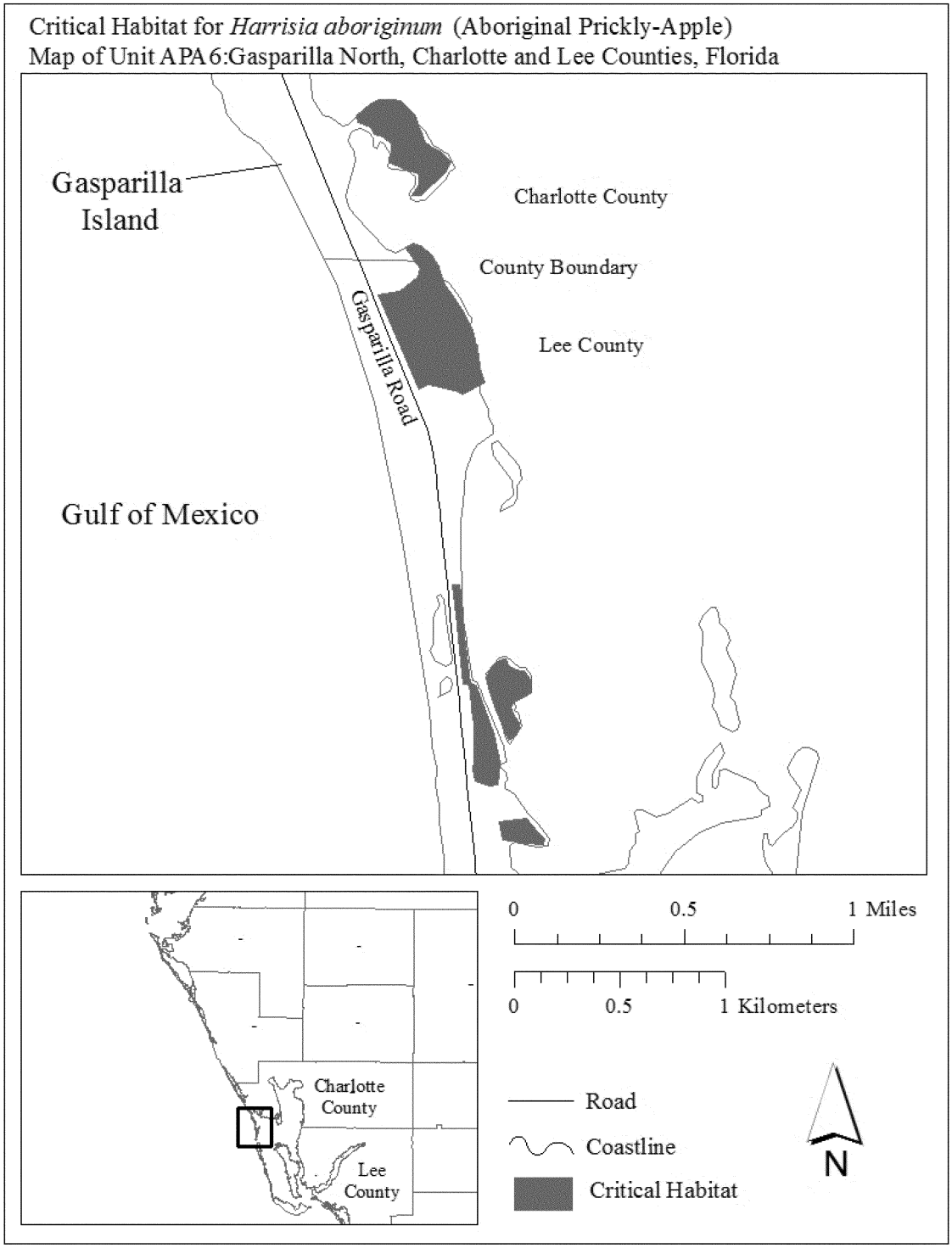
(ii) Map of Unit APA5 follows:



(11) Unit APA6: Gasparilla North, Charlotte and Lee Counties, Florida.

(i) *General Description:* Unit APA6 consists of approximately 98 ac (40 ha) in Charlotte and Lee Counties, Florida. This unit is composed of State land (0.006 ac (0.02 ha)), county land (22 ac (9 ha)), and parcels in private or other ownership (77 ac (31 ha)). This unit includes most of Kitchen Key (Live Oak Key) and the area east of Gasparilla Road, from the intersection of Grouper Hole Road and Grouper Hole Court, south to 0.15 mi (0.24 km) north of Snail Island Court, from approximately 0.10 mi (0.21 km) south of 35th Street to 23rd Street, including the small island separated from Gasparilla Island by a canal; and from 22nd Street to 20th Street.

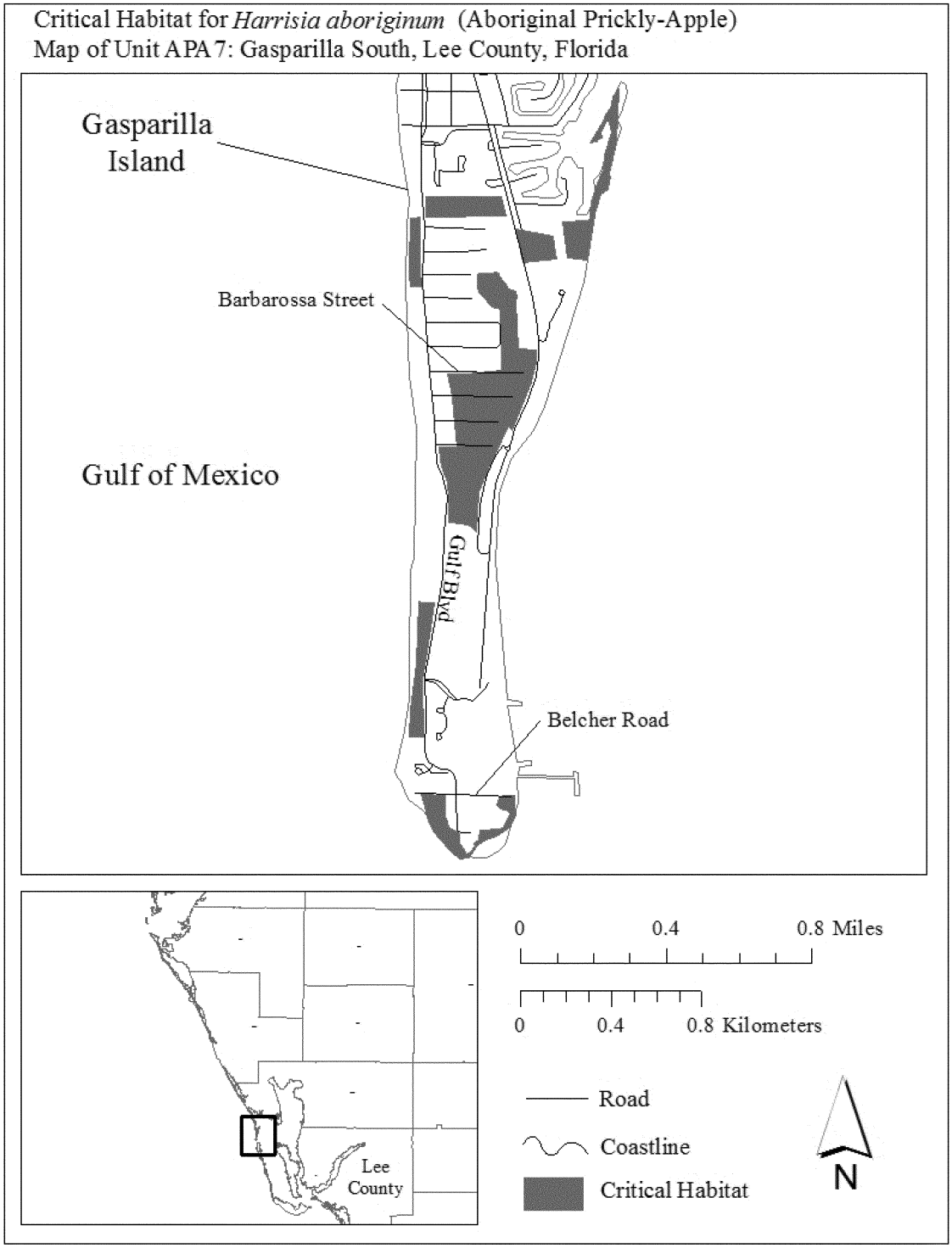
(ii) Map of Unit APA6 follows:



(12) Unit APA7: Gasparilla South, Lee County, Florida.

(i) *General Description:* Unit APA7 consists of approximately 92 ac (37 ha) in Lee County, Florida. This unit is composed of Federal land owned by the Service and Bureau of Land Management (3 ac (1 ha)), State lands within Gasparilla Island State Park (69 ac (28 ha)), Lee County lands (12 ac (5 ha), and parcels in private or other ownership (8 ac (3 ha)). This unit includes lands located from south of 1st Street to the southern tip of Gasparilla Island.

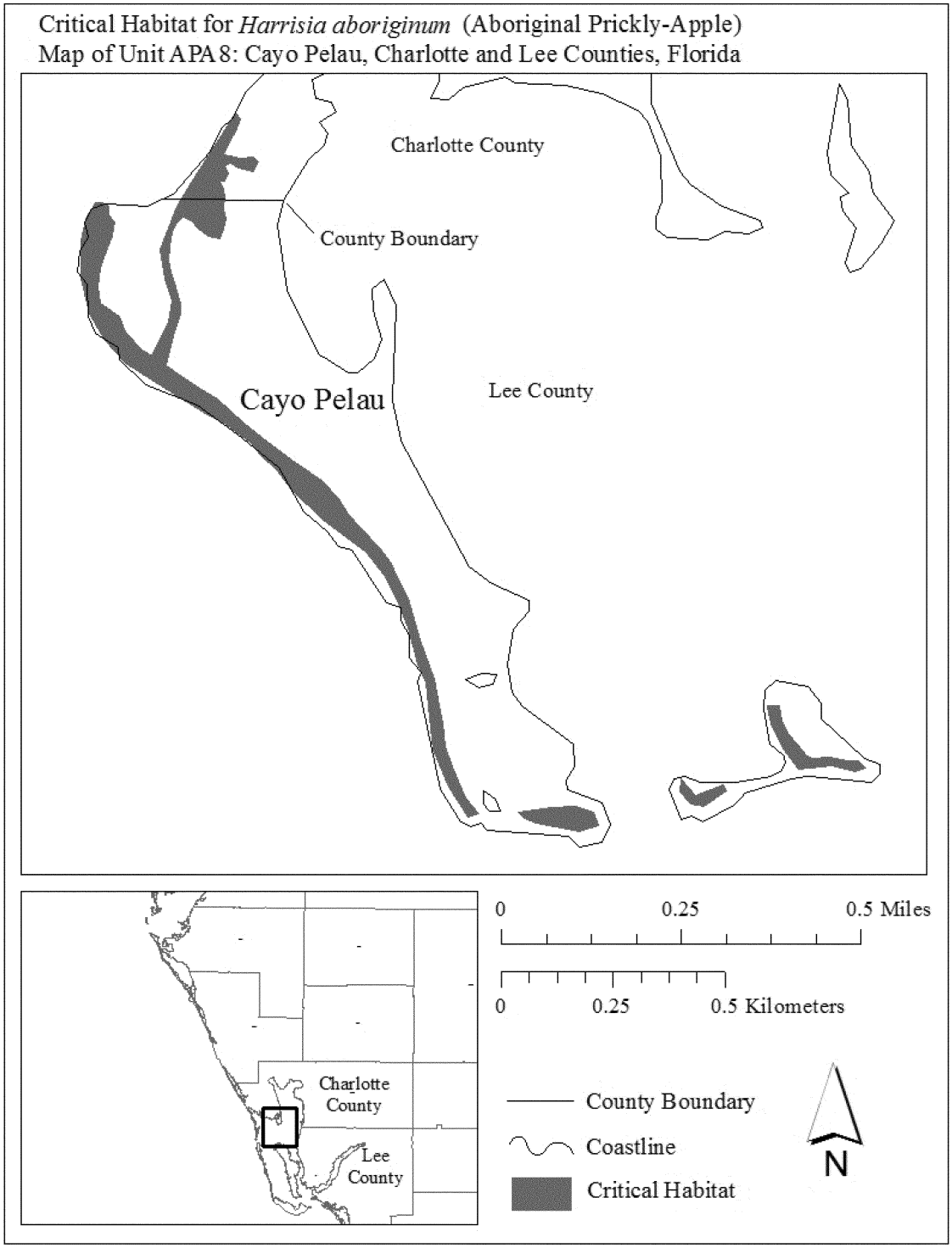
(ii) Map of Unit APA7 follows:



(13) Unit APA8: Cayo Pelau, Lee County, Florida.

(i) *General Description:* Unit APA8 consists of approximately 25 ac (10 ha) in Charlotte and Lee Counties, Florida. This unit is composed of Lee County lands within Cayo Pelau Preserve, and parcels in private or other ownership (0.6 ac (0.2 ha)). This unit includes lands located from 0.13 mi (0.21 km) south of the northern tip of Cayo Pelau, extending south to the southeastern tip of Cayo Pelau.

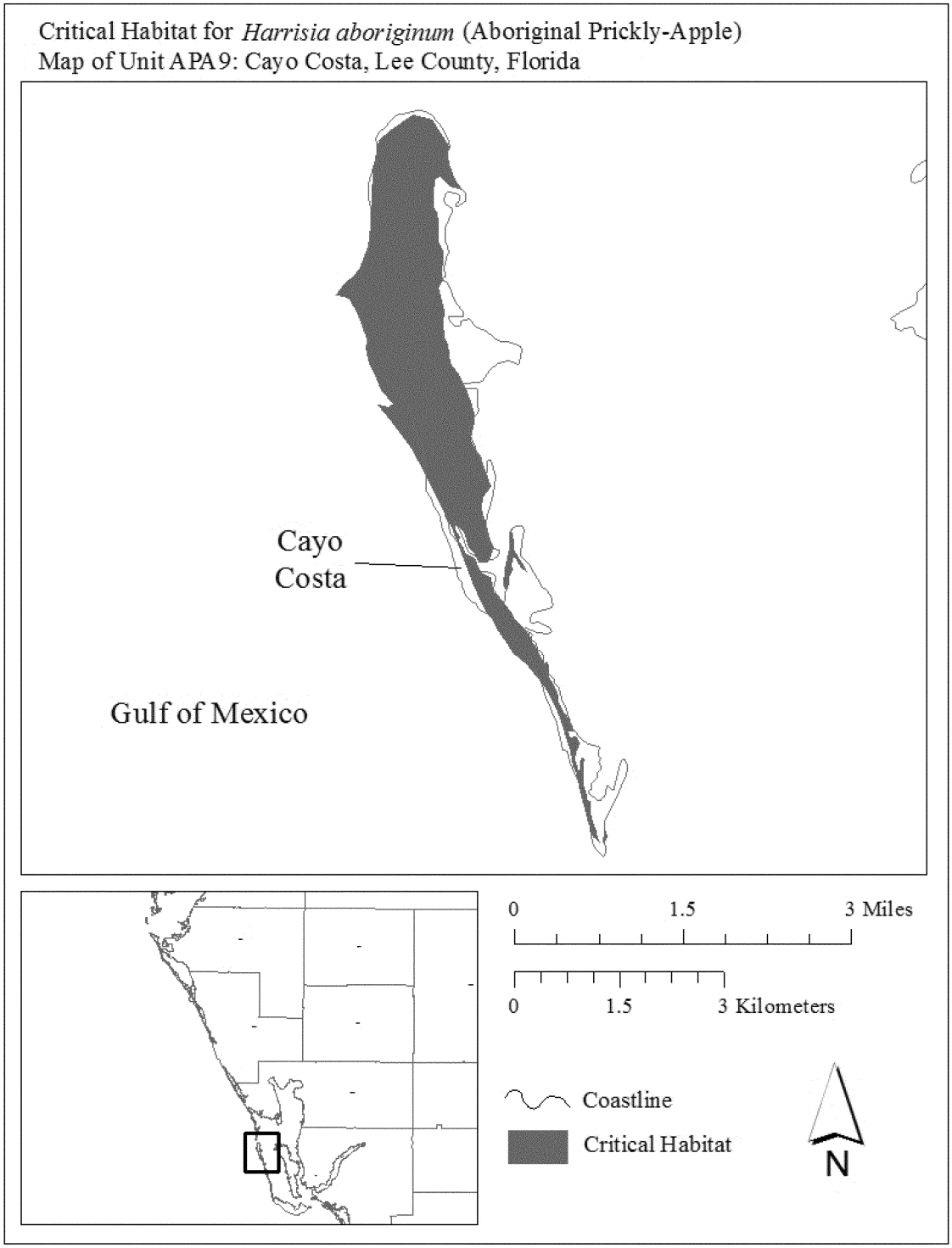
(ii) Map of Unit APA8 follows:



(14) Unit APA9: Cayo Costa, Lee County, Florida.

(i) *General Description:* Unit APA9 consists of approximately 1,702 ac (689 ha) in Lee County, Florida. This unit is composed of State lands within Cayo Costa State Park (1,379 ac (558 ha)), lands owned by Lee County (94 ac (38 ha)), and parcels in private or other ownership (230 ac (93 ha)). This unit includes lands located from the northern tip to the southern tip of Cayo Costa.

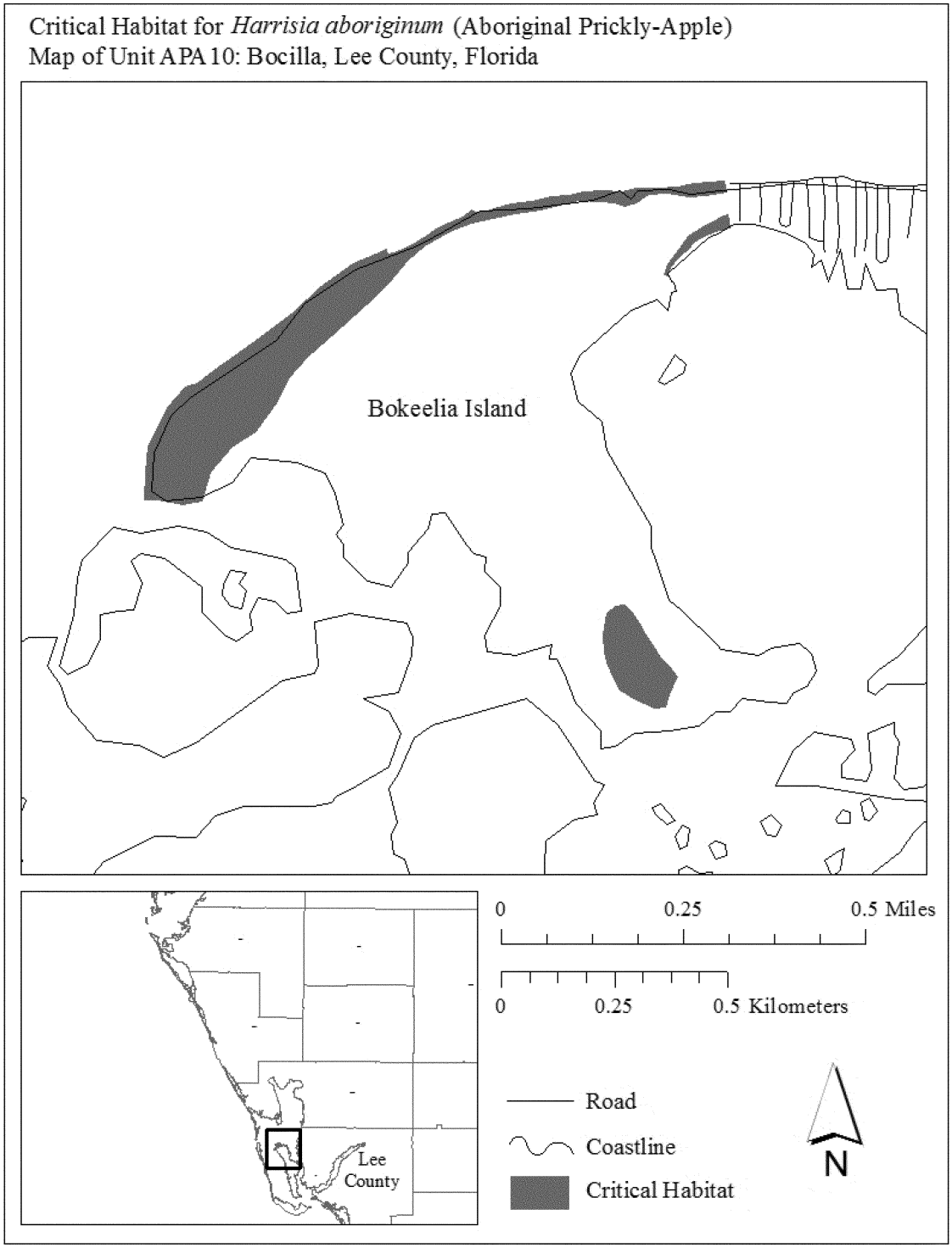
(ii) Map of Unit APA9 follows:



(15) Unit APA10: Bocilla, Lee County, Florida.

(i) *General Description:* Unit APA10 consists of approximately 33 ac (13 ha) in Lee County, Florida. This unit is composed of Lee County lands within the Bocilla Preserve (32 ac (13 ha)) and parcels in private or other ownership (0.7 ac (0.3 ha)). This unit includes lands located on the undeveloped portion of Bokeelia Island from 0.02 mi (0.03 km) west of the terminus of Ebbtide Way, extending south and west to the northwestern and southeastern corners of Bokeelia Island.

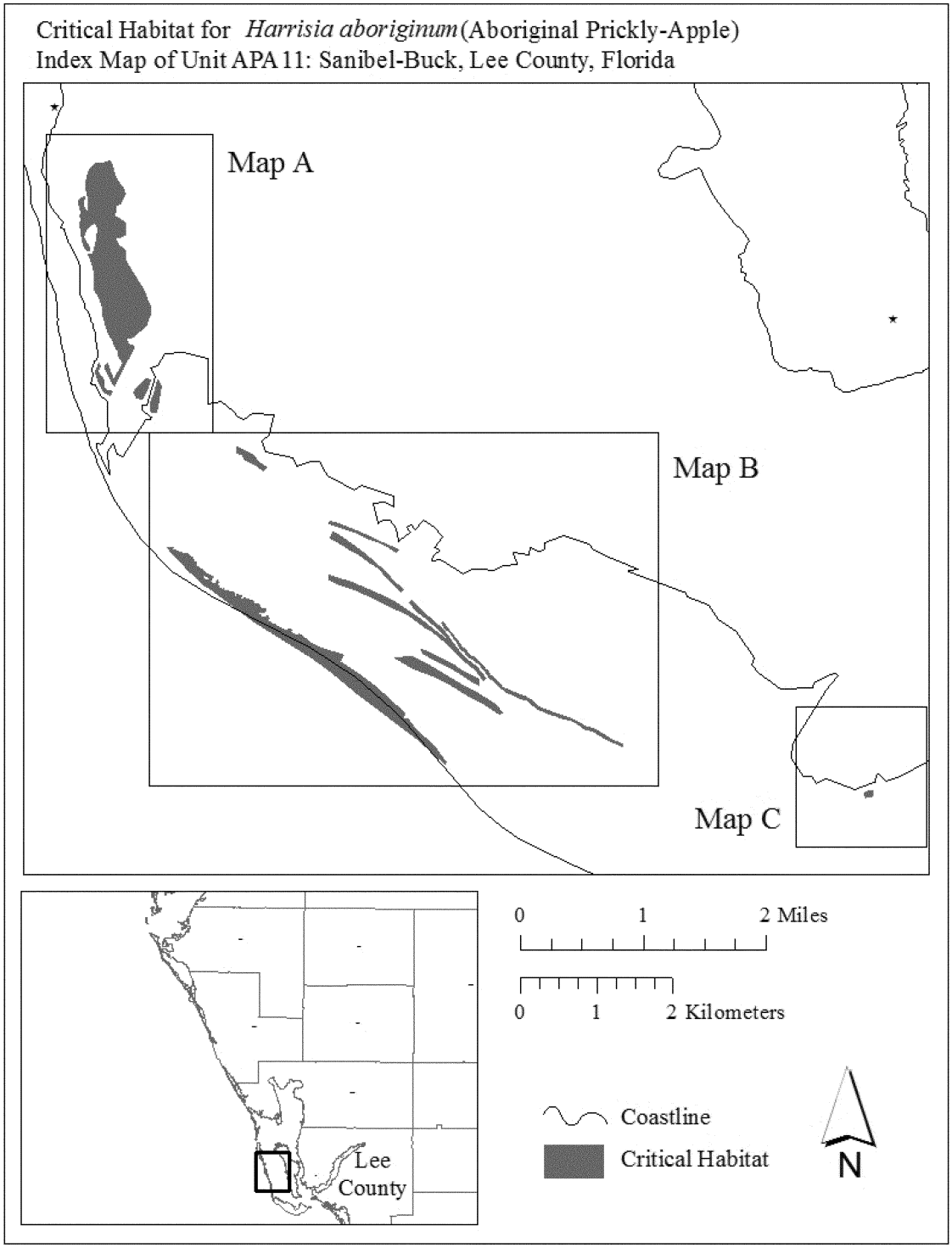
(ii) Map of Unit APA10 follows:



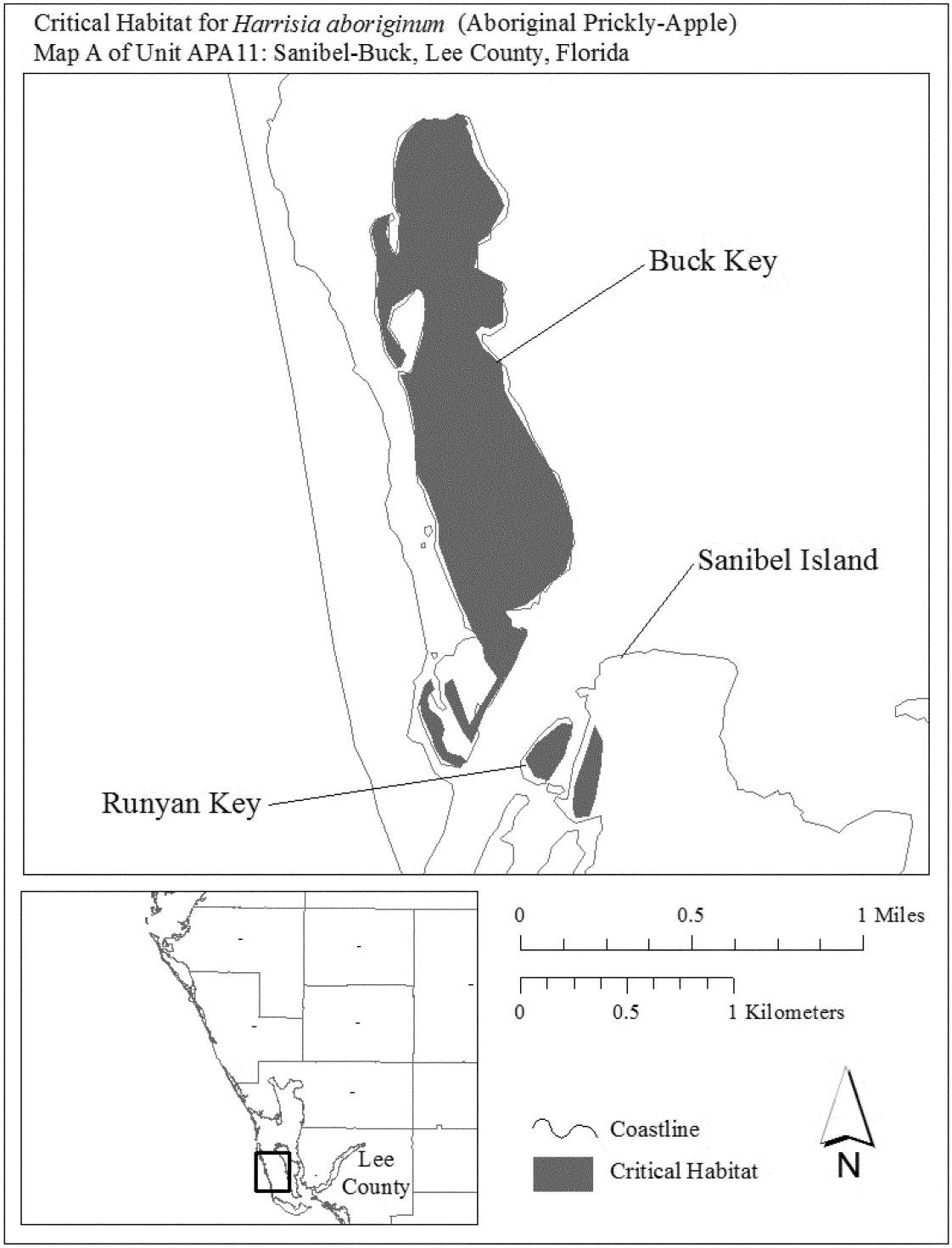
(16) Unit APA11: Sanibel Island and Buck Key, Lee County, Florida.

(i) *General Description:* Unit APA11 consists of approximately 635 ac (257 ha) in Lee County, Florida. This unit is composed of Federal lands owned by the Bureau of Land Management, and Service lands within the J.N. 'Ding' Darling National Wildlife Refuge (NWR) (373 ac (151 ha)), State lands (47 ac (19 ha)), lands owned by Lee County (90 ac (36 ha)), and parcels in private or other ownership (126 ac (51 ha)). This unit includes lands on Buck Key, Runyan Key, and Sanibel Island. On Sanibel Island, the unit includes a portion of Bowman's Beach, from just south of Silver Key to the western terminus of Water's Edge Lane; uplands within J.N. 'Ding' Darling NWR; and a shell mound located near the northern terminus of Tarpon Bay Road.

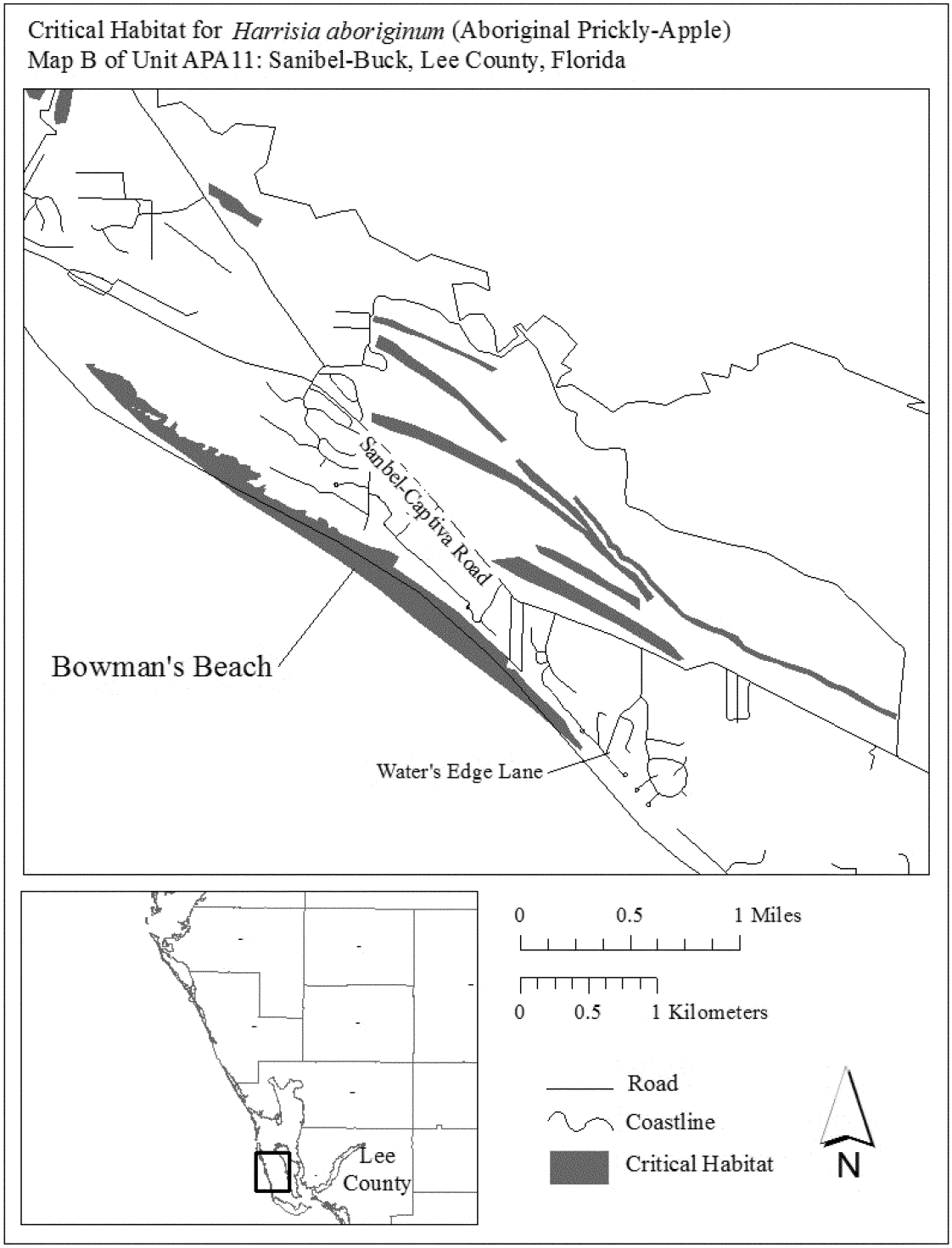
(ii) Index map of Unit APA11 follows:



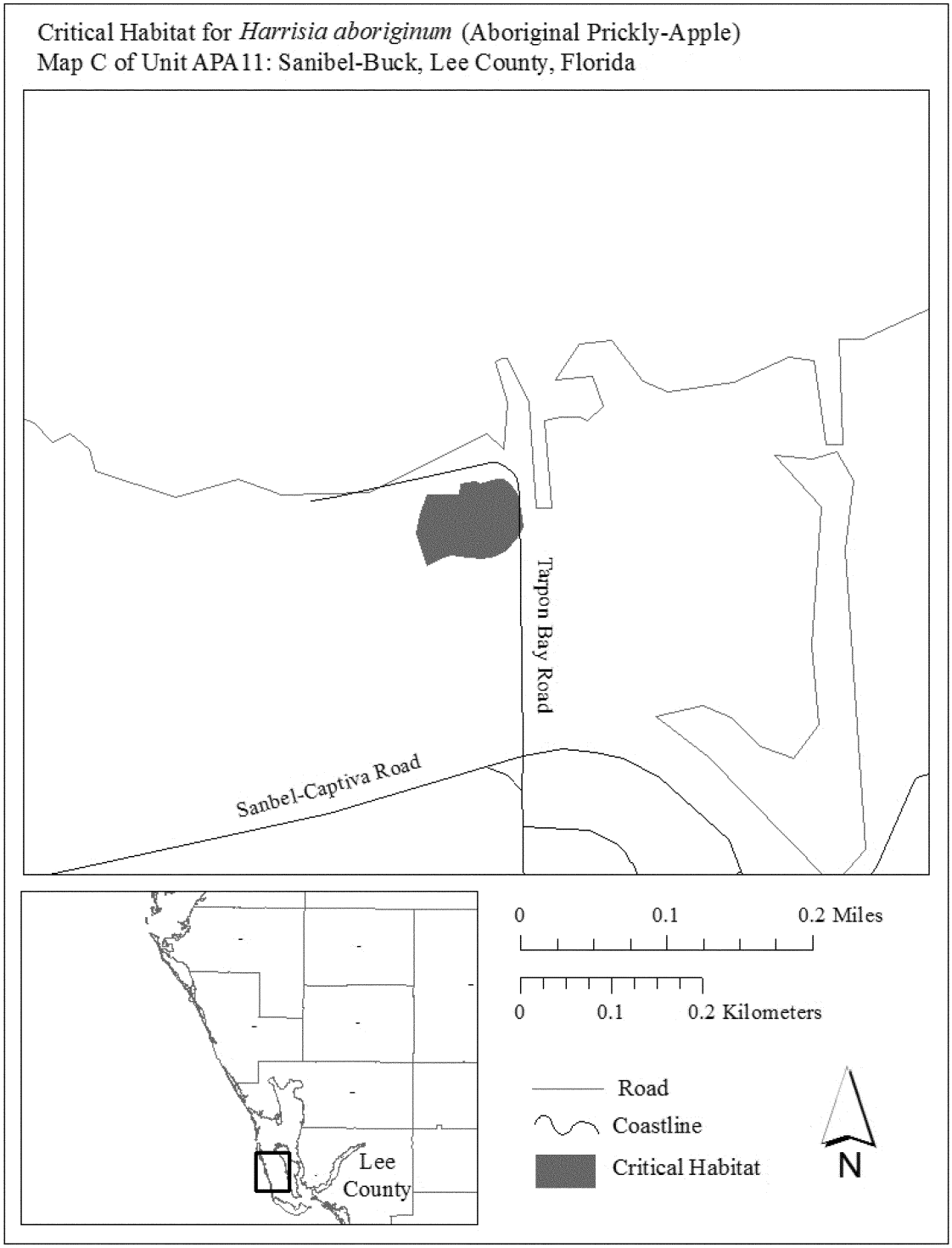
(iii) Map A of Unit APA11 follows:



(iv) Map B of Unit APA11 follows:



(v) Map C of Unit APA11 follows:



* * * * *

Dated: January 6, 2016.

Karen Hyun,

Acting Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2016–01141 Filed 1–21–16; 8:45 am]

BILLING CODE 4333–15–C

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Part III

Department of the Treasury

Notice Seeking Public Comment on the Evolution of the Treasury Market Structure; Notice

DEPARTMENT OF THE TREASURY

[Docket No. TREAS–DO–2015–0013]

Notice Seeking Public Comment on the Evolution of the Treasury Market Structure

AGENCY: Office of the Under Secretary for Domestic Finance, Department of the Treasury.

ACTION: Notice and Request for Information.

SUMMARY: The Department of the Treasury (''Treasury'') is seeking public comment on structural changes in the U.S. Treasury market and their implications for market functioning; trading and risk management practices across the U.S. Treasury market; considerations with respect to more comprehensive official sector access to Treasury market data; and benefits and risks of increased public disclosure of Treasury market activity.

DATES: Comments must be received no later than March 22, 2016.

ADDRESSES: Comments may be submitted through the Federal eRulemaking Portal (*www.regulations.gov*). Please follow the instructions for submitting comments through the Web site. You may download this proposed rule from *www.regulations.gov* or *www.treasurydirect.gov.* Please submit your comments, along with your full name and mailing address. We will not accept comments by fax or email. All comments will be posted to *www.regulations.gov* and on the TreasuryDirect Web site at *www.treasurydirect.gov.*

Additional Instructions: In general, comments received, including attachments and other supporting materials, are part of the public record and are available to the public. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: For general inquiries, submission process questions or any additional information, please email TreasuryMarket *RFI@treasury.gov* or call (202) 622–2396. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339. All responses to this Notice and Request for Information should be submitted via *http://regulations.gov* to ensure consideration.

SUPPLEMENTARY INFORMATION: The U.S. Treasury market is the deepest and most liquid market in the world.[1] It plays a critical and unique role in the global economy, serving as the primary means of financing the U.S. federal government, a significant investment instrument and hedging vehicle for global investors, a risk-free benchmark for other financial instruments, and an important market for the implementation of monetary policy by the Federal Reserve System.

The structure of the Treasury market has evolved significantly over the past two decades. In particular, technology advancements, and the associated growth in high-speed electronic trading has contributed to the growing presence of principal trading firms (PTFs),[2] with these firms now accounting for the majority of trading and standing quotes in the order book in both futures and interdealer cash markets. By contrast, bank-dealers[3] still account for a majority of secondary cash market trading overall (when including dealer-to-customer trading), but they comprise well under half of the trading and quoting activity in the inter-dealer cash markets. These changes in intermediation and the provision of liquidity have coincided with significant growth in the U.S. fixed-income market, an evolving regulatory and macroeconomic landscape, and potential changes in the demand for liquidity by many investors.

Trading in the Treasury cash market occurs across a diverse set of venues and modes of execution. Historically, the Treasury cash market has been bifurcated between the interdealer market, in which dealers trade with one another, and the dealer-to-client market, in which dealers trade with their customers (*e.g.* asset managers, pension funds, insurance companies, corporations). In the Treasury cash market, customers, also referred to as end users, have not historically traded directly with other end users.[4]

Trading in the inter-dealer cash market has evolved significantly. Originally, this market had been open almost exclusively to dealers, who transacted with each other by telephone. In the early 2000s this changed, with inter-dealer brokers launching electronic trading platforms and later opening access to those platforms to non-dealers. Trading on these platforms has become increasingly automated, with transactions conducted using algorithmic and other trading strategies involving little or no human intervention. Today, trading on the inter-dealer platforms bears some resemblance to other highly liquid markets, including equities and foreign exchange markets, where PTFs and dealers transact in automated fashion, sometimes in large volumes and at high speed.

In contrast, a significant portion of trading in the dealer-to-customer market occurs on platforms that facilitate the matching of buy and sell orders primarily through request for quote (RFQ) systems, not central limit order books. These platforms are increasingly electronic, but are generally not conducive to automated or high-frequency trading strategies. Dealers also internalize a portion of their customer flow.[5] However, it is unclear the extent to which this occurs given currently available data.

Treasury futures are required by law to be traded on a registered exchange, and are traded primarily on the Chicago Board of Trade, part of the CME Group (CME). Futures transactions traded on the CME are centrally cleared at CME's clearinghouse. In the 1990s, futures trading began to transition from manual to electronic processes for the transmission of orders and information, and the execution of trades. Electronic trading eventually became the dominant mode of execution in the futures market. Now, more than 95 percent of all on-exchange futures trading occur on electronic trade-matching platforms, and market participants are increasingly employing automated systems for the generation, transmission, management, and execution of orders.[6]

[1] For purposes of this Request for Information (RFI), the U.S. Treasury market comprises the secondary market trading of U.S. Treasury securities, futures and options on U.S. Treasury securities and futures, and securities financing transactions in which Treasury securities are used as collateral.

[2] For purposes of this RFI, a PTF is defined as an investor with the following typical characteristics: Principal investor, deploys proprietary automated trading strategies, low latency typically key element of trading strategies, may be registered as broker or dealer but does not have clients as in a typical broker or dealer business model.

[3] For purposes of this RFI, bank-dealer refers to a SEC-registered broker-dealer that is owned by a bank. A non-bank dealer is an independent SEC-registered broker-dealer that is not owned by a bank. Primary dealers, as designated by the Federal Reserve Bank of New York, are a subset of the bank-dealer category in the JSR.

[4] For purposes of this RFI, customer refers to an institutional customer, to differentiate from a retail customer.

[5] For the purposes of this RFI, internalization refers to a broker filling a customer order either from the firm's own inventory or by matching the order with other customer order flow, instead of routing the order to an inter-dealer market for execution.

[6] See CFTC Proposed Rule: Regulation Automated Trading, December 17, 2015: *http://www.cftc.gov/*

Non-bank proprietary trading firms have long played a significant role in the futures market. As the market has evolved to greater levels of electronic trading, they have increasingly employed automated trading strategies, and increasingly moved into the Treasury cash market. Today, PTFs represent a majority of trading in Treasury futures and inter-dealer cash markets.

On July 13, 2015, the staffs of the Treasury, the Board of Governors of the Federal Reserve System (''Board''), the Federal Reserve Bank of New York (''FRBNY''), the U.S. Securities and Exchange Commission (''SEC''), and the U.S. Commodity Futures Trading Commission (''CFTC'') (collectively, the ''Joint Staffs''), published the Joint Staff Report: The U.S. Treasury Market on October 15, 2014 (''JSR'').[7] The JSR analyzed the extraordinary volatility in the Treasury market on the morning of October 15, 2014, and identified four next steps for further work: (1) Further study of the evolution of the U.S. Treasury market and the implications for market structure and liquidity, (2) continued monitoring of trading and risk management practices across the U.S. Treasury market and a review of the current regulatory requirements applicable to the government securities market and its participants, (3) an assessment of the data available to the public and to the official sector on U.S. Treasury cash securities markets, and (4) continued efforts to strengthen monitoring and surveillance and promote inter-agency coordination related to the trading across the U.S. Treasury market.

Treasury is seeking public comment on several specific questions that will inform the ongoing work related to the next steps identified in the JSR. This RFI is intended, in part, to seek information and viewpoints from a diverse group of stakeholders, including the general public, buy and sell-side market participants, academics, and industry groups regarding these and other structural changes in the Treasury market, and their implications for the depth, liquidity, and functioning of the market. This RFI is also intended to develop a holistic view of trading and risk management practices across U.S. Treasury futures and cash markets—including the various trading venues and modes of execution present in the cash market—and it seeks input on potential improvements in Treasury market policies, practices, and conduct.

Given the market evolution, access to timely and comprehensive data across related markets is increasingly important to fully assess new developments, and analyze market events. Accordingly, we are interested in the most efficient and effective ways for the official sector to obtain additional market data and in ways to more effectively monitor diverse but related markets. Finally, we are interested in the potential benefits and costs of additional transparency with respect to Treasury market trading activity and trading venue policies and practices.

Treasury developed this RFI in consultation with the Joint Staffs. The responses to this RFI will further enhance our understanding of the changes underway in the Treasury market and will help to inform the ongoing work related to the next steps identified in the JSR as well as any policy responses. This is intended to be a comprehensive list of questions. Depending on your role and/or interest in the Treasury market, you may choose to answer only certain questions.

I. Further Study of the Evolution of the U.S. Treasury Market and the Implications for Market Structure and Liquidity

Treasury is interested in the various factors driving the evolution of the Treasury market discussed above, and their implications for market functioning. These factors include changes in technology, the growing prevalence of automated trading, changes in market making, financial institutions' risk tolerance and business models, shifts in buy and sell-side participation, post-crisis regulatory reforms, as well as any other factors respondents to this RFI may identify. We are also interested in the changing nature of liquidity and liquidity provision in the U.S. Treasury market.

By some metrics, the liquidity and efficiency of trading in the U.S. Treasury market are as robust as they have ever been. For example, bid-ask spreads have remained steady at very low historical levels. But the changes in market structure also raise questions about evolving risks, such as whether an improvement in average liquidity conditions may come at the cost of rare but severe bouts of volatility that coincide with significant strains in liquidity. The changing nature of liquidity also suggests that measures used to estimate liquidity may need to be enhanced in order to broaden our understanding of the state of the market, both during normal and stressed market conditions.

Questions for Public Comment

Treasury requests comment on the questions below. These questions are intended to solicit views on the implications of changes to U.S. Treasury market structure, including changes to financing markets (*i.e.,* the repurchase agreement market) using Treasury securities, for liquidity provision, and market functioning. We also welcome any input on the current market structure and how participants believe U.S. Treasury market structure will evolve in the coming years.

1.1 Have there been changes in the nature of liquidity provision, or demand for liquidity, in the U.S. Treasury market? If so, are these trends different in the futures, dealer-to-customer, or interdealer broker (''IDB'') market, or in the ''on-the-run'' and ''off-the-run'' sectors, or across different types of Treasury securities (*e.g.* bills, nominal fixed rate coupon securities, nominal floating rate securities, and inflation-indexed securities)? Which factors have been responsible for any observed trends in liquidity provision and/or demand? In addressing those questions, please consider the dealer-to-customer market, trading on IDB platforms, and in the futures market, as applicable, and please provide or refer to data and/or analysis that support your conclusion. In addition, please consider the following questions, as applicable:

a. How do you define liquidity? How do you define liquidity provision?

b. Which measures are most indicative of the degree of liquidity? How might these measures be refined or expanded, if you were not limited by the availability of data?

c. How do different indicators provide information on different aspects of liquidity, and in what ways?

d. Which measures best represent the resilience of liquidity, or the relationships between liquidity and volatility?

e. To what extent are these measures of liquidity and the resilience of liquidity different from measures used in other markets that have witnessed similar market structure changes? What are the idiosyncratic factors unique to Treasury cash markets that may cause these measures to differ?

f. What changes, if any, have you observed in these measures over recent years? Over recent months?

idc/groups/public/@lrfederalregister/documents/file/2015-30533a.pdf.

[7] Joint Staff Report: The U.S. Treasury Market on October 15, 2014: *http://www.treasury.gov/press-center/press-releases/Documents/Joint_Staff_Report_Treasury_10-15-2015.pdf.* The findings in the JSR were based in part on transaction-level, non-public data that staff obtained from the primary locations for price discovery in the Treasury market, the Chicago Mercantile Exchange for futures and BrokerTec and eSpeed for cash securities.

g. What microstructure features of the U.S. Treasury futures and cash markets, including both IDB venues and dealer-to-client markets, have affected the functioning, liquidity, efficiency and participation in these markets? What features have affected the functioning of the Treasury market as a whole?

1.2 What changes, if any, have you made or observed in investment, hedging, and trading practices in response to shifts in Treasury market structure?

1.3 How does the way in which you transact in or provide liquidity to the U.S. Treasury market change during periods of stress?

1.4 Looking forward, do you anticipate significant changes in the structure of the U.S. Treasury market absent further regulatory changes? What would be the key benefits and/or risks of these changes in market structure? What key factors are likely to drive these changes? What changes are you planning to your firm's investment and trading policies, strategies, and practices?

1.5 What changes to the U.S. Treasury market structure, whether through public or private sector initiatives, might be advisable given the recent and expected future evolution? What role should the public sector play in driving or facilitating these changes?

1.6 What are the benefits and risks from the increased speed with which secondary market transactions take place? Do these benefits and risks differ across individual products (*e.g.* on-the-run versus off-the run securities)? How have market participants and trading venues responded to, or facilitated, improvements in speed, and how, if at all, should policy makers respond?

1.7 To what extent have changes in Treasury financing markets affected liquidity in cash Treasury markets, and what is the best evidence of those effects? Looking forward, do you anticipate major changes in the Treasury financing markets and how would this impact the functioning of the cash Treasury markets? How have firms modified their trading strategies in response to, or in anticipation of, these changes? What changes in Treasury financing markets could improve market efficiency? What are the potential benefits and risks to the Treasury market of increased access to central clearing of Treasury repurchase agreement (''repo'') transactions?

1.8 What share of trading (in the case of dealers, your own trading) is internalized? To what extent does it vary depending on security type (*e.g.,* on-the-run, off-the-run)? How has this changed over time and how do you expect it to develop? What implications for the Treasury market, if any, do you see as a result of these developments?

II. Continued Monitoring of Trading and Risk Management Practices Across the U.S. Treasury Market and a Review of the Current Regulatory Requirements Applicable to the Government Securities Market and Its Participants

The introduction and rapid growth of electronic and automated trading protocols by many participants in the U.S. Treasury market over the past two decades have brought benefits as well as challenges to trading practices and risk and internal control systems. Risk controls at firms and trading venues must be able to monitor order and trade activity at the increased speeds made possible by this automation. In recent years, many trading platforms and firms have updated their risk management practices to better align them with a faster and more complex trading environment. The public and private sectors have collaborated to establish best practices for transacting in the modern Treasury market. In particular, the Treasury Market Practices Group (''TMPG'') recently updated its Best Practices for Treasury, Agency Debt, and Agency Mortgage Backed Securities Market by incorporating recommendations related to automated trading in TMPG covered markets.[8] The updated TMPG best practices recommended that all Treasury market participants incorporate best practices in their operations in order to promote trading integrity and to support an efficient marketplace.

The trend toward increasingly automated trading, including algorithmic trading strategies, is also being addressed by various regulatory efforts underway, particularly by the SEC and the CFTC. Among the next steps identified in the JSR is a review of the regulatory requirements applicable to the government securities market and its participants. The Government Securities Act (GSA) of 1986, as amended, provides for the registration of government securities brokers and dealers engaging in transactions in government securities and requires Treasury to adopt rules with respect to financial responsibility and related practices of government securities brokers and dealers.[9] The Treasury, SEC, and the federal bank regulators, regulate government securities brokers and dealers in the Treasury market. The CFTC regulates the futures markets, including the Treasury futures markets, and many of its participants.

In order to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, the GSA also authorizes the appropriate regulatory agencies (the SEC and federal bank regulators) to issue regulations, in consultation with Treasury, with respect to transactions in government securities for the entities they regulate.[10] The enforcement authority for these rules sits with the SEC, the Financial Industry Regulatory Authority (''FINRA'') or the appropriate federal bank regulator. Based on the current statutory scheme, there are several differences in the regulatory requirements applicable to the government securities market as compared to other U.S. securities, commodities and derivatives markets that may be worthy of examination.[11]

Questions for Public Comment

We request comment on the questions below. We are interested in what further steps the public and private sectors can take to address any outstanding risks, including operational risks to market functioning and risks to market integrity. We are also interested in the extent to which rules and practices applicable in other markets may be effective, in whole or in part, in improving the resilience of U.S. Treasury markets.

2.1 Are the risk management controls currently in place at U.S. Treasury cash and futures trading venues, as well as firms transacting in those venues, properly calibrated to support the health of the U.S. Treasury market? Why or why not? Please list the types of controls that are employed, as well as planned changes or improvements. In addressing these questions, please consider the dealer-to-customer market, trading on IDB platforms, and the futures market, as applicable. In addition, please consider the following questions:

[8] Best Practices for Treasury, Agency Debt, and Agency Mortgage-Backed Securities Markets: *http://wcapps.ny.frb.org/tmpg/TPMG_June%202015_Best%20Practices.pdf.*

[9] See Public Law 99–571, October 28, 1986 and Public Law 103–202, December 17, 1993.

[10] Ibid.

[11] There are differences in the current regulatory requirements applicable to the government securities market as compared to other U.S. securities, commodities and derivatives markets. For example, SEC rules applicable to alternative trading systems do not apply to alternative trading systems through which only government securities are traded (although such venues may voluntarily adopt such standards). Real time public reporting rules applicable to transactions in other securities and derivatives do not apply to transactions in Treasury securities. Large non-broker and non-dealer participants in the government securities market are not required to register (unlike large swap market participants).

a. What policies and risk management practices at U.S. Treasury cash and futures trading venues, as well as at firms transacting in those venues, could be improved or developed to mitigate potential risks associated with increased automation, speed, and order complexity? Please consider the risks posed by trading, risk transfer, and clearing and settlement.

b. To what extent should venue-level risk management practices be uniform across Treasury cash and futures trading venues? For example, should there be trading halts in the Treasury cash market and should they be coordinated between Treasury cash and futures markets, and if so, how? Should Treasury cash, futures, options, and/or swaps venues coordinate intraday risk monitoring, and if so, at what frequency? If there were trading halts, how should they be implemented for bilateral trading activity in the Treasury cash market? What would be the primary challenges in implementing such trading halts, particularly given that trading in the U.S. Treasury cash market is over-the-counter, global in nature, and conducted on a 24-hour basis? [12]

c. To what extent should U.S. Treasury cash market platforms be responsible for monitoring, identifying, and/or reporting suspicious trading activity?

2.2 What internal risk controls are commonly employed by firms using automated, including algorithmic, trading strategies in the Treasury cash market? Are these different or similar to those used in the Treasury futures markets, and what are the reasons for any differences? How are such controls designed and triggered? How frequently are they triggered? What internal process controls commonly govern the implementation and modifications of trading algorithms?

2.3 What types of algorithmic trading strategies are commonly used by participants in the U.S. Treasury market? What features do those strategies have in common, and what features differ across strategies? What are the potential benefits and risks to an effective U.S. Treasury market functioning resulting from certain algorithmic trading strategies, certain order types, and/or particular trading venue policies or practices.

2.4 How are best practices used in evaluating, and updating, risk management systems at a given firm? How does your firm make use of TMPG's best practices (referenced above) for operations in the Treasury cash market? How can best practice recommendations be utilized in order to reinforce market integrity? What are the benefits and limitations of best practice recommendations?

2.5 What are the benefits and risks associated with the current structure for clearing and settling Treasury securities transactions in the dealer-to-customer market and on IDB platforms, as applicable. For example:

a. Are intraday margining practices in the Treasury cash market for both cleared and non-cleared transactions currently sufficient to protect against counterparty risk, especially in light of the speed at which positions can be accumulated? What options are available to improve margining practices? Should the maximum potential intraday exposure of firms be calibrated relative to their level of capital? If so, how should it be calibrated? Are alternative measures of potential exposure more meaningful for automated trading strategies, and if so, which type of measures?

b. Currently, there are no statutory requirements that require participants to centrally clear cash Treasury transactions. Should such a requirement apply to any participants, particularly those with large trading activity or large positions? Would the secondary market for cash Treasury securities benefit from broader participation in centralized clearing? Why or why not?

2.6 Many of the standards applicable to U.S. securities, commodities, and derivatives markets are not applicable to the U.S. Treasury cash market. Which differences, if any, should be addressed and how should standards be aligned? How will these affect the cost of accessing or participating in these markets, as well as of transacting in these markets? Would there be any implications to U.S. federal government borrowing costs? In addressing these questions, please consider the dealer-to-customer market, trading on IDB platforms, and the futures market, as applicable. In addition, please consider the following:

a. What implications would a registration requirement for firms conducting certain types of automated trading, or certain volume of trading, in the U.S. Treasury market have on market structure and efficiency, investor protection, and oversight?

b. Should firms that conduct certain types of automated trading, or certain volume of trading, in the U.S. Treasury market be subject to capital requirements, examinations and supervision, conduct rules, and/or other standards? What would be the implications of each?

2.7 Should self-trading be expressly prohibited in the cash Treasuries market? [13] Does self-trading provide any benefits to the markets? Are there risk management tools, either at trading firms or at trading platforms, which can effectively reduce levels of self-trading and improve trading efficiencies?

III. An Assessment of the Data Available to the Official Sector on U.S. Treasury Cash Securities Markets

The analysis presented in the JSR was based on cash and futures transactions and order book information, with the cash data provided by the IDB platforms and the futures data obtained through the CFTC as part of its oversight of the CME. Transaction data for the U.S. Treasury futures market is provided daily to the CFTC, and order book data is available to the CFTC upon request. This transaction data includes time, volume, price, and counterparty information. The official sector does not currently receive any regular reporting of Treasury cash market transactions. The JSR did not include any analysis of dealer-to-customer data, although certain dealer-to-customer data was subsequently obtained for the purpose of additional analysis of October 15, 2014 and the control days analyzed in the JSR.

The need for more comprehensive official sector access to data, particularly with respect to U.S. Treasury cash market activity, is clear. Given the benefits of enhanced transparency among all official sector stakeholders into trading activity across both the cash and futures markets, we are interested in views regarding the most efficient and effective way to collect, aggregate, and appropriately monitor U.S. Treasury cash and futures markets data. We are also interested in the additional infrastructure that would be necessary for market participants to begin reporting comprehensive U.S. Treasury market transaction data to the official sector, especially given the diversity of trading venues in the Treasury cash markets. Finally, we are interested in views on how to utilize transmission protocols, data standards, and identifiers to facilitate data integration, and to support continued coordination among the Joint Staffs.

Activity related to U.S. Treasury markets trading often extends beyond

[12] Currently, under the GSA Treasury does not have the statutory authority to suspend trading or establish limit up/limit down thresholds for Treasury securities.

[13] For purposes of this RFI, self-trading is defined as a transaction in which the same legal entity takes both sides of the trade so that no change in beneficial ownership results.

individual regulator boundaries; it encompasses not only the primary and secondary cash securities markets, but repurchase agreement markets, futures contracts which reference U.S. Treasuries, and U.S. Treasury exchange-traded funds traded as equities. This diversity in trading venues and participants often leaves any individual regulator with only a partial view of U.S. Treasury market risk transfer and price discovery. Data from across the U.S. Treasury cash and futures markets is necessary to conduct comprehensive analysis or surveillance of these markets, which are tightly integrated and across which market participants conduct trading activity. As firms are able to access multiple markets over very short time frames, these markets become ever more interconnected, resulting in significantly faster risk and information transmission. These trends call for continued cooperation among the official sector to ensure that the monitoring of market activity and liquidity is as effective and coordinated as possible.

The Inter-Agency Working Group for Treasury Market Surveillance (''IAWG'') was formed to improve monitoring and surveillance, and strengthen interagency coordination with respect to the U.S. Treasury markets following the Salomon Brothers auction bidding scandal in 1992, and today consists of the Joint Staffs.[14] Since its inception, it has been useful in providing a regular forum for the participating entities to collaborate on issues related to U.S. Treasury market structure, functioning, and participation, such as the events of October 15, 2014. To facilitate the continued monitoring of U.S. Treasury market activity, the Joint Staffs are working to complete a standing information sharing agreement.

[14] The IAWG was formed in 1992 by the Treasury, the SEC, and the Board, to strengthen monitoring, surveillance and interagency coordination in respect to the Treasury market. Its initial efforts were focused on developing a framework for enhanced market surveillance for Treasury Securities. See U.S. Department of the Treasury, Securities and Exchange Commission, and Board of Governors of the Federal Reserve System, *Joint Report on the Government Securities Market* (U.S. Government Printing Office, January 22, 1992), at xii–xiv. *http://www.treasury.gov/resource-center/fin-mkts/Documents/gsr92rpt.pdf.* See also The U.S. Department of the Treasury, Securities and Exchange Commission, and Board of Governors of the Federal Reserve System, *Joint Study on the Government Securities Market* (U.S. Government Printing Office, March 1998), *http://www.treasurydirect.gov/instit/statreg/gsareg/gsareg_gsr98rpt.pdf.* See also Official Surveillance and Oversight of the Government Securities Market, William J. McDonough, FRBNY Quarterly Review, Spring 1992–93.

Questions for Public Comment

We request comment on the questions below. The questions in this section of the RFI seek information about which U.S. Treasury market data the official sector should have regular and ongoing access to. We are also interested in views regarding the potential for additional coordination across futures and cash markets, as well as interest rate swaps and options. These questions relate to the provision of U.S. Treasury market data to the official sector. Accordingly, while there may be considerations regarding data dissemination to the public that may be relevant to the answers to the questions posed in this section, those considerations should not factor into the answer to these questions (unless otherwise noted), but should be addressed, to the extent applicable, in Section IV.

3.1 To what extent can trading practices in U.S. Treasury cash and futures markets be effectively monitored using only transaction and/or order data from one, not both, of those markets? Is it necessary for regulators to have visibility across all U.S. Treasury cash and derivative markets in order to more effectively monitor and oversee trading behavior in any one market? What aspects of U.S. Treasury market monitoring require data collection across cash and derivatives markets?

3.2 What frequency and type of additional data reporting to the official sector is necessary for it to effectively monitor functioning of the U.S. Treasury markets, including cash, futures, and financing markets? What level of data granularity is necessary for sufficient monitoring to be performed (*e.g.,* transaction data, inventories or positions, order book data, and other additional data) across venues?

a. Should all transactions in securities issued by Treasury be subject to reporting or should reporting be limited to secondary market transactions, on-the-run benchmark issues, or some other subset of securities?

b. Should repurchase agreement transactions be reportable?

3.3 What criteria should be used to determine who should report to the official sector? Should both counterparties (buyer and seller) be required to report a trade or is one-sided reporting preferable? Should reporting requirements depend on the platform or execution method? Should only a subset of participants, such as brokers, dealers, futures commission merchants (FCMs) and commercial bank dealers be required to report transactions? Should other parties to a transaction, such as banks and PTFs, be required to report? Should trades executed on automated trading venues be reported by those venues and not the individual brokers, dealers, FCMs, bank dealers, etc. transacting on such venues?

3.4 Should transaction reporting include identifiers for categories of end investors? What are the costs and benefits of this approach? What alternatives should be considered to permit monitoring of positions and market activity?

3.5 For those instruments subject to official sector reporting requirements:

a. Should all transactions be subject to the same reporting time requirement? Are the answers different for different types of transactions or instruments?

b. Should cross market transactions have special indicators to link the different legs of the transactions?

c. Are there specific trades and/or trading strategies that should be considered for additional identification to ensure that regulatory organizations can accurately interpret the data (similar to Dollar Rolls or Stipulations on deliverable collateral in mortgage to-be-announced trading)?

d. Are there other industry practices and/or special situation information that should be considered for reporting?

e. Should trade allocations be reported? Are there any special pricing issues that should be considered (*e.g.* mark ups, commissions, ATS fees) or is dollar price adequate for determining the price of the trade?

f. Should settlement date and/or other settlement terms be reportable?

g. Are there any special considerations/conditions for determining the time that a trade is executed? Does this differ across trade types or venues?

h. Should transactions executed on an ATS and/or in response to an electronic RFQ be identified as such? Should the specific ATS and/or RFQ platform be identified as part of the transaction report? Are there unique characteristics of such transactions that should be identified? Should the order type giving rise to a particular execution be captured? Are there any other unique methods of transacting in the Treasury market that should be identified?

i. Should transaction counterparties be identified uniquely or categorized by counterparty type? If the latter, what counterparty types should be identified? Are there generally accepted definitions for these categories of counterparties?

j. For transactions that are already subject to reporting requirements to the official sector, are there particular data standards or identifiers that should be used for the reporting of transactions in

the Treasury cash market to aid harmonization? What transmission protocols, data standards and identifiers should be utilized to enhance authorities' ability to integrate data, share information and cooperate on analysis, for both existing and new data reporting?

k. Should the identification of registered market participants be ''normalized'' across U.S. Treasury cash and futures transactions such that there is a consistent and unique moniker used to identify each individually registered entity?

3.6 For those securities subject to official sector reporting requirements:

a. Should quotes and/or orders be reported? If so, should special consideration be made for certain types of quotes and/or orders (*e.g.,* electronically submitted orders versus voice orders versus RFQ)? Are there any special considerations when defining an order and/or quote? How will these special considerations affect the ability of the official sector to analyze activity in the Treasury cash markets?

b. Should transactions, quotes, and/or orders be reported on a real time basis? If not, what should be the reporting standard? How should orders that are executed over multiple days be handled? Are there other special considerations when defining the time of an order?

c. Are there additional elements that are important for regulators to understand beyond the categories of quote/order originator, price, size and time of the order (*e.g.,* inventory or position data)? Should the type of an order or any special order instructions be collected? Should all order changes be reported? Is the answer different for electronically submitted versus voice submitted orders?

d. Should the submitter of a quote and/or order be identified uniquely or categorized by counterparty type? If the latter, what counterparty types should be identified? Are there generally accepted definitions for these categories of counterparties?

3.7 Is it appropriate to have transactions, orders, and quotes time stamped at a certain clock precision (*e.g.,* microsecond) level? Are the answers to these questions different for different types of transactions (*e.g.,* electronic or voice) or different products (*e.g.,* Treasury bills, notes, bonds, on-the-runs, off-the-runs, cash, or futures)? Would the answer be different for trade reporting, quote reporting, or order reporting? Would the answer be different for different categories of market participants?

3.8 Do commercial bank dealers and broker-dealers have technology infrastructures and order/execution handling in place to report trades on a continuous basis?

3.9 As the official sector begins to collect additional data on the cash U.S. Treasury market, what operational or market factors should be assessed? Are there particular negative consequences from the implementation of data collection? If so, what are they and why do they arise?

a. The official sector may consider different methods for receiving transaction data from Treasury markets. For instance, it may rely on existing reporting regimes, or it may seek to build an alternative reporting system. If the latter, what alternative reporting system should be used? What are the costs and benefits with these different approaches? Would one approach impose fewer burdens on reporters than others? If so, why and by how much?

b. Would one approach impose fewer burdens on smaller reporters than another? If so, why and by how much?

c. Is the answer different for trades, orders, quotes, or execution methods?

3.10 What additional infrastructure would be necessary for market participants to begin reporting comprehensive U.S. Treasury market transaction data? Should reporting requirements be phased in? If yes, how and why? Does phasing affect the cost of implementation for market participants? What transmission protocols, data standards and identifiers should be utilized to minimize reporting burdens?

3.11 Will the requirement to report transactions in the Treasury markets affect competition in this market? Who would be affected and how? What data or empirical evidence support this position?

IV. An Assessment of the Data Available to the Public on U.S. Treasury Cash Securities Markets

The extent of publicly available information for U.S. Treasury markets, including that related to market prices, trading volumes, market participant inventories, and trends in market risk and liquidity, is substantially more limited than for many other major asset classes. For example, there are no public reporting requirements for transaction or order book information with respect to transactions in Treasury securities. In addition to obtaining the appropriate data for the official sector, we are committed to continuing to appropriately enhance the information made public about the U.S. Treasury market.

Making appropriate data available to the public more broadly regarding trading activity in the U.S. Treasury market could support investor confidence and the liquidity of these markets. Greater price transparency could improve efficiency, reduce transaction costs, enhance fairness, improve risk management practices and encourage participation by new entrants, who may otherwise be reluctant to engage in a market where they have less information than their counterparties. Greater operational transparency also may be desirable with respect to the practices governing trading and access at the various trading venues. Visibility into order types, access rules, and rulebooks may encourage greater competition and a more level playing field for market participants.

However, the U.S. Treasury cash market is not uniform. More recently-issued on-the-run securities trade largely on electronic platforms that match orders using a central limit order book. Seasoned, or off-the-run, securities generally still rely on dealers to intermediate transactions. Some types of transparency may inhibit the willingness to engage in large so-called ''block'' trades by large investors and intermediaries. This reluctance may be particularly true in the less liquid parts of the U.S. Treasury market, where concerns about moving prices or revealing positions are stronger. In markets with more formal regulations pertaining to pre- and post-trade transparency, the rules provide flexibility for block-sized trades. For example, trades above a certain size could be executed away from platforms with pre-trade transparency, and such trades could be reported to the marketplace with some delay. Related rules also allow for masking of the size of large transactions to help mitigate the concern of higher market impact costs. The futures markets also require that net positions greater than specified thresholds (for all market participants and not just entities subject to registration requirements) be reported to the market regulator.

Questions for Public Comment

We request comment on the questions below. We are interested in the appropriate level and form of data about Treasury market activity that should be made available to the public. This includes use of transmission protocols, data standards and identifiers to facilitate the public's ability to link and integrate data.

4.1 Is the publicly available information for U.S. Treasury market

trading activity sufficiently transparent to foster an efficient, healthy, and liquid market? What changes to public reporting would be most advisable, if any, including the use of data standards and identifiers?

4.2 What additional information should be made available to the public in order to better assess liquidity conditions in the U.S. Treasury market, and at what frequency? For instance, should there be readily available transaction cost data that accounts for price movements that occur from the initiation of a trade request on RFQ platforms?

4.3 If additional public transparency is necessary at the transaction level, what is the most appropriate level of transparency for publicly available data on trading in the secondary market? Should additional public transparency be phased in over time in any way? Should all quotes and/or orders in the inter-dealer market be made public, or just ''top of book''? What characteristics should be reported (*e.g.,* participant type, aggressor side, volume, price)? Should the release of any or all of the data be in real time or delayed? Should the available data differ depending on the age of the security, size of the transaction or other characteristics of a particular security or transaction?

4.4 Is there an existing public reporting model that would be appropriate, in whole or in part, for the U.S. Treasury market (*e.g.,* swap data repositories for swaps, or FINRA's Trade Reporting and Compliance Engine (TRACE) for corporate bonds and agency mortgage-backed securities), or would the Treasury market benefit from a new model?

4.5 What additional information should be available to the public about the operation of trading platforms or trade execution algorithms on trading platforms (for inter-dealer as well as dealer-to-customer platforms)? For example:

a. Should information about order types, agreed upon fee arrangements, user agreements, and/or brokerage agreements be disclosed?

b. Should the degree to which subscribers to the platform may limit their interaction with or exposure to other subscribers be disclosed?

c. Should the degree and extent to which the sponsor of a platform trades on the platform be disclosed?

David R. Pearl,

Office of the Executive Secretary.

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Part IV

The President

Notice of January 20, 2016—Continuation of the National Emergency With Respect to Terrorists Who Threaten To Disrupt the Middle East Peace Process

Federal Register
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Presidential Documents

Title 3—

The President

Notice of January 20, 2016

Continuation of the National Emergency With Respect to Terrorists Who Threaten To Disrupt the Middle East Peace Process

On January 23, 1995, by Executive Order 12947, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process. On August 20, 1998, by Executive Order 13099, the President modified the Annex to Executive Order 12947 to identify four additional persons who threaten to disrupt the Middle East peace process. On February 16, 2005, by Executive Order 13372, the President clarified the steps taken in Executive Order 12947.

These terrorist activities continue to threaten the Middle East peace process and to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For this reason, the national emergency declared on January 23, 1995, and the measures adopted to deal with that emergency must continue in effect beyond January 23, 2016. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to foreign terrorists who threaten to disrupt the Middle East peace process.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
January 20, 2016.

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