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Presidential Documents

Title 3—

The President

Notice of February 3, 2016

Continuation of the National Emergency With Respect to the Situation in or in Relation to Côte d'Ivoire

On February 7, 2006, by Executive Order 13396, 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 and foreign policy of the United States constituted by the situation in or in relation to Côte d'Ivoire and ordered related measures blocking the property of certain persons contributing to the conflict in Côte d'Ivoire. The situation in or in relation to Côte d'Ivoire, which has been addressed by the United Nations Security Council in Resolution 1572 of November 15, 2004, and subsequent resolutions, has resulted in the massacre of large numbers of civilians, widespread human rights abuses, significant political violence and unrest, and fatal attacks against international peacekeeping forces.

The Government of Côte d'Ivoire and its people continue to make significant progress in promotion of democratic, social, and economic development. We congratulate Côte d'Ivoire on holding a peaceful and credible presidential election, which represents an important milestone on the country's road to full recovery. The United States also supports the advancement of national reconciliation and impartial justice in Côte d'Ivoire. The United States is committed to helping Côte d'Ivoire strengthen its democracy and stay on the path of peaceful democratic transition, and we look forward to working with the Government and people of Côte d'Ivoire to ensure continued progress and lasting peace for all Ivoirians.

While the Government of Côte d'Ivoire and its people continue to make progress towards consolidating democratic gains and peace and prosperity, the situation in or in relation to Côte d'Ivoire continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on February 7, 2006, and the measures adopted on that date to deal with that emergency, must continue in effect beyond February 7, 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 declared in Executive Order 13396.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
February 3, 2016.

[FR Doc. 2016–02429
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Rules and Regulations

Federal Register

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

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DEPARTMENT OF HOMELAND SECURITY

5 CFR Chapter XXXVI

[Docket No. DHS–2008–0168]

RINs 1601–AA17, 3209–AA15

Supplemental Standards of Ethical Conduct for Employees of the Department of Homeland Security

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security (DHS), with the concurrence of the U.S. Office of Government Ethics (OGE), is finalizing this rule to supplement the OGE Standards of Ethical Conduct for Employees of the Executive Branch (OGE Standards) for DHS employees. These regulations supplement the OGE Standards and, among other things, set forth employee restrictions on the purchase of certain Government-owned property; require employees to report allegations of waste, fraud, and abuse; require employees to seek prior approval for certain outside employment and activities; prohibit employees in some DHS components from engaging in certain types of outside employment activities; and require designated components to develop instructions regarding the procedures for obtaining prior approval for outside employment and activities. These regulations also designate components within DHS as separate agencies for purposes of determining whether the donor of a gift is a ''prohibited source'' and of identifying an employee's agency for the regulations governing teaching, speaking, and writing. This rulemaking is necessary in view of DHS programs and operations; DHS is comprised of numerous legacy agencies which have varying or no supplemental ethics regulations. This final rule follows publication of a proposed rule on October 12, 2011. We considered public comments on the proposed rule while revising this final rule. This final rule includes revisions to the definition of ''outside employment'' and the additional provisions applicable only to employees of the U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement.

DATES: This rule is effective March 7, 2016.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket DHS–2008–0168 and are available for inspection or copying from the Internet by going to *http://www.regulations.gov,* inserting DHS–2008–0168 in the ''SEARCH'' box, and then clicking ''SEARCH.''

FOR FURTHER INFORMATION CONTACT: Ferne L. Mosley, Deputy Ethics Official, Department of Homeland Security, 202–447–3302, email: *ferne.mosley@hq.dhs.gov.*

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CBP U.S. Customs and Border Protection
CDEO Chief Deputy Ethics Official
CFR Code of Federal Regulations
DAEO Designated Agency Ethics Official
DHS Department of Homeland Security
FEMA Federal Emergency Management Agency
ICE U.S. Immigration and Customs Enforcement
NPRM Notice of Proposed Rulemaking
OGE U.S. Office of Government Ethics
U.S.C. United States Code
§ Section Symbol

I. Background

On August 7, 1992, the U.S. Office of Government Ethics (OGE) issued a final rule setting forth the uniform Standards of Ethical Conduct for Employees of the Executive Branch (OGE Standards), which, as corrected and amended, are codified at 5 CFR part 2635 (57 FR 35006). Effective on February 3, 1993, the OGE Standards established uniform ethics rules applicable to all Executive branch personnel.

Pursuant to 5 CFR 2635.105, Executive branch agencies are authorized to publish, with the concurrence of OGE, supplemental regulations deemed necessary to implement their respective ethics programs. Prior to the creation of DHS, several legacy agencies were operating under supplemental ethics regulations issued by their former parent departments. The regulations finalized in this action will advance the purposes of the OGE Standards. Some outside employment interests and activities, if held by employees of certain Department of Homeland Security (DHS) components, could cause a reasonable person to question an employee's impartiality and objectivity. Particularly in view of the breadth of DHS's programs and operations, and because DHS is comprised of numerous legacy components with varying or no supplemental ethics regulations, this action is both necessary and appropriate. This rule will require prior approval of certain outside employment and activities to avoid potential conflicts of interest. This rule will also

prohibit conflicting outside employment activities in certain components.

II. Regulatory History

On October 12, 2011, DHS, with OGE's concurrence, published for comment a notice of proposed rulemaking (NPRM) to supplement the OGE Standards for DHS employees. 76 FR 63206. The NPRM proposed supplemental ethics rules designed to implement uniform ethical requirements for all DHS employees, many of whom were previously employed by 22 other Executive branch departments and agencies prior to DHS's formation in 2003. The NPRM also proposed certain ethical requirements specific to certain DHS components based on the nature of their programs and operations. Specifically, the NPRM proposed to (1) set forth employee restrictions on the purchase of certain Government-owned property; (2) require employees to report allegations of waste, fraud, and abuse; (3) require employees to seek prior approval for certain outside employment and activities; (4) prohibit employees in some DHS components from engaging in certain types of outside employment activities; (5) require designated components to develop instructions regarding the procedures for obtaining prior approval for outside employment and activities; and (6) designate components within DHS as a separate agency for purposes of determining whether the donor of a gift is a ''prohibited source'' and of identifying an employee's agency for the regulations governing teaching, speaking, and writing. These proposals sought to strengthen the integrity of DHS programs and operations and give the public greater confidence that DHS employees are held to a high standard of ethical behavior while carrying out DHS's missions. For a more complete discussion of the proposals in the NPRM, please refer to the preamble of that document available in the public docket for this rulemaking and in the **Federal Register** at 76 FR 63206.

By the close of the NPRM's public comment period on December 12, 2011, DHS received 12 comment letters. Eight of the commenters expressed concern that the NPRM's definition of ''outside employment'' was overly broad. Some commenters stated that the definition impeded the constitutional rights and lawful political activities of DHS employees. Other commenters addressed the necessity for the rule, specifically the requirement to seek prior approval for outside activities and employment; the requirement for employees to report waste, fraud, abuse, and corruption; and the amount of government resources and time required to implement the rule's provisions. Other commenters generally sought clarification on the impact the rule will have on employees serving as U.S. Coast Guard reservists and reservists in other military services, as well as the rule's effect on official employee interactions with non-Federal entities. There were also comments on the agency-specific proposed regulations for employees of U.S. Customs & Border Protection (CBP) and U.S. Immigration & Customs Enforcement (ICE) components, regarding the broad nature of the prohibited outside employment and activities for these employees and how this might affect an employee's ability to engage in certain routine consumer transactions. In the next section, we discuss the public comments in greater detail and provide DHS responses.

III. Discussion of NPRM Comments

A. Comments Regarding the Proposed Definition of ''Outside Employment''

Comment: One commenter stated that the definition of ''outside employment'' should only include employment and activities that directly relate to an employee's official duties, because outside positions that are unrelated to the employee's duties will not present a conflict of interest. The commenter stated that any activity with a non-profit organization should be excluded from the definition, even if the activity is compensated.

DHS Response: DHS disagrees. DHS notes that matters that are ''related to'' the DHS mission or even the employee's official duties are not always obvious or intuitive. For example, employees may not necessarily be aware of broader DHS mission involvement, grant programs, regulatory activities, and the like, which may apply to non-profit organizations. Moreover, there are occasions when holding a fiduciary or compensated position with a non-profit organization, or providing personal services to such an organization, may indeed create a criminal conflict of interest for an employee. This is true even if the non-profit organization's mission does not relate to the employee's duties or the programs of the employee's agency.

For example, all Federal employees are prohibited by criminal statute from acting as an agent or attorney on behalf of another in a matter in which the United States is a party or has a direct and substantial interest before any officer, employee, or court of the United States. *See* 18 U.S.C. 205(a)(2). This rule applies regardless of whether the representation relates to the federal employee's assigned duties. Accordingly, under one possible scenario, a DHS employee who submits a grant application to another government agency in the employee's capacity as a board member of a non-profit organization would violate a criminal law by signing and submitting the application. Additionally, an employee who accepts compensation for such an activity would also violate another criminal statute, 18 U.S.C. 203, which prohibits employees from accepting compensation for certain representational activities before a Federal agency or court. These prohibitions also apply to employees holding positions with for-profit companies. The above scenario provides an illustration of the rationale behind requiring DHS employees to generally obtain prior approval to engage in outside employment and activities, and why we are not limiting the prohibition on outside employment to activities directly related to an employee's official duties or exempting all positions with non-profit organizations. These provisions not only help manage DHS's ethics program, they also protect employees from inadvertent violations of the law. Outside employment and activities—even those that appear to be unrelated to DHS's mission or the employee's duties—may create conflicts of interest or present other ethical considerations.

Comment: Two commenters raised constitutional concerns that the definition of ''outside employment,'' to the extent that it may include a prior approval requirement for speaking and writing on matters of public concern, acted as a prior restraint on free speech. One commenter expressed concern that the prior approval requirement for speaking, teaching, writing, and political activity would by its nature delay the employee's ability to engage in such activities, and that all DHS employees would need to obtain prior approval for almost any expressive activity undertaken for compensation, including articles or speeches on matters of public concern unrelated to DHS's mission of the employees' duties. Another commenter expressed concern that writing personal letters to a newspaper editor or engaging in social media activities and blogging would be deemed to be an activity ''under an arrangement with another person,'' which would fall under the prior approval requirement.

DHS Response: The definition proposed in the NPRM was not intended to unconstitutionally restrict speech or expression. DHS does not view personal, uncompensated

expressions of opinion, such as writing letters to newspaper editors or social media or blogging activities, as being done under an ''arrangement with another person'' for purposes of the supplemental DHS ethics regulations. DHS did not intend to require prior approval to engage in these types of uncompensated, personal expressions. Additionally, DHS did not intend these regulations to adversely impact an employee's ability to engage in or abstain from political activities permitted by the Hatch Act, 5 U.S.C. 7321–7326, that Act's related regulations, or relevant Executive branch policy. Such expressions are generally not the types of activities that would create a conflicting financial interest. These expressive activities are also not likely to involve a relationship for an employee that, under the OGE Standards, would result in an employee's disqualification from participating in an official capacity or cause a reasonable person to question an employee's impartiality, or otherwise amount to a conflicting outside employment or activity. To address the concerns raised by these commenters, this final rule narrows the definition of ''outside employment'' from what we proposed in the NPRM. Specifically, this final rule exempts ''speaking and writing'' from the definition of ''outside employment,'' provided that these activities are not combined with the provision of additional services that otherwise fall within the definition. The revised language also refers employees to the existing regulations at 5 CFR 2635.807 for further guidance on the limitations for accepting compensation for speaking and writing activities done in a personal capacity. The final rule retains ''teaching'' in the definition of ''outside employment,'' even though most teaching fits within the exceptions outlined in the OGE Standards.

Comment: Two commenters raised concerns that the proposed definition of ''outside employment'' seemed to include uncompensated speaking. The commenters also suggested that DHS should differentiate between an employee speaking or writing as a representative of the agency as opposed to speaking or writing on the employee's own behalf for compensation. The commenters further suggested that the two exclusions should appear in the regulatory text within the relevant section under separate numbers or other designation.

DHS Response: DHS agrees that in general, personal expressions such as writing letters to the editor and other uncompensated speaking and writing activities, should not be covered as ''outside employment or activity.'' As explained above, this final rule revises the definition of ''outside employment'' from that in the NPRM to generally exempt ''speaking and writing'' unless it otherwise falls under the definition. The revised language also refers employees to the existing regulations in 5 CFR 2635.807 for further guidance on the limitations for accepting compensation for teaching, speaking and writing activities done in a personal capacity.

Comment: Some commenters raised concerns that the proposed definition of ''outside employment'' would impact an employee's ability to interact with, prepare materials for, and/or speak to non-Federal entities and other organizations in an employee's official capacity.

DHS Response: DHS disagrees. The regulation states that it applies to *outside* employment and activities, which does not include an employee's activities in an official DHS capacity. DHS acknowledges that these comments might have been precipitated due to confusion created by an errant reference in the proposed rule to 5 CFR 2635.802 (''relates to an employee's official duties''). This final rule contains a corrected reference that appropriately cites to 5 CFR 2635.807.

Comment: One commenter stated that the prior approval requirement violates employees' privacy, and suggested that the definition of ''outside employment'' should contain a list that specifically excludes certain types of outside employment and activities that would never be a conflict for an employee (*e.g.,* a holiday job at a retail store). The commenter also suggested that DHS should not require prior approval for certain types of employment and other activities. Finally, the commenter suggested that DHS should identify, in advance, types of employment and other activities that are always prohibited.

DHS Response: DHS declines to carve out from the ''outside employment'' definition and the prior approval requirement additional categories of outside employment and activities because the employment or activity would never pose an ethical conflict for any DHS employee. It is not always obvious or intuitive that a certain type of outside employment activity presents an ethical conflict. To adopt the commenter's scenario, working at a retail establishment may indeed pose a conflict for a DHS employee. For example, ethics rules would prohibit outside employment at certain retail stores for ICE employees who inspect retail facilities for immigration violations, or other DHS employees with official responsibilities for immigration and employment verification policies applicable to the retail industry. Although DHS does not find sufficient justification to support a broad exclusion for retail employment as the commenter suggested, the rule does provide DHS components with the discretion to exempt this type of activity under their implementing policies based on each component's unique mission. As a result, some types of outside employment or activities may be excluded by an individual component's implementing instructions.

Regarding the commenter's other suggestion, although some DHS components (specifically, CBP, FEMA, and ICE) have determined that certain types of outside employment and other activities should be prohibited, those determinations do not apply DHS-wide. For example, there is no basis for broadly extending the prohibition on CBP employees from working for a customs broker to the employees of other DHS components whose missions do not involve customs. Moreover, it is not possible to anticipate all types of outside employment and other activities that might create a potential conflict. Accordingly, this final rule does not adopt the commenter's suggestion for a blanket list of prohibited employment or activities, because such a list would likely result in overly-broad restrictions for all DHS employees.

B. Comments Regarding the Proposed Prior Approval Requirement

Comment: One commenter stated that the prior approval requirement was unnecessary, stating that DHS employees are ''fully capable of determining for themselves whether an activity would conflict with their official responsibilities or otherwise adversely affect DHS, or create the appearance of impropriety.'' The commenter also stated that employees would voluntarily seek ethics advice without a prior approval requirement, thus rendering the requirement moot.

DHS Response: DHS disagrees. Requiring an ethics review is a low-cost mechanism for avoiding serious consequences that may accrue to employees who would otherwise inadvertently run afoul of the rules. Employees are often not aware of all applicable ethics statutes, regulations, and OGE guidance that may be implicated when engaging in outside employment or activities. The OGE Standards establish that agencies carry out an ethics program competent to ensure the fundamental objectives of providing employees with informed and objective guidance. DHS ethics counselors serve as a resource for

employees and provide employees with guidance and legal opinions in order to ensure that employees are aware of and follow the relevant ethics regulations and conflict of interest statutes. Many of the ethics rules, including ones that may be implicated by outside employment and activities, include criminal penalties. Violations of these laws may carry civil and criminal penalties and may result in termination of employment. In addition, an employee who seeks an opinion from an agency ethics official and has made full disclosure of all relevant circumstances, and relies in good faith on such an opinion is shielded, at a minimum, from agency administrative action. *See* 5 CFR 2635.107(b).

Although many employees voluntarily seek the guidance of an agency ethics official before engaging in outside employment or activities, some conflicts may not be obvious to employees, thereby putting them at unnecessary risk for potential conflicts or violations of the law. Therefore, a regulatory requirement for employees to obtain prior approval for outside employment and other activities is not only in the best interest of DHS and the public, it will also help protect employees from inadvertent missteps.

Comment: One commenter stated that a prior approval requirement would be a waste of time and create unnecessary paperwork. The commenter also questioned DHS's motives for the prior approval requirement.

DHS Response: For the reasons stated above, the prior approval requirement will help protect DHS's interest in the integrity of its programs by creating a mechanism to affirmatively provide substantive guidance to employees in an effort to avoid potential conflicts of interest. The prior approval requirement will also help employees comply with the laws governing employee ethics. This prior approval requirement is consistent with similar requirements promulgated by other cabinet-level departments.

Additionally, DHS has determined that a uniform prior approval requirement in the DHS supplemental ethics regulations is important for establishing and maintaining consistency in the DHS ethics program. The rule will eliminate discrepancies between certain DHS employees previously employed by legacy agencies, who are covered by the legacy agency's ethics rules, and employees hired after DHS was created, who had not previously been covered by a supplemental ethics regulation. This rule will cover all DHS employees.

Comment: One commenter stated that proposed section 4601.103(a) was overbroad and exceeded the DHS and OGE's legal authority to establish the prior approval requirement. The commenter characterized the NPRM as requiring prior approval for ''all types of activities.''

DHS Response: DHS disagrees. The prior approval requirement applies only to certain types of outside employment and activities as defined in the rule. Additionally, section 404 of title 5 App., United States Code (U.S.C.) grants OGE the authority to promulgate regulations that govern the ethical conduct of Executive branch employees. Further, 5 CFR 2635.803 permits agencies to require employees to obtain prior approval before engaging in certain outside employment or activities.

Comment: One commenter was concerned that the prior approval requirement would have the unintended consequence of requiring members of the military (*e.g.,* Army and Air National Guard) to obtain prior approval to engage in military service.

DHS Response: DHS does not intend to require members of the military to seek and obtain prior approval before engaging in military service. In response to this comment and to avoid any confusion, this final rule includes a revised definition of ''outside employment or activity'' that specifically excludes military service.

Comment: One commenter questioned whether the rule would require U.S. Coast Guard reservists to obtain prior approval for their full-time civilian jobs.

DHS Response: DHS wishes to clarify that a U.S. Coast Guard reservist who is on voluntary active duty for a period in excess of one hundred and thirty days is considered to be a DHS employee and will be subject to the prior approval requirement for outside employment or activities. A U.S. Coast Guard reservist who is on active duty solely for training or who is involuntarily serving is considered to be a ''Special Government Employee'' and is not subject to the prior approval requirement; the majority of reservists fall into one of these latter categories. Accordingly, this rulemaking should have a minimal impact on the majority of U.S. Coast Guard reservists.

Additionally, this final rule requires DHS components to issue component-specific instructions or a manual that governs employee requests for approval of outside employment or activities. The U.S. Coast Guard may address matters such as the one raised by the commenter in its instructions or manual.

Comment: One commenter argued that the prior approval requirement will strain the resources of DHS ethics offices.

DHS Response: DHS disagrees. DHS is aware that this final rule will result in employee requests for prior approval of outside employment or activities to be reviewed by ethics officials at DHS headquarters and at the components. Based on the experience of DHS ethics officials, a number of these employee requests will involve outside employment or activities that require minimal analysis, are already excluded from the regulatory definition of ''outside employment,'' or are (or will be) addressed in the relevant component-specific instructions or manual. For employee requests that require more detailed analysis by DHS ethics officials, DHS expects the prior approval process to help employees avoid engaging in prohibited outside employment or activities. As a result, DHS employees and ethics officials will encounter fewer actualized conflict situations, which DHS expects will offset any increased initial time investment on the part of DHS ethics officials to process employee requests for prior approval.

C. Comments Regarding Manuals or Instructions on Implementing the Prior Approval Requirement

Comment: One commenter noted that the proposed rule did not discuss the particulars of the publication of a ''manual'' and expressed concern regarding non-publication within the specified timeline.

DHS Response: DHS wishes to clarify that component manuals and instructions governing employee requests for approval of outside employment and activities will be internal DHS documents. In response to this comment, however, this final rule clarifies that the component instructions or manuals will be issued internally within 60 days of the publication of the final rule. Instructions will be issued consistent with each component's procedures for issuing internal instructions or manuals affecting its employees. Further, the regulation as finalized also states that, ''in the absence of a manual or instruction identifying a person designated to act upon a request for approval for outside employment, the Chief Deputy Ethics Official at each agency shall act upon a request.'' The proposed rule already provided instruction on how outside employment requests are to be processed before a specific DHS component has issued its internal instruction or manual.

Comment: One commenter was concerned that subsequent internal

agency instructions may require employees to seek prior approval for all types of outside employment, even when the definition in the rule generally excludes charitable agencies.

DHS Response: DHS notes that the text of 5 CFR 4601.103(c)(2) states that, ''agencies may include in their instructions or manual examples of outside employment or activities that are permissible or prohibited *consistent with 5 CFR part 2635 and this part''* (emphasis added). Accordingly, a DHS component's instructions may not require prior approval for any activities and employment that do not already fall under the regulatory definition of ''outside employment'' and the exclusions in 5 CFR 4601.102(d). For example, because the definition in the rule excludes activities or personal services with non-profit organizations that are non-fiduciary and uncompensated, a DHS component's instructions may not include this type of activity as one requiring prior approval in an agency instruction; to do so would require employees to seek prior approval for employment and activities that are inconsistent with regulatory definition of ''outside employment.'' Moreover, to help ensure consistency with the applicable regulations, the DHS Designated Agency Ethics Official (DAEO) must review and approve the relevant component manuals and instructions prior to issuance.

D. Comments Regarding the Standard of Review of Outside Employment and Activity Requests

Comment: One commenter suggested that DHS adopt the standard that it will approve requests for outside employment unless there is a showing that the activity will involve prohibited conduct.

DHS Response: DHS agrees. This final rule changes the standard in the proposed rule, which had provided that DHS would approve outside employment requests only upon a determination that the activity does not involve prohibited conduct. The final standard requires DHS to grant permission to engage in the activity *unless* the conduct is prohibited by law or regulation, including 5 CFR part 2635 and this part. Considering the rights of employees to engage in activities and employment on their own time within the confines of the law, this revised standard still requires the reviewing official(s) to make an affirmative determination that the proposed activity or employment does or does not create a conflict of interest with the employee's job or otherwise violate the law or ethical standards, so the integrity of the Department's programs will still be protected but the standard will not unduly restrict an employee's ability to participate in outside employment and other activities. This standard more accurately reflects the basis under the OGE Standards for determining whether an outside activity conflicts with an employee's official duties. See generally 5 CFR part 2635, subpart H.

Comment: One commenter suggested that there should be deadlines for DHS to act on outside employment requests.

DHS Response: DHS disagrees. While DHS ethics officials consider the time sensitivities related to any request for ethics advice, these officials must sufficiently develop the facts surrounding each request in order to provide accurate ethics guidance. Setting uniform deadlines as the commenter suggests could hinder the provision of accurate ethics guidance. DHS also disagrees that a request not answered within a specific time frame should be presumed approved. This practice would not best serve the interests of DHS or its employees because potential ethics violations could subject an employee to criminal prosecution or administrative action and may disrupt ongoing operations. An employee who acts in good faith in reliance on an opinion from an agency ethics official, and has made full disclosure of all relevant circumstances, is protected from administrative action, and this reliance may also be a mitigating factor in instances of potential civil or criminal violations. An employee who acts without an opinion from an ethics official in violation of the law is not afforded such protection. 5 CFR 2635.107(b). Accordingly, a standard that would permit an employee to act in the absence of guidance from an ethics official would undermine the purpose of the ethics program and the role of the agency's ethics officials to provide guidance to employees that prevents violations of the ethics laws and regulations.

Comment: One commenter suggested that the rule should contain criteria for approval of outside employment and activities.

DHS Response: DHS notes that the ethics regulations in 5 CFR 2635.802 already contain criteria for approval of outside employment or any other outside activity (and outline the circumstances in which an employee's outside employment or activity conflicts with the employee's official duties).

E. Comments Regarding Outside Employment Restrictions Specific to CBP

Comment: One commenter argued that the proposed rule's provisions specific to CBP would unnecessarily restrict CBP employees from engaging in outside employment or activities. Specifically, the commenter suggested that DHS clarify whether a CBP employee is prohibited from any employment by a company that engages in the listed activities, or only to the extent that the outside employment would relate to the prohibited activity. For example, the commenter inquired whether a CBP employee would be prohibited from outside employment at a law firm that conducts some customs business even if the outside employment activity is unrelated to the law firm's customs business.

DHS Response: DHS disagrees with the commenter's suggestion that the proposed rule would unnecessarily restrict CBP employees from engaging in outside employment or activities. There are certain types of employment and activities that conflict with the official duties of CBP employees and, therefore, CBP employees are prohibited from such outside employment and activities in any circumstance. Accordingly, 5 CFR 4601.104(a)(2) prohibits CBP employees from engaging in employment or business activities related to importing or exporting merchandise or agricultural products, or the entry or departure of persons into or out of the United States.

In addition, there are certain types of employers with which the employment of a CBP employee would create a conflict, regardless of the nature of the employment activity. Thus, 5 CFR 4601.104(a)(1) prohibits a CBP employee from engaging in outside employment activities in support of or on behalf of certain types of entities that generally engage in business related to CBP missions (*e.g.,* customs, immigration, agriculture), even if the CBP employee's actual outside employment activity at that entity would be apparently unrelated to any CBP mission. The rationale behind this latter prohibition is that employment in any capacity with such an entity would expose a CBP employee to an environment in which customs, immigration, and/or agriculture issues are discussed, and also where the employee may be queried or called upon for assistance because of the employee's affiliation with CBP. The potential risk in this environment of intermingling private and Federal interests constitutes a sufficient reason

to restrict such employment in any capacity with these entities engaging in operations regulated by CBP. Finally, we note that the Department of the Treasury supplemental ethics regulation included substantially the same restriction for former Customs Service employees prior to CBP's reorganization under DHS.

Following review of the proposed regulatory text, DHS has included a number of revisions in this final rule. DHS intends the revisions to improve clarity without sacrificing important controls over potentially problematic employee activities.

Comment: One commenter argued that the proposed restriction on CBP employees to privately engage in employment or activities related to the importation or exportation of merchandise is overly broad. Specifically, the commenter argued that the provision would prohibit CBP employees from: (1) Purchasing products online that would be shipped from outside the United States; (2) buying products while on vacation that would be shipped back to the United States; or (3) sending a non-monetary gift to a friend, relative, or charity outside the United States.

DHS Response: DHS does not intend this provision to cover the types of personal transactions highlighted by the commenter. DHS intends the provision to cover outside employment in the nature of conducting transactions for a business purpose, not the personal use of an employee. In response to this comment, DHS has revised the regulatory language in this final rule so that it now includes the word ''business'' to clarify that the restriction does not apply to personal transactions similar to those highlighted by the commenter.

Additionally, in response to this comment, DHS conducted a broader review of the CBP provisions in the regulatory text to determine whether similar clarifications would be appropriate. As a result of that review, this final rule includes another revision to the provision that prohibits CBP employees from engaging in outside employment activities related to agriculture matters. As proposed, the rule would have generally restricted CBP employees from engaging in outside employment or activities with a business or other entity that engages in services related to ''agriculture matters.'' Regarding this regulatory provision, DHS only intends to restrict CBP employees from engaging with businesses or entities that deal with agricultural matters that relate to CBP's mission. To avoid restricting CBP employee involvement in such activities that would not conflict with their official duties or CBP's mission, this final rule includes clarifying language to that effect in the regulatory text.

F. Comments Regarding Outside Employment Restrictions Specific to ICE

Comment: One commenter argued that the proposed restriction on ICE employees to privately engage in employment or activities related to the importation or exportation of merchandise is overly broad. Specifically, the commenter expressed concern that the rule as proposed would prohibit ICE employees from mailing: (1) Gifts to a relative overseas (or receiving gifts from overseas) since the package would require inspection; and (2) merchandise to a buyer overseas after a lawful online auction.

DHS Response: Assuming that the commenter's examples are unrelated to the operation of a business by an employee, DHS does not intend the provision to cover the types of personal transactions highlighted by the commenter. DHS intends the rule to cover outside employment in the nature of conducting business activities—this does not include personal, routine consumer transactions unrelated to the operation of a business. In response to this comment, DHS has revised the regulatory language in this final rule so that it now includes the word ''business,'' to clarify the scope of the restriction.

Additionally, in response to this comment and the CBP-specific comment referenced above, DHS also reviewed the ICE-specific provisions in the regulatory text to determine whether additional clarifications would be appropriate. As a result of that review, this final rule includes revisions in parallel with the CBP-specific revisions described above.

G. Comments Regarding the Requirement To Report Waste, Fraud, Abuse, and Corruption

Comment: One commenter suggested that DHS employees should be required to report not just suspected violations of laws or regulations regarding waste, fraud, abuse, and corruption, but also lawful activities as well that may constitute suspected waste, fraud, abuse, or corruption.

DHS Response: The proposed rule required employees to ''report immediately any suspicions of violations of law or regulation involving Department of Homeland Security programs or operations to appropriate authorities, such as the Office of the Inspector General.'' DHS has revised the final rule to mirror the language in Executive Order 12674 of April 12, 1989 (as modified by Executive Order 12731) and the general principle at 5 CFR 2635.101(b)(11). The final rule requires employees to ''disclose waste, fraud, abuse, and corruption to appropriate authorities, such as the DHS Office of Inspector General.'' DHS emphasizes the responsibility of DHS employees to be stewards of Government funds and to protect the integrity of DHS programs and operations.

Comment: Two commenters suggested that DHS provide greater specificity in the regulations regarding the appropriate authorities to whom employees should report suspected violations.

DHS Response: The NPRM proposed to require employees to report suspected violations to ''appropriate authorities, such as the Office of the Inspector General.'' DHS believes this language provides both sufficient specificity and flexibility to cover the large number of reporting chains of authority throughout DHS. Certain DHS components also maintain internal offices of internal affairs, inspections, audits, or professional responsibility, which would also be appropriate authorities for these purposes.

Comment: One commenter stated that the proposed rule would require employees to have sufficient in-depth knowledge of laws or regulations to render legal determinations on whether violations have occurred. The same commenter suggested that a requirement to report ''suspicions'' creates the potential for abuse and erroneous reporting, and therefore, DHS should consider requiring employees to report information that gives rise to ''probable cause,'' a standard used by law enforcement in certain contexts.

DHS Response: DHS disagrees with both comments. Employees are capable of detecting waste, fraud, abuse, or corruption based on common sense and personal observation. Reporting such suspicions imposes no requirement on an employee to interpret the law or regulations, investigate, or make any determinations on the legal or other substantive merits of a potential allegation. Under the final rule, employees are responsible for alerting the appropriate authorities of a suspected violation. Trained investigators within DHS are able to conduct investigations to determine the merits of employee reports.

Comment: One commenter suggested that there should be a list of the types of alleged fraud, waste, abuse, and corruption that should be reported. Another commenter requested more

specific definitions of the terms ''waste,'' ''fraud,'' ''abuse,'' and ''corruption,'' and questioned whether the requirement to report suspicions of waste applied to *de minimis* forms of waste (*e.g.,* wasting small amounts of office supplies).

DHS Response: Due to the breadth and scope of incidents of possible waste, fraud, abuse, and corruption, it would be impractical to provide a comprehensive list, and it would also serve to limit the incidents to those on the list when other actions may go unreported but still qualify as a violation. As stated above, DHS expects employees to use common sense when considering whether they have observed reportable waste, fraud, abuse, or corruption. Additionally, DHS has issued guidelines to assist employees regarding how, when, and where to report such allegations. An employee who is unsure about whether there is a reporting requirement may consult an agency ethics official or the Department's Office of Inspector General.

Comment: One commenter suggested that the rule should also require an employee to report a new arrest or charge.

DHS Response: This rule deals primarily with outside employment and waste, fraud, abuse, and corruption. Matters such as employee arrest records are personnel matters (*i.e.,* under the Office of Security of the Chief Human Capital Officer) and are outside the scope of this rulemaking.

H. Other Comments

Comment: One commenter suggested that DHS take measures to ensure that there are ethical boundaries on corporations and their level of influence over national policies.

DHS Response: This rule deals primarily with outside employment and waste, fraud, abuse, and corruption. Matters that deal with the ethical boundaries on private corporations and their level of influence over national policies are outside the scope of this rulemaking.

Comment: One commenter suggested that Executive Order 12866 requires DHS to conduct a cost-benefit analysis reviewed by OMB for this rulemaking.

DHS Response: While the NPRM was not identified as a significant regulatory action as defined by section 3(f) of Executive Order 12866, DHS did consider the costs and benefits of this rulemaking. This rule only regulates DHS employees and imposes no direct costs on the private sector. Accordingly, the NPRM certified the proposed rule would not have a significant economic impact on a substantial number of small entities (76 FR 63207).

In addition, DHS does not believe this rulemaking would increase government costs. To the extent that additional prior approval of outside employment activities increases the number of reviews by DHS ethics officials of proposed outside employment, this increased volume is expected to be offset with fewer conflict situations for ethics officials and employees. In summary, this rule only regulates DHS employees, is not expected to increase government costs, and is expected to reduce the number of conflict situations—and therefore, reduce the costs associated with potentially lengthy investigations and corrective actions—within DHS. The rule is also expected to result in substantial additional benefits, including enhanced transparency into prior approval requirements and stronger public confidence in the integrity of DHS programs and operations.

IV. Discussion of Final Rule

Aside from the changes made in response to comments discussed in Section III., this final rule adopts the proposals from the NPRM. The following discussion provides a summary of the provisions in the final rule.

A. 5 CFR 4601.101 General

This section identifies to whom the supplemental regulations apply. It also cross-references to other ethics regulations and guidance applicable to DHS employees—including regulations on financial disclosure, financial interests, and employee responsibilities and conduct—and implementing DHS guidance and procedures issued in accordance with the OGE Standards.

This section further defines the term ''agency designee'' as it appears in 5 CFR 2635.102(b), to identify those persons within DHS who are designated to act on requests and make determinations relating to 5 CFR part 2635 and this part. The section also defines the term ''outside employment'' and lists the types of employment and activities that would require prior approval. It also lists activities for which prior approval is not required, such as the uncompensated activities (other than the reimbursement of expenses) on behalf of a charitable or nonprofit organization that do not involve fiduciary duties and do not relate to the employee's official duties as defined by 5 CFR 2635.807. In addition, this section defines the term ''Chief Deputy Ethics Official'' as the person (or persons) within DHS delegated authority by the DHS Designated Agency Ethics Official (DAEO) to manage and coordinate the ethics programs within DHS's components and offices.

B. 5 CFR 4601.102 Designation of DHS Components as Separate Agencies

This section identifies certain components within DHS as separate agencies for the purposes of the provisions governing prior approval for outside activities, accepting gifts from non-Federal sources, outside teaching, speaking, and writing activities, and issuing prior approval instructions. For those specified purposes, DHS has designated eight DHS components as separate agencies and has designated the remainder of the DHS components as a single agency. For the limited purpose of issuing prior approval instructions, DHS has designated the Office of Inspector General as a separate agency. To avoid confusion when reading this preamble together with the regulatory text, the discussion in this Section IV. will refer to the DHS components as ''agencies,'' consistent with the regulatory text of this final rule.

In addition, paragraph (c) of this section explains the applicability of these requirements to detailed employees within DHS (*i.e.,* an employee from one agency temporarily working for another agency). An employee on detail from his/her employing agency to another agency for a period in excess of 30 calendar days is subject to the supplemental regulations and instructions of the agency to which the employee is detailed rather than the employing agency. For example, if a U.S. Customs and Border Protection (CBP) employee is detailed to U.S. Immigration and Customs Enforcement (ICE) for 60 days, the CBP employee will be subject to ICE's supplemental regulations and instructions during the period of the detail with ICE.

C. 5 CFR 4601.103 Prior Approval for Outside Employment and Activities

This section requires employees to obtain written approval prior to engaging in any outside employment and activities, as defined by the rule. The prior approval requirement is an integral part of DHS's ethics program. The prior approval requirement is necessary to ensure that an employee's participation in certain outside employment does not adversely affect operations within the employing agency or place the employee at risk of violating applicable Federal conduct statutes and regulations. In addition,

prior approval is necessary to avoid the appearance that an outside employment or activity was obtained through a misuse of the employee's official position and to address a number of other potential ethics concerns.

Because DHS provides money in the form of grants and contracts, and engages in enforcement, regulatory, and security functions across a multitude of industry sectors, requiring prior approval is necessary to ensure that the public will have confidence in the integrity of DHS programs and operations. In fulfilling its mission, DHS would be hindered if members of the public did not have confidence in DHS employees' ability to act impartially while performing their official duties.

Section 4601.103(a) requires employees to obtain approval from the DHS employee's agency for certain outside employment and activities, with or without compensation, unless the employing agency issues an instruction or manual exempting such outside employment or activities. Section 4601.103(b) describes the standard the agency must follow for approval of requests for outside employment and activities. Section 4601.103(c) describes the responsibilities of DHS agencies for issuing instructions to employees on how to request prior approval of outside employment and activities.

Because Special Government Employees may serve at DHS only for a limited time during a 365-day period and for a limited purpose (such as service on a Federal Advisory Committee or service as a consultant), the nature of their service to DHS does not require that they be subject to the prior approval requirement for outside employment and activities or the additional restrictions applicable to CBP, Federal Emergency Management Agency (FEMA), or ICE employees described below.

D. 5 CFR 4601.104 Additional Rules for CBP Employees

This section prohibits CBP employees, except Special Government Employees, from being employed by, or from engaging in, activities in support of or on behalf of, an entity that engages in a trade or business performing specified customs, immigration, or agriculture activities or services.

This section also requires a CBP employee with a spouse, a relative who is a financial dependent or household member, or another household member or financial dependent who is employed in a position that the CBP employee is prohibited from occupying to notify his or her agency designee in writing of the above-described employment circumstances. In addition, the employee is disqualified from participating in an official capacity in any particular matter involving such person or the person's employer unless authorized to do so by the agency designee, with the advice and clearance of the CBP Chief Deputy Ethics Official.

E. 5 CFR 4601.105 Additional Rules for FEMA Employees

This section prohibits certain FEMA employees, except Special Government Employees, both intermittent and non-intermittent, from being employed by a FEMA contractor. It also provides the procedures for requesting a waiver of this restriction.

F. 5 CFR 4601.106 Additional Rules for ICE Employees

This section prohibits ICE employees, except Special Government Employees, from being employed by, or from engaging in activities in support of or on behalf of, an entity that engages in a trade or business performing specified customs, immigration, or agriculture activities or services. This section also requires an ICE employee with a spouse, a relative who is a financial dependent or household member, or another household member or financial dependent who is employed in a position that the ICE employee is prohibited from occupying to notify his or her agency designee in writing of the above-described employment circumstances. In addition, the employee is disqualified from participating in an official capacity in any particular matter involving such person or the person's employer unless authorized to do so by the agency designee, with the advice and clearance of the ICE Chief Deputy Ethics Official.

G. 5 CFR 4601.107 Prohibited Purchases of Property

This section prohibits the purchase by employees of certain Government property under the control of, seized by, forfeited, under the direction of, or incident to, the employee's agency. It also sets forth the exception and waiver provisions under this section.

H. 5 CFR 4601.108 Reporting Waste, Fraud, Abuse, and Corruption

This section requires all DHS employees to report allegations of waste, fraud, abuse, or corruption to the appropriate authorities within DHS, such as the DHS Office of Inspector General or the appropriate Office of Internal Affairs or Office of Professional Responsibility. Employee responsibilities for reporting suspicions of violations of law or regulation to the DHS Office of Inspector General or similar office are found in related DHS and agency instructions. This regulation complements but does not displace those responsibilities.

V. Regulatory Analyses

A. Executive Orders 12866 and 13563

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. Accordingly, the Office of Management and Budget has not reviewed it. As discussed previously, this rule only regulates DHS employees and consequently does not impose any additional direct costs on the private sector. In addition, DHS does not believe this rulemaking would increase government costs. To the extent that additional prior approval of outside employment activities increases the number of reviews by DHS ethics officials of proposed outside employment, this increased volume is expected to be offset with fewer conflict situations—and therefore, reduce the costs associated with potentially lengthy investigations and corrective actions—within DHS. The rule is also expected to result in substantial additional benefits, including enhanced transparency into prior approval requirements and stronger public confidence in the integrity of DHS programs and operations.

B. Small Entities/Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), DHS has considered whether this rule will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. DHS certifies that this rule would not have a significant economic impact on a substantial number of small entities, because it would only directly affect DHS employees.

List of Subjects in 5 CFR Part 4601

Conflict of interests, Government employees.

For the reasons set forth in the preamble, DHS, with the concurrence of the U.S. Office of Government Ethics, is

amending title 5 of the Code of Federal Regulations by adding chapter XXXVI, consisting of part 4601, to read as follows:

Title 5—Administrative Personnel

CHAPTER XXXVI—DEPARTMENT OF HOMELAND SECURITY

PART 4601—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF HOMELAND SECURITY

Sec.
4601.101 General.
4601.102 Designation of DHS components as separate agencies.
4601.103 Prior approval for outside employment and activities.
4601.104 Additional rules for U.S. Customs and Border Protection (CBP) employees.
4601.105 Additional rules for Federal Emergency Management Agency (FEMA) employees.
4601.106 Additional rules for U.S. Immigration and Customs Enforcement (ICE) employees.
4601.107 Prohibited purchases of property.
4601.108 Reporting waste, fraud, abuse, and corruption.

Authority: 5 U.S.C. 301, 7301, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.203(a), 2635.403(a), 2635.702, 2635.703, 2635.802(a), 2635.803, 2635.807(a)(2)(ii).

§ 4601.101 General.

(a) *Applicability.* In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the Department of Homeland Security (DHS) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch (OGE Standards) in 5 CFR part 2635.

(b) *Cross-references to other ethics regulations and guidance.* In addition to the OGE Standards in 5 CFR part 2635 and this part, DHS employees are subject to the Executive branch financial disclosure regulations contained in 5 CFR parts 2634, the Executive branch financial interests regulations contained in 5 CFR part 2640, the Executive branch employee responsibilities and conduct regulations contained in 5 CFR part 735, and DHS guidance and procedures on employee conduct, including those issued under paragraph (c) of this section.

(c) *DHS agency instructions.* Prior to issuance, the DHS Designated Agency Ethics Official (DAEO) must approve any internal instructions or manuals that DHS agencies, as designated in § 4601.102 of this part, issue to provide explanatory ethics-related guidance and to establish procedures necessary to implement 5 CFR part 2635 and this part.

(d) *Definitions*—(1) *Agency designee* as used in this part and in 5 CFR part 2635 means an employee who has been identified in an instruction or manual issued by an agency under paragraph (c) of this section to make a determination, give an approval, or take other action required or permitted by this part or 5 CFR part 2635 with respect to another employee.

(2) *Outside employment or activity* as used in this part means any form of non-Federal employment, business activity, business relationship, or other covered activity as identified in this section, involving the provision of personal services by the employee, whether or not for compensation. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, advisor, consultant, contractor, general partner, trustee, or teacher. There are several exclusions and limitations to the definition as described immediately below.

(i) *Speaking and writing activities.* Outside employment generally does not include speaking and writing activities so long as they are not combined with the provision of other services that do fall within this definition, such as the practice of law and other outside employment or activities covered by paragraph (d)(2)(ii)(A) through (D) of this section. Employees who wish to engage in compensated speaking or writing in a personal capacity are subject to the provisions of 5 CFR 2635.807 and are encouraged to seek additional guidance from an agency ethics official.

(ii) *Nonprofit and other organizations.* Outside employment does not include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organization, unless the participation involves:

(A) Acting in a fiduciary capacity,

(B) Providing professional services for compensation,

(C) Rendering advice for compensation other than the reimbursement of expenses, or

(D) An activity relating to the employee's official duties as defined in 5 CFR 2635.807(a)(2)(i)(A) through (E), to include activities relating to any ongoing or announced policy, program, or operation of the employee's agency as it is defined at 5 CFR 4601.102.

(iii) *The Hatch Act.* Outside employment does not include activities otherwise permissible by the Hatch Act and related regulations relating to partisan political activities.

(iv) *Military service.* Outside employment does not include state or Federal military service protected by the Uniformed Services Employment and Reemployment Rights Act.

(v) *Additional restrictions for certain employees.* Employees of the Federal Emergency Management Agency, U.S. Customs and Border Protection, and U.S. Immigration and Customs Enforcement should also refer to the agency-specific provisions in this part relating to outside employment.

(3) *Chief Deputy Ethics Official* as used in this part means the persons delegated authority by the DHS DAEO to manage and coordinate the ethics programs within the DHS components pursuant to the DAEO's authority in 5 CFR 2638.204.

(4) ''Special Government Employee'' as used in this part has the same meaning as in 18 U.S.C. 202(a).

§ 4601.102 Designation of DHS components as separate agencies.

(a) Pursuant to 5 CFR 2635.203(a), DHS designates each of the following components as a separate agency for purposes of the regulations in subpart B of 5 CFR part 2635 governing gifts from outside sources, including determining whether the donor of a gift is a prohibited source under 5 CFR 2635.203(d); for purposes of the regulations in § 4601.103(c) of this part governing the establishment of procedures for obtaining prior approval for outside employment; for purposes of the regulations in § 4601.103(c) of this part governing the designation of officials; and for the purposes of the regulations in 5 CFR 2635.807 governing teaching, speaking, and writing:

(1) Federal Emergency Management Agency (FEMA);

(2) Federal Law Enforcement Training Center;

(3) Transportation Security Administration;

(4) U.S. Citizenship and Immigration Services;

(5) U.S. Coast Guard;

(6) U.S. Customs and Border Protection (CBP);

(7) U.S. Immigration and Customs Enforcement (ICE); and

(8) U.S. Secret Service.

(b)(1) DHS will treat employees of DHS components not designated as separate agencies in paragraph (a) of this section, including employees of the Office of the Secretary, as employees of the remainder of DHS. For purposes of the regulations in subpart B of 5 CFR part 2635 governing gifts from outside sources, including determining whether

the donor of a gift is a prohibited source under 5 CFR 2635.203(d); for purposes of the regulations in § 4601.103(c) of this part governing the establishment of procedures for obtaining prior approval for outside employment; for purposes of the regulations in § 4601.103(c) of this part governing the designation of officials; and for purposes of the regulations in 5 CFR 2635.807 governing teaching, speaking, and writing, DHS will treat the remainder of DHS as a single agency that is separate from the components designated as separate agencies in paragraph (a) of this section.

(2) For the limited purposes of establishing procedures for obtaining prior approval for outside employment and designating officials pursuant to § 4601.103(c) of this part, DHS will treat the DHS Office of Inspector General as a separate agency.

(c) An employee on detail from his or her employing agency to another agency for a period in excess of 30 calendar days is subject to the supplemental regulations and instructions of the agency to which he is detailed rather than his or her employing agency.

§ 4601.103 Prior approval for outside employment and activities.

(a) *General requirement for approval.* A DHS employee, other than a Special Government Employee, shall obtain prior written approval before engaging in any outside employment or activity (as defined by § 4601.101 of this part), with or without compensation, unless the employee's agency has exempted the outside employment or activity (or category or class of outside employment or activity) from this requirement by an instruction or manual issued pursuant to paragraph (c) of this section.

(b) *Standard for approval.* Approval shall be granted unless it has been determined that the outside employment is expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635 and this part.

(c) *Agency responsibilities.* (1) With the approval of the DHS DAEO, each agency as set forth in § 4601.102 of this part shall issue internal instructions or a manual governing the submission of requests for approval of outside employment and activities and designating appropriate officials to act on such requests not later than May 5, 2016.

(2) The instructions or manual may exempt particular outside employment or activities (or categories or classes of outside employment or activities) from the prior approval requirement of this section if such outside employment or activities would generally be approved and are not likely to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635 and this part. Agencies may include in their instructions or manual examples of outside employment or activities that are permissible or prohibited consistent with 5 CFR part 2635 and this part.

(3) In the absence of a manual or instruction identifying a person designated to act upon a request for approval for outside employment, the Chief Deputy Ethics Official at each agency shall act upon a request.

§ 4601.104 Additional rules for U.S. Customs and Border Protection (CBP) employees.

The following rules apply to employees of CBP, except Special Government Employees, and are in addition to §§ 4601.101 through 4601.103 and §§ 4601.107 and 4601.108 of this part:

(a) *Prohibitions on outside employment and activities.* (1) No CBP employee shall be employed by or engage in activities in support of or on behalf of a customs broker; international carrier; bonded warehouse; foreign trade zone as defined in 15 CFR 400.2; cartman; law firm engaged in the practice of customs, immigration, or agriculture law; entity engaged in the enforcement of customs, immigration, or agriculture law; importation or exportation department of a business; or business or other entity which engages in services related to agriculture matters where such agriculture matters relate to CBP's mission.

(2) No CBP employee shall, in any private capacity, engage in employment or a business activity related to the importation or exportation of merchandise or agricultural products requiring inspection (other than a personal, routine consumer transaction unrelated to the operation of a business), or the entry of persons into or departure of persons from the United States.

(3) No CBP employee shall engage in outside employment or activities for a non-profit or other organization that involve assisting persons with matters related to the entry of persons or merchandise into or the departure of persons or merchandise from the United States, or matters related to obtaining temporary or permanent residency, citizenship, adjustment of status, or other immigration-related benefits.

(b) *Restrictions arising from employment of the spouse, relatives, members of the employee's household, or financial dependents.* (1) A CBP employee shall notify in writing his or her agency designee when any of the following circumstances exist:

(i) The spouse of the CBP employee is employed in a position that the CBP employee would be prohibited from occupying by paragraph (a) of this section;

(ii) A relative (as defined in 5 CFR 2634.105(o)), who is financially dependent on or who is a member of the household of the CBP employee, is employed in a position that the CBP employee would be prohibited from occupying by paragraph (a) of this section; or

(iii) Any person, other than the spouse or relative of the CBP employee, who is financially dependent on or who is a member of the household of the CBP employee, is employed in a position that the CBP employee would be prohibited from occupying by paragraph (a) of this section.

(2) The CBP employee shall be disqualified from participating in an official capacity in any particular matter involving the individuals identified in paragraph (b)(1) of this section, or the employer thereof, unless the agency designee, with the advice and clearance of the CBP Chief Deputy Ethics Official, authorizes the CBP employee to participate in the matter using the standard in 5 CFR 2635.502(d), or the waiver provisions in 18 U.S.C. 208(b)(1), as appropriate.

§ 4601.105 Additional rules for Federal Emergency Management Agency (FEMA) Employees.

The following rules apply to employees of FEMA, except Special Government Employees, and are in addition to §§ 4601.101 through 4601.103 and 4601.107 and 4601.108 of this part:

(a) *Prohibited outside employment (intermittent employees).* Except as provided in paragraph (c) of this section, no intermittent FEMA employees hired under the authority of 42 U.S.C. 5149, which includes all Disaster Assistance Employees or Stafford Act Employees and Cadre of On-Call Response Employees, shall be employed by a current FEMA contractor while a FEMA employee, whether or not they are on activated status.

(b) *Prohibited outside employment (non-intermittent employees).* Except as provided in paragraph (c) of this section, no non-intermittent FEMA employee shall be employed by a current FEMA contractor.

(c) *Waivers.* The FEMA Chief Deputy Ethics Official or his or her agency designee may grant a written waiver of any prohibition in paragraphs (a) and (b) of this section with the DAEO's

concurrence. To grant the waiver, the FEMA Chief Deputy Ethics Official or his or her agency designee must determine that the waiver is consistent with 5 CFR part 2635 and not otherwise prohibited by law; that the prohibition is not necessary to avoid the appearance of misuse of position or loss of impartiality; and that the waiver will not undermine the public's confidence in the employee's impartiality and objectivity in administering FEMA programs. A waiver under this paragraph may impose appropriate conditions, such as requiring execution of a written disqualification statement.

§ 4601.106 Additional rules for U.S. Immigration and Customs Enforcement (ICE) employees.

The following rules apply to employees of ICE, except Special Government Employees, and are in addition to §§ 4601.101 through 4601.103 and 4601.107 and 4601.108 of this part:

(a) *Prohibitions on outside employment and activities.* (1) No ICE employee shall be employed by or engage in activities in support of or on behalf of a customs broker; international carrier; bonded warehouse; foreign trade zone as defined in 15 CFR 400.2; cartman; law firm engaged in the practice of customs, immigration or agriculture law; entity engaged in the enforcement of customs, immigration or agriculture law; importation department of a business; or business or other entity which engages in agriculture matters where such agriculture matters relate to ICE's mission.

(2) No ICE employee shall, in any private capacity, engage in employment or a business activity related to the importation or exportation of merchandise or agricultural products requiring inspection (other than a personal, routine consumer transaction unrelated to the operation of a business), or the entry of persons into or the departure of persons from the United States.

(3) No ICE employee shall engage in outside employment or activities for a non-profit or other organization that involve assisting persons with matters related to the entry of persons or merchandise into or the departure of persons or merchandise from the United States, or matters related to obtaining temporary or permanent residency, citizenship, adjustment of status, or other immigration-related benefits.

(b) *Restrictions arising from employment of spouse, relatives, members of the employee's household, or financial dependents.* (1) An ICE employee shall notify in writing his or her agency designee when any of the following circumstances exist:

(i) The spouse of the ICE employee is employed in a position that the ICE employee would be prohibited from occupying by paragraph (a) of this section;

(ii) A relative (as defined in 5 CFR 2634.105(o)) who is financially dependent on or who is a member of the household of the ICE employee is employed in a position that the ICE employee would be prohibited from occupying by paragraph (a) of this section; or

(iii) Any person, other than the spouse or relative of the ICE employee, who is financially dependent on or who is a member of the household of the ICE employee, is employed in a position that the ICE employee would be prohibited from occupying by paragraph (a) of this section.

(2) The ICE employee shall be disqualified from participating in an official capacity in any particular matter involving the individuals described in paragraph (b)(1) of this section or the employer thereof, unless the agency designee, with the advice and clearance of the ICE Chief Deputy Ethics Official, authorizes the ICE employee to participate in the matter using the standard in 5 CFR 2635.502(d), or the waiver provisions in 18 U.S.C. 208(b)(1), as appropriate.

§ 4601.107 Prohibited purchases of property.

(a) *General prohibition.* Except as provided in paragraph (c) of this section, no DHS employee may purchase, directly or indirectly, property that is:

(1) Owned by the Federal Government and under the control of the employee's agency, unless the sale of the property is being conducted by the General Services Administration; or

(2) Seized or forfeited under the direction or incident to the functions of the employee's agency.

(b) *Designated separate components.* For purposes of this section, the employee's agency is the relevant separate agency component as set forth in § 4601.102 of this part.

(c) *Waiver.* Employees may make a purchase prohibited by paragraph (a) of this section where a written waiver of the prohibition is issued in advance by the agency designee with the clearance of the DAEO or his or her designee. A waiver may only be granted if it is not otherwise prohibited by law or regulation and the purchase of the property will not cause a reasonable person with knowledge of the particular circumstances to question the employee's impartiality, or create the appearance that the employee has used his or her official position or nonpublic information for his or her personal gain.

§ 4601.108 Reporting waste, fraud, abuse, and corruption.

Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities, such as the DHS Office of Inspector General.

Jeh Charles Johnson,

Secretary.

Walter M. Shaub, Jr.,

Director, U.S. Office of Government Ethics.

[FR Doc. 2016–01318 Filed 2–4–16; 8:45 am]

BILLING CODE 9110–9B–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 339

RIN 3064–AE27

Loans in Areas Having Special Flood Hazards

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to the final regulations which were published in the **Federal Register** of Tuesday, July 21, 2015 (80 FR 43216). The regulations related to Loans in Areas Having Special Flood Hazards.

DATES: Effective February 5, 2016.

FOR FURTHER INFORMATION CONTACT: Navid Choudhury, Counsel, Consumer Compliance Section, Legal Division, (202) 898–6526 or *nchoudhury@fdic.gov;* or John Jackwood, Senior Policy Analyst, Division of Depositor and Consumer Protection, (202) 898–3991or *jjackwood@fdic.gov.*

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction implement certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 and the Homeowner Flood Insurance Affordability Act of 2014.

Need for Correction

As published, the final regulations contain an error which may prove to be misleading and needs to be clarified.

List of Subjects in 12 CFR Part 339

Flood insurance, Reporting and recordkeeping requirements, Savings associations.

Accordingly, 12 CFR part 339 is corrected by making the following amendments:

PART 339—LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

■ 1. The authority citation for part 339 is added to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1819 (Tenth), 5412(b)(2)(C) and 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

■ 2. Revise the definition of ''FDIC-supervised institution'' in § 339.2 to read as follows:

§ 339.2 Definitions.

* * * * *

FDIC-supervised institution means any insured depository institution for which the Federal Deposit Insurance Corporation is the appropriate Federal banking agency pursuant to section 3(q) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(q).

* * * * *

Dated: February 2, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–02236 Filed 2–4–16; 8:45 am]

BILLING CODE 6714–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA–2013–0061]

RIN 0960–AH64

Returning Evidence at the Appeals Council Level

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: This final rule adopts the notice of proposed rulemaking (NPRM) that we published in the **Federal Register** on October 21, 2015. This final rule revises our rules regarding returning evidence at the Appeals Council (AC) level. Under this final rule, the AC will no longer return additional evidence it receives when the AC determines the additional evidence does not relate to the period on or before the date of the administrative law judge (ALJ) decision.

DATES: *Effective Date:* This final rule is effective February 5, 2016.

FOR FURTHER INFORMATION CONTACT: Maren Weight, Office of Appellate Operations, Social Security Administration, 5107 Leesburg Pike, Falls Church, VA 22041, 703–605–7100. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: This final rule adopts the NPRM that we published in the **Federal Register** on October 21, 2015.[1]

Background

In the NPRM, we provided a 30-day comment period, which ended on November 20, 2015. We received no comments. We explained our reasons for proposing the rule which we are now adopting as a final rule in the preamble to the NPRM (80 FR at 63718–63719), and we incorporate that discussion here.

Regulatory Procedures

Good Cause for Effective Date

We find good cause for dispensing with the 30-day delay in the effective date of this final rule. 5 U.S.C. 553(d)(3). For the reasons discussed in the preamble to the NPRM, we are making a minor change to our current rules by discontinuing the practice of having the AC return additional evidence that it receives when the AC determines the additional evidence does not relate to the period on or before the date of the ALJ's decision. We now use many electronic services that make the practice of returning evidence unnecessary. For example, we now scan most of the medical evidence into the electronic claim(s) file or appointed representatives submit it through our Electronic Records Express system. This technology immediately uploads records into a claimant's electronic folder, making the records available for review in real time. As a result, it is neither administratively efficient nor cost effective for us to print out documents that have been submitted to us electronically by a claimant or appointed representative in order to return them to the claimant.

The change we are making in this final rule will allow us to better utilize our limited administrative resources. For these reasons, we find that it is unnecessary and contrary to the public interest to delay the effective date of our final rule.

Executive Order 12866 as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866 as supplemented by Executive Order 13563. Thus, OMB did not review the final rule.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities because it applies to individuals only. Thus, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

These Final Rules do not create any new or affect any existing collections and, therefore, do not require Office of Management and Budget approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; and 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure; Blind; Disability benefits; Old-Age, Survivors, and Disability Insurance; Reporting and recordkeeping requirements; Social Security.

20 CFR Part 416

Administrative practice and procedure; Aged, Blind, Disability benefits, Public Assistance programs; Reporting and recordkeeping requirements; Supplemental Security Income (SSI).

Carolyn W. Colvin,

Acting Commissioner of Social Security.

For the reasons set forth in the preamble, we amend 20 CFR chapter III, part 404 and part 416, as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart J—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

■ 1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 204(f), 205(a)–(b), (d)–(h), and (j), 221, 223(i), 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a)–(b), (d)–(h), and (j), 421, 423(i), 425, and 902(a)(5)); sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–

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[1] *http://www.gpo.gov/fdsys/pkg/FR-2015-10-21/pdf/2015-26747.pdf*

(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. In § 404.976, revise paragraph (b)(1) to read as follows:

§ 404.976 Procedures before Appeals Council on review.

* * * * *

(b) * * * (1) The Appeals Council will consider all the evidence in the administrative law judge hearing record as well as any new and material evidence submitted to it that relates to the period on or before the date of the administrative law judge hearing decision. If you submit evidence that does not relate to the period on or before the date of the administrative law judge hearing decision, the Appeals Council will explain why it did not accept the additional evidence and will advise you of your right to file a new application. The notice will also advise you that if you file a new application within 6 months after the date of the Appeals Council's notice, your request for review will constitute a written statement indicating an intent to claim benefits in accordance with § 404.630. If you file a new application within 6 months of the date of this notice, we will use the date of the request for review as the filing date for your application.

* * * * *

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart N—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

■ 3. The authority citation for subpart N of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 4. In § 416.1476, revise paragraph (b)(1) to read as follows:

§ 416.1476 Procedures before Appeals Council on review.

* * * * *

(b) * * * (1) In reviewing decisions based on an application for benefits, the Appeals Council will consider the evidence in the administrative law judge hearing record as well as any new and material evidence submitted to it that relates to the period on or before the date of the administrative law judge hearing decision. If you submit evidence that does not relate to the period on or before the date of the administrative law judge hearing decision, the Appeals Council will explain why it did not accept the additional evidence and will advise you of your right to file a new application. The notice will also advise you that if you file a new application within 60 days after the date of the Appeals Council's notice, your request for review will constitute a written statement indicating an intent to claim benefits in accordance with § 416.340. If you file a new application within 60 days of the date of this notice, we will use the date of the request for review as the filing date for your application.

* * * * *

[FR Doc. 2016–02267 Filed 2–4–16; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–421F]

Schedules of Controlled Substances: Temporary Placement of the Synthetic Cannabinoid MAB-CHMINACA Into Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final order.

SUMMARY: The Administrator of the Drug Enforcement Administration is issuing this final order to temporarily schedule the synthetic cannabinoid *N*-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1*H*-indazole-3-carboxamide (common names, MAB-CHMINACA and ADB-CHMINACA), and its optical, positional, and geometric isomers, salts, and salts of isomers into schedule I pursuant to the temporary scheduling provisions of the Controlled Substances Act. This action is based on a finding by the Administrator that the placement of this synthetic cannabinoid into schedule I of the Controlled Substances Act is necessary to avoid an imminent hazard to the public safety. As a result of this order, the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances will be imposed on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis, or possess), or propose to handle, MAB-CHMINACA.

DATES: This final order is effective February 5, 2016.

FOR FURTHER INFORMATION CONTACT: Barbara J. Boockholdt, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION:

Legal Authority

The Drug Enforcement Administration (DEA) implements and enforces titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. Titles II and III are referred to as the ''Controlled Substances Act'' and the ''Controlled Substances Import and Export Act,'' respectively, and are collectively referred to as the ''Controlled Substances Act'' or the ''CSA'' for the purpose of this action. 21 U.S.C. 801–971. The DEA publishes the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR), chapter II. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while ensuring an adequate supply is available for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

Under the CSA, every controlled substance is classified into one of five schedules based upon its potential for abuse, its currently accepted medical use in treatment in the United States, and the degree of dependence the drug or other substance may cause. 21 U.S.C. 812. The initial schedules of controlled substances established by Congress are found at 21 U.S.C. 812(c), and the current list of all scheduled substances is published at 21 CFR part 1308.

Section 201 of the CSA, 21 U.S.C. 811, provides the Attorney General with the authority to temporarily place a substance into schedule I of the CSA for two years without regard to the requirements of 21 U.S.C. 811(b) if she finds that such action is necessary to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h)(1). In addition, if proceedings to control a substance are initiated under 21 U.S.C. 811(a)(1), the Attorney General may extend the temporary scheduling for up to one year. 21 U.S.C. 811(h)(2).

Where the necessary findings are made, a substance may be temporarily scheduled if it is not listed in any other schedule under section 202 of the CSA, 21 U.S.C. 812, or if there is no exemption or approval in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act

(FDCA), 21 U.S.C. 355. 21 U.S.C. 811(h)(1). The Attorney General has delegated her authority under 21 U.S.C. 811 to the Administrator of the DEA. 28 CFR 0.100.

Background

Section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), requires the Administrator to notify the Secretary of the Department of Health and Human Services (HHS) of the Administrator's intention to temporarily place a substance into schedule I of the CSA.[1] The Administrator transmitted the notice of intent to place *N*-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1*H*-indazole-3-carboxamide (hereinafter referred to as MAB-CHMINACA) into schedule I on a temporary basis to the Assistant Secretary by letter dated May 14, 2015. The Assistant Secretary responded to this notice by letter dated June 3, 2015, and advised that based on review by the Food and Drug Administration (FDA), there are currently no investigational new drug applications or approved new drug applications for MAB-CHMINACA. The Assistant Secretary also stated that the HHS had no objection to the temporary placement of MAB-CHMINACA into schedule I of the CSA. The DEA has taken into consideration the Assistant Secretary's comments. MAB-CHMINACA is not currently listed in any schedule under the CSA, and no exemptions or approvals are in effect for MAB-CHMINACA under section 505 of the FDCA. 21 U.S.C. 355. The DEA has found that the control of MAB-CHMINACA in schedule I on a temporary basis is necessary to avoid an imminent hazard to public safety, and as required by 21 U.S.C. 811(h)(1)(A), a notice of intent to temporarily schedule MAB-CHMINACA was published in the **Federal Register** on September 16, 2015. 80 FR 55565.

To find that placing a substance temporarily into schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the Administrator is required to consider three of the eight factors set forth in section 201(c) of the CSA, 21 U.S.C. 811(c): The substance's history and current pattern of abuse; the scope, duration and significance of abuse; and what, if any, risk there is to the public health. 21 U.S.C. 811(h)(3). Consideration of these factors includes actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution. 21 U.S.C. 811(h)(3).

A substance meeting the statutory requirements for temporary scheduling may only be placed in schedule I. 21 U.S.C. 811(h)(1). Substances in schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. 21 U.S.C. 812(b)(1).

Available data and information for MAB-CHMINACA, summarized below, indicate that this synthetic cannabinoid (SC) has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. The DEA 3-Factor analysis and the Assistant Secretary's June 3, 2015, letter are available in their entirety under the tab ''Supporting Documents'' of the public docket of this action at *www.regulations.gov* under Docket Number DEA–421.[2]

Synthetic Cannabinoids

Synthetic cannabinoids (SCs) are substances synthesized in laboratories that mimic the biological effects of delta-9-tetrahydrocannabinol (THC), the main psychoactive ingredient in marijuana. It is believed SCs were first introduced into the designer drug market in several European countries as ''herbal incense'' before the initial encounter in the United States by U.S. Customs and Border Protection (CBP) in November 2008. From 2009 to present, misuse of SCs has increased in the United States with law enforcement encounters describing plant material laced with SCs intended for human consumption. It has been demonstrated that the substances and the associated designer products are abused for their psychoactive properties. With many generations of SCs being encountered since 2009, MAB-CHMINACA is one of the latest, and based upon reports from public health sources and law enforcement, the misuse and abuse of this substance is negatively impacting the public health and communities.

The designer drug products laced with SCs, including MAB-CHMINACA, are often sold under the guise of ''herbal incense'' or ''potpourri,'' use various product names, and are routinely labeled ''not for human consumption.'' Additionally, these products are marketed as a ''legal high'' or ''legal alternative to marijuana'' and are readily available over the Internet, in head shops, and sold in convenience stores. There is an incorrect assumption that these products are safe, and that labeling these products as ''not for human consumption'' is a legal defense to criminal prosecution.

MAB-CHMINACA is an SC that has pharmacological effects similar to the schedule I hallucinogen THC and other temporarily and permanently controlled schedule I substances. MAB-CHMINACA has been shown to cause severe toxicity and adverse health effects following ingestion, including seizures, excited delirium, cardiotoxicity and death. With no approved medical use and limited safety or toxicological information, MAB-CHMINACA has emerged on the illicit drug market and is being abused for its psychoactive properties.

Factor 4. History and Current Pattern of Abuse

SCs were first encountered by CBP within the United States in November 2008. Since then, the popularity of SCs and their associated products has increased steadily as evidenced by law enforcement seizures, public health information, and media reports. Despite multiple administrative and legislative actions to place SCs found on the illicit market into schedule I of the CSA, new generations of SCs intended to circumvent current law continue to be encountered with serious outcomes. Traffickers of these dangerous substances continue to attempt to skirt the law even after multiple control actions demonstrating a lack of regard for public health and safety. MAB-CHMINACA is an SC that was encountered following the hospitalization of 125 individuals around the Baton Rouge, Louisiana area in October 2014 (*see* factor 6 of the DEA 3-Factor). Since that time, multiple overdoses and deaths involving MAB-CHMINACA have been reported. For example, overdose clusters attributed to MAB-CHMINACA have been reported in Shreveport, Louisiana; Bryan, Texas; Beaumont, Texas; Hampton, Virginia; Hagerstown, Maryland; and multiple cities in the State of Mississippi (*see* factor 6 of the DEA 3-Factor).

[1] As set forth in a memorandum of understanding entered into by the Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA), the FDA acts as the lead agency within the HHS in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518, Mar. 8, 1985. The Secretary of the HHS has delegated to the Assistant Secretary for Health of the HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993. Accordingly, all subsequent references to ''Secretary'' have been replaced with ''Assistant Secretary.''

[2] Although the published notice of intent stated that such items had been placed into the docket on regulations.gov, the Administration discovered in preparing this final order that they had in fact not been posted. However, those documents were available for review at the DEA. The DEA posted the cited analysis and letter to regulations.gov upon discovery of the omission.

Specifically, in April 2015, the largest nationwide outbreak involving SCs was reported by multiple news outlets. In addition, State public health entities have collectively reported over 2,000 overdoses and at least 33 deaths across at least 11 States attributed to the misuse of SCs. Of these overdoses and deaths, currently available toxicology results have determined that a number of overdoses from this most recent cluster were connected to the ingestion of MAB-CHMINACA (*see* factor 6 of the DEA 3-Factor).

On April 29, 2015, the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) reported multiple outbreaks of intoxications within the United States resulting from the ingestion of products believed to contain SCs. EMCDDA further reported that MAB-CHMINACA had been implicated in at least some of those cases. EMCDDA also reported on two deaths involving MAB-CHMINACA, one in Hungary and the other in Japan.

A major concern, as reiterated by public health officials and medical professionals, remains the targeting and direct marketing of SCs and SC-containing products to adolescents and youth. This is supported by law enforcement encounters and reports from emergency departments; however, all age groups have been reported by the media as abusing these substances and related products. Individuals, including minors, are purchasing SCs from the Internet, gas stations, convenience stores, and head shops.

Smoking mixtures of these substances for the purpose of achieving intoxication have resulted in numerous emergency department visits and calls to poison control centers. As reported by the American Association of Poison Control Centers (AAPCC), adverse effects including severe agitation, anxiety, racing heartbeat, high blood pressure, nausea, vomiting, seizures, tremors, intense hallucinations, psychotic episodes, suicide, and other harmful thoughts and/or actions can occur following ingestion of SCs. Presentations at emergency departments directly linked to the abuse of MAB-CHMINACA have resulted in similar symptoms, including severe agitation, seizures and/or death (*see* factor 6 of DEA 3-Factor).

As discussed previously, it is believed most abusers of SCs or SC-related products smoke the product following application to plant material. Until recently, this was the preferred route of administration. Law enforcement has also begun to encounter new variations of SCs in liquid form. It is believed abusers have been applying the liquid to hookahs and ''e-cigarettes,'' which allow the user to administer a vaporized liquid that can be inhaled.

Factor 5. Scope, Duration and Significance of Abuse

Following multiple scheduling actions designed to safeguard the public from the adverse effects and safety issues associated with SCs, encounters by law enforcement and health care professionals indicate the continued abuse of these substances and their associated products. With each action to control SCs, illicit drug manufacturers and suppliers are adapting at an alarmingly quick pace to design new SCs in an attempt to circumvent regulatory controls. Even before DEA temporarily controlled the latest group of SCs, AB-CHMINACA, AB-PINACA, and THJ-2201, on January 30, 2015, MAB-CHMINACA was already available on the illicit market and responsible for overdoses and deaths (*see* factor 6 of DEA 3-Factor). From October 2014 to the present, multiple overdoses and deaths have been attributed to the abuse of MAB-CHMINACA.

On October 29, 2014, the State of Louisiana issued an emergency rule adding *N*-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1*H*-indazole-3-carboxamide (MAB-CHMINACA) to the list of schedule I Controlled Dangerous Substances section of the Louisiana Administrative Code (La. Admin. Code tit. 46, § 2704 (2014)), upon the determination that it had a high potential for abuse and should be scheduled as a controlled substance to avoid an imminent peril to the public health, safety, and welfare.

Poison control centers continue to report the abuse of SCs and their associated products. These substances remain a threat to both the short- and long-term public health and safety. Exposures to SCs were first reported to the AAPCC in 2011. The most alarming report via the AAPCC was published on April 23, 2015. The AAPCC reported a dramatic spike in poison center exposure calls throughout the United States in 2015. The AAPCC reported 1,512 exposure calls in April 2015, representing an almost three-fold increase in exposures to SCs as compared to the previous largest monthly tally (657 exposures in January 2012) since reporting began in 2011. It is likely that many of the calls are directly attributable to the abuse of MAB-CHMINACA based on its high prevalence in drug seizure reports and specimen test reports (*see* factor 6 and table 3 of DEA 3-Factor). Further, exposure calls to the AAPCC from within the first five months of 2015 (January 1 to June 1) are greater than the total exposure calls involving SCs from all of 2014. In addition, a majority of exposure incidents from 2011 to the present resulted in individuals seeking medical attention at health care facilities.

The following information regarding MAB-CHMINACA was obtained through NFLIS [3] (queried on May 27, 2015):

MAB-CHMINACA: NFLIS-451 reports; first encountered in September 2014; locations include Arkansas, Indiana, Kansas, Louisiana, Missouri, Oklahoma, Texas, Virginia, and Wisconsin.

Factor 6. What, if Any, Risk There Is to the Public Health

MAB-CHMINACA was identified in a cluster of 125 subjects that presented to emergency facilities within the Baton Rouge and Shreveport, Louisiana areas in October 2014. On October 29, 2014, the Louisiana Secretary of the Department of Health and Hospitals announced the addition of MAB-CHMINACA into schedule I of the Controlled Dangerous Substances section of the Louisiana Administrative Code (La. Admin. Code tit. 46, § 2704 (2014)). From October 2014 to the present, multiple clusters of overdoses involving MAB-CHMINACA and at least four deaths attributed to the misuse and abuse of MAB-CHMINACA have been reported (*see* factor 6 and table 3 of the DEA 3-Factor). Adverse health effects reported from use of MAB-CHMINACA have included: Seizures, coma, severe agitation, loss of motor control, loss of consciousness, difficulty breathing, altered mental status, and convulsions that in some cases resulted in death.

Since abusers obtain these drugs through unknown sources, the identity, purity, and quantity of these substances is uncertain and inconsistent, thus posing significant adverse health risks to users. The SCs encountered on the illicit drug market have no accepted medical use within the United States. Regardless, SC products continue to be easily available and abused by diverse populations. Unknown factors including detailed product analysis and dosage variations between various packages and batches present a significant danger to an abusing individual. Similar to previous SCs, MAB-CHMINACA has been found on plant material. Designer drug products have been found to vary in the amount and type of SC that plant material is laced with, which could be

[3] National Forensic Laboratory Information System (NFLIS) is a national drug forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by state and local forensic laboratories in the United States.

one explanation for the numerous emergency department admissions that have been connected to these substances.

Finding of Necessity of Schedule I Placement To Avoid Imminent Hazard to Public Safety

Based on the data and information summarized above, the continued uncontrolled handling and abuse of MAB-CHMINACA poses an imminent hazard to the public safety. The DEA is not aware of any currently accepted medical uses for MAB-CHMINACA in the United States. A substance meeting the statutory requirements for temporary scheduling may only be placed in schedule I of the CSA. 21 U.S.C. 811(h)(1). Substances in schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. Available data and information for MAB-CHMINACA indicate that this substance has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. As required by section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), the Administrator, through a letter dated May 14, 2015, notified the Assistant Secretary of the DEA's intention to temporarily place this substance in schedule I. The Assistant Secretary responded to this notice by letter dated June 3, 2015, and stated that the HHS had no objection to the temporary placement of MAB-CHMINACA into schedule I. A notice of intent was subsequently published in the **Federal Register** on September 16, 2015. 80 FR 55565.

Conclusion

In accordance with the provisions of section 201(h) of the CSA, 21 U.S.C. 811(h), the Administrator considered available data and information, herein set forth the grounds for his determination that it is necessary to temporarily schedule MAB-CHMINACA into schedule I of the CSA, and finds that placement of this SC into schedule I of the CSA is necessary to avoid an imminent hazard to the public safety.

Because the Administrator hereby finds that it is necessary to temporarily place this SC into schedule I of the CSA to avoid an imminent hazard to the public safety, the final order temporarily scheduling this substance will be effective on the date of publication in the **Federal Register**, and will be in effect for a period of two years, with a possible extension of one additional year, pending completion of the regular (permanent) scheduling process. 21 U.S.C. 811(h)(1) and (2).

The CSA sets forth specific criteria for scheduling a drug or other substance. Regular scheduling actions in accordance with 21 U.S.C. 811(a) are subject to formal rulemaking procedures done ''on the record after opportunity for a hearing'' conducted pursuant to the provisions of 5 U.S.C. 556 and 557. 21 U.S.C. 811. The regular scheduling process of formal rulemaking affords interested parties with appropriate process and the government with any additional relevant information needed to make a determination. Final decisions that conclude the regular scheduling process of formal rulemaking are subject to judicial review. 21 U.S.C. 877. Temporary scheduling orders are not subject to judicial review. 21 U.S.C. 811(h)(6).

Requirements for Handling

Upon the effective date of this final order, MAB-CHMINACA will be subject to the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, importation, exportation, engagement in research, and conduct of instructional activities or chemical analysis with, and possession of schedule I controlled substances including the following:

1. *Registration.* Any person who handles (manufactures, distributes, reverse distributes, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses), or who desires to handle, MAB-CHMINACA must be registered with the DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958 and in accordance with 21 CFR parts 1301 and 1312, as of February 5, 2016. Any person who currently handles MAB-CHMINACA and is not registered with the DEA, must submit an application for registration and may not continue to handle MAB-CHMINACA as of February 5, 2016, unless the DEA has approved that application for registration. Retail sales of schedule I controlled substances to the general public are not allowed under the CSA. Possession of any quantity of this substance in a manner not authorized by the CSA on or after February 5, 2016 is unlawful and those in possession of any quantity of this substance may be subject to prosecution pursuant to the CSA.

2. *Disposal of stocks.* Any person who does not desire or is not able to obtain a schedule I registration to handle MAB-CHMINACA, must surrender all quantities of currently held MAB-CHMINACA.

3. *Security.* MAB-CHMINACA is subject to schedule I security requirements and must be handled and stored pursuant to 21 U.S.C. 821, 823, 871(b), and in accordance with 21 CFR 1301.71–1301.93, as of February 5, 2016.

4. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of MAB-CHMINACA must be in compliance with 21 U.S.C. 825, 958(e), and be in accordance with 21 CFR part 1302. Current DEA registrants shall have 30 calendar days from February 5, 2016, to comply with all labeling and packaging requirements.

5. *Quota.* Only registered manufacturers may manufacture MAB-CHMINACA in accordance with a quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303 as of February 5, 2016.

6. *Inventory.* Every DEA registrant who possesses any quantity of MAB-CHMINACA on the effective date of this order, must take an inventory of all stocks of this substance on hand, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11. Current DEA registrants shall have 30 calendar days from the effective date of this order to be in compliance with all inventory requirements. After the initial inventory, every DEA registrant must take an inventory of all controlled substances (including MAB-CHMINACA) on hand on a biennial basis, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

7. *Records.* All DEA registrants must maintain records with respect to MAB-CHMINACA pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR parts 1304 and 1312, 1317 and § 1307.11. Current DEA registrants authorized to handle MAB-CHMINACA shall have 30 calendar days from the effective date of this order to be in compliance with all recordkeeping requirements.

8. *Reports.* All DEA registrants who manufacture or distribute MAB-CHMINACA must submit reports pursuant to 21 U.S.C. 827 and in accordance with 21 CFR 1304 and 1312 as of February 5, 2016.

9. *Order Forms.* All DEA registrants who distribute MAB-CHMINACA must comply with order form requirements pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305 as of February 5, 2016.

10. *Importation and Exportation.* All importation and exportation of MAB-CHMINACA must be in compliance

with 21 U.S.C. 952, 953, 957, 958, and in accordance with 21 CFR part 1312 as of February 5, 2016.

11. *Liability.* Any activity involving MAB-CHMINACA not authorized by, or in violation of the CSA, occurring as of February 5, 2016, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

Section 201(h) of the CSA, 21 U.S.C. 811(h), provides for an expedited temporary scheduling action where such action is necessary to avoid an imminent hazard to the public safety. As provided in this subsection, the Attorney General may, by order, schedule a substance in schedule I on a temporary basis. Such an order may not be issued before the expiration of 30 days from (1) the publication of a notice in the **Federal Register** of the intention to issue such order and the grounds upon which such order is to be issued, and (2) the date that notice of the proposed temporary scheduling order is transmitted to the Assistant Secretary. 21 U.S.C. 811(h)(1).

Inasmuch as section 201(h) of the CSA directs that temporary scheduling actions be issued by order and sets forth the procedures by which such orders are to be issued, the DEA believes that the notice and comment requirements of the Administrative Procedure Act (APA) at 5 U.S.C. 553, do not apply to this temporary scheduling action. In the alternative, even assuming that this action might be subject to 5 U.S.C. 553, the Administrator finds that there is good cause to forgo the notice and comment requirements of 5 U.S.C. 553, as any further delays in the process for issuance of temporary scheduling orders would be impracticable and contrary to the public interest in view of the manifest urgency to avoid an imminent hazard to the public safety.

Further, the DEA believes that this temporary scheduling action final order is not a ''rule'' as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act (RFA). The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, the DEA is not required by the APA or any other law to publish a general notice of proposed rulemaking.

Additionally, this action is not a significant regulatory action as defined by Executive Order 12866 (Regulatory Planning and Review), section 3(f), and, accordingly, this action has not been reviewed by the Office of Management and Budget (OMB).

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132 (Federalism) it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

As noted above, this action is an order, not a rule. Accordingly, the Congressional Review Act (CRA) is inapplicable, as it applies only to rules. 5 U.S.C. 808(2). It is in the public interest to schedule this substance immediately because it poses a public health risk. This temporary scheduling action is taken pursuant to 21 U.S.C. 811(h), which is specifically designed to enable the DEA to act in an expeditious manner to avoid an imminent hazard to the public safety. Under 21 U.S.C. 811(h), temporary scheduling orders are not subject to notice and comment rulemaking procedures. The DEA understands that the CSA frames temporary scheduling actions as orders rather than rules to ensure that the process moves swiftly. For the same reasons that underlie 21 U.S.C. 811(h), that is, the need to move quickly to place this substance into schedule I because it poses an imminent hazard to public safety, it would be contrary to the public interest to delay implementation of the temporary scheduling order. Therefore, this order shall take effect immediately upon its publication.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, the DEA amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

■ 2. Amend § 1308.11 by adding paragraph (h)(25) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(h) * * *

(25) *N*-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1*H*-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: MAB-CHMINACA; ADB-CHMINACA) (7032)

Dated: February 2, 2016.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2016–02302 Filed 2–4–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–385E]

Schedules of Controlled Substances: Extension of Temporary Placement of PB-22, 5F-PB-22, AB-FUBINACA and ADB-PINACA in Schedule I of the Controlled Substances Act

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final order.

SUMMARY: The Administrator of the Drug Enforcement Administration is issuing this final order to extend the temporary schedule I status of four synthetic cannabinoids pursuant to the temporary scheduling provisions of the Controlled Substances Act. The substances are: quinolin-8-yl 1-pentyl-1*H*-indole-3-carboxylate (PB-22; QUPIC); quinolin-8-yl 1-(5-fluoropentyl)-1*H*-indole-3-carboxylate (5-fluoro-PB-22; 5F-PB-22); *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (AB-FUBINACA); and *N*-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (ADB-PINACA), including their optical, positional and geometric isomers, salts, and salts of isomers. The current final order temporarily placing PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA into schedule I is in effect through February 9, 2016. This final order will extend the temporary scheduling of PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA for one year, or until the permanent scheduling action for these four substances is completed, whichever occurs first.

DATES: This final order is effective February 5, 2016.

FOR FURTHER INFORMATION CONTACT: Barbara J. Boockholdt, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598-6812.

SUPPLEMENTARY INFORMATION:

Legal Authority

The Drug Enforcement Administration (DEA) implements and

enforces titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. Titles II and III are referred to as the ''Controlled Substances Act'' and the ''Controlled Substances Import and Export Act,'' respectively, and are collectively referred to as the ''Controlled Substances Act'' or the ''CSA'' for purpose of this action. 21 U.S.C. 801-971. The DEA published the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR), chapter II.

The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while ensuring an adequate supply is available for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

Under the CSA, every controlled substance is classified into one of five schedules based upon its potential for abuse, its currently accepted medical use in treatment in the United States, and the degree of dependence the drug or other substance may cause. 21 U.S.C. 812. The initial schedules of controlled substances established by Congress are found at 21 U.S.C. 812(c), and the current list of all scheduled substances is published at 21 CFR part 1308.

Section 201 of the CSA, 21 U.S.C. 811, provides the Attorney General with the authority to temporarily place a substance into schedule I of the CSA for two years without regard to the requirements of 21 U.S.C. 811(b) if she finds that such action is necessary to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h)(1). In addition, if proceedings to control a substance are initiated under 21 U.S.C. 811(a)(1), the Attorney General may extend the temporary scheduling for up to one year. 21 U.S.C. 811(h)(2).

Where the necessary findings are made, a substance may be temporarily scheduled if it is not listed in any other schedule under section 202 of the CSA, 21 U.S.C. 812, or if there is no exemption or approval in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act (FDCA), 21 U.S.C. 355. 21 U.S.C. 811(h)(1). The Attorney General has delegated her scheduling authority under 21 U.S.C. 811 to the Administrator of the DEA. 28 CFR 0.100.

Background

On February 10, 2014, the DEA published a final order in the **Federal Register** amending 21 CFR 1308.11(h) to temporarily place the four synthetic cannabinoids quinolin-8-yl 1-pentyl-1*H*-indole-3-carboxylate (PB-22; QUPIC); quinolin-8-yl 1-(5-fluoropentyl)-1*H*-indole-3-carboxylate (5-fluoro-PB-22; 5F-PB-22); *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (AB-FUBINACA); and *N*-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (ADB-PINACA), into schedule I of the CSA pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). 79 FR 7577. That final order was effective on the date of publication, and was based on findings by the Deputy Administrator of the DEA that the temporary scheduling of these four synthetic cannabinoids was necessary to avoid an imminent hazard to the public safety pursuant to 21 U.S.C. 811(h)(1). Section 201(h)(2) of the CSA, 21 U.S.C. 811(h)(2), requires that the temporary control of these substances expire two years from the effective date of the scheduling order, which was February 10, 2014. However, the CSA also provides that during the pendency of proceedings under 21 U.S.C. 811(a)(1) with respect to the substance, the temporary scheduling of that substance could be extended for up to one year. Proceedings for the scheduling of a substance under 21 U.S.C. 811(a) may be initiated by the Attorney General (delegated to the Administrator of the DEA pursuant to 28 CFR 0.100) on his or her own motion, at the request of the Secretary of Health and Human Services,[1] or on the petition of any interested party.

The Administrator of the DEA, on his own motion pursuant to 21 U.S.C. 811(a), has initiated proceedings under 21 U.S.C. 811(a)(1) to permanently schedule PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA. The DEA has gathered and reviewed the available information regarding the pharmacology, chemistry, trafficking, actual abuse, pattern of abuse, and the relative potential for abuse for these four synthetic cannabinoids. On December 30, 2014, the DEA submitted a request to the HHS to provide the DEA with a scientific and medical evaluation of available information and a scheduling recommendation for PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA, and in accordance with 21 U.S.C. 811 (b) and (c). Upon evaluating the scientific and medical evidence, on January 19, 2016, the HHS submitted to the Administrator of the DEA its four scientific and medical evaluations for these substances. Upon receipt of the scientific and medical evaluation and scheduling recommendations from the HHS, the DEA reviewed the documents and all other relevant data, and conducted its own eight-factor analysis of the abuse potential of PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA in accordance with 21 U.S.C. 811(c). The DEA published a notice of proposed rulemaking for the placement of PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA into schedule I elsewhere in this issue of the **Federal Register**.

Pursuant to 21 U.S.C. 811(h)(2), the Administrator of the DEA orders that the temporary scheduling of PB-22, 5F-PB-22, AB-FUBINACA and ADB-PINACA, including their optical, positional and geometric isomers, salts, and salts of isomers, be extended for one year, or until the permanent scheduling proceeding is completed, whichever occurs first.

In accordance with this final order, the schedule I requirements for handling PB-22, 5F-PB-22, AB-FUBINACA and ADB-PINACA, including their optical, positional and geometric isomers, salts, and salts of isomers, will remain in effect for one year, or until the permanent scheduling proceeding is completed, whichever occurs first.

Regulatory Matters

The CSA provides for an expedited temporary scheduling action where such action is necessary to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h). The Attorney General may, by order, schedule a substance in schedule I on a temporary basis. *Id.* 21 U.S.C. 811(h) also provides that the temporary scheduling of a substance shall expire at the end of two years from the date of the issuance of the order scheduling such substance, except that the Attorney General may, during the pendency of proceedings to permanently schedule the substance, extend the temporary scheduling for up to one year.

To the extent that 21 U.S.C. 811(h) directs that temporary scheduling actions be issued by order and sets forth the procedures by which such orders are to be issued and extended, the DEA believes that the notice and comment requirements of section 553 of the

[1] Because the Secretary of the Department of Health and Human Services has delegated to the Assistant Secretary for Health of the Department of Health and Human Services the authority to make domestic drug scheduling recommendations, for purposes of this final order, all subsequent references to ''Secretary'' have been replaced with ''Assistant Secretary.''

Administrative Procedure Act (APA), 5 U.S.C. 553, do not apply to this extension of the temporary scheduling action. In the alternative, even assuming that this action might be subject to section 553 of the APA, the Administrator finds that there is good cause to forgo the notice and comment requirements of section 553, as any further delays in the process for extending the temporary scheduling order would be impracticable and contrary to the public interest in view of the manifest urgency to avoid an imminent hazard to the public safety. Further, the DEA believes that this final order extending the temporary scheduling action is not a ''rule'' as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act (RFA). The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, the DEA is not required by section 553 of the APA or any other law to publish a general notice of proposed rulemaking.

Additionally, this action is not a significant regulatory action as defined by Executive Order 12866 (Regulatory Planning and Review), section 3(f), and, accordingly, this action has not been reviewed by the Office of Management and Budget (OMB).

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132 (Federalism) it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

As noted above, this action is an order, not a rule. Accordingly, the Congressional Review Act (CRA) is inapplicable, as it applies only to rules. 5 U.S.C. 808(2). It is in the public interest to maintain the temporary placement of PB-22, 5F-PB-22, AB-FUBINACA and ADB-PINACA in schedule I because they pose a public health risk. The temporary scheduling action was taken pursuant to 21 U.S.C. 811(h), which is specifically designed to enable the DEA to act in an expeditious manner to avoid an imminent hazard to the public safety. Under 21 U.S.C. 811(h), temporary scheduling orders are not subject to notice and comment rulemaking procedures. The DEA understands that the CSA frames temporary scheduling actions as orders rather than rules to ensure that the process moves swiftly, and this extension of the temporary scheduling order continues to serve that purpose. For the same reasons that underlie 21 U.S.C. 811(h), that is, the need to place these substances in schedule I because they pose an imminent hazard to public safety, it would be contrary to the public interest to delay implementation of this extension of the temporary scheduling order. Therefore, in accordance with section 808(2) of the CRA, this final order extending the temporary scheduling order shall take effect immediately upon its publication. The DEA has submitted a copy of this final order to both Houses of Congress and to the Comptroller General, although such filing is not required under the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act), 5 U.S.C. 801–808 because, as noted above, this action is an order, not a rule.

Dated: February 2, 2016.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2016–02308 Filed 2–4–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

[Docket No. OSHA–2015–0003]

RIN 1218–AC97

Maine State Plan for State and Local Government Employers

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule.

SUMMARY: This document announces the publication of the regulatory provisions which formalize the initial approval of the Maine State and Local Government Only State Plan.

DATES: Effective February 5, 2016. Initial approval of the Maine State Plan was granted on August 5, 2015.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Contact Francis Meilinger, 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 general and technical information: Contact Douglas J. Kalinowski, Director, OSHA Directorate of Cooperative and State Programs, Room N–3700, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2200; email: *kalinowski.doug@dol.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

On May 20, 2015, OSHA published a notice in the **Federal Register** (80 FR 28890) concerning the submission of the Maine State and Local Government Only State Plan, announcing that initial Federal approval of the Plan was at issue, and offering interested parties an opportunity to review the Plan and submit data, views, arguments or requests for a hearing concerning the Plan. No comments were received.

OSHA, after carefully reviewing the Maine State Plan for the development and enforcement of state standards applicable to state and local government employers and the record developed during the above described proceedings, determined that the requirements and criteria for initial approval of a developmental State Plan were met. The Plan was approved as a developmental State Plan for State and Local Government Only under Section 18 of the OSH Act on August 5, 2015. (80 FR 46487).

B. Notice of Publication of the Regulatory Description of the Maine State Plan

In light of the reorganization of the State Plan regulations through the streamlining of 29 CFR part 1952 and 29 CFR part 1956, OSHA deferred any change to those regulatory provisions relating to the Maine State Plan until the streamlining changes took effect. (80 FR 46487, 46492). These streamlining changes took effect October 19, 2015. (80 FR 49897, Aug. 18, 2015). Therefore OSHA is now amending 29 CFR part 1952 to incorporate the description of the Maine State Plan.

C. Regulatory Flexibility Act

OSHA certifies pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) that the initial approval of the Maine State Plan will not have a significant economic impact on a substantial number of small entities. By its own terms, the Plan will have no effect on private sector employment, but is limited to the state and its political subdivisions. Moreover, Title 26, Labor and Industry, of the Maine Revised Statutes was enacted in 1971. This legislation established the Board, whose purpose is to formulate rules that shall, at a minimum, conform with Federal standards of occupational

safety and health, so the state program could eventually be approved as a State and Local Government Only State Plan. Since 1971 the Maine program for public employers has been in operation under the Maine Department of Labor with state funding and all state and local government employers in the state have been subject to its terms. Compliance with state OSHA standards is required by state law; Federal approval of a State Plan imposes regulatory requirements only on the agency responsible for administering the State Plan. Accordingly, no new obligations would be placed on public sector employers as a result of Federal approval of the Plan.

D. Federalism

Executive Order 13132, ''Federalism,'' emphasizes consultation between Federal agencies and the states and establishes specific review procedures the Federal Government must follow as it carries out policies that affect state or local governments. OSHA has consulted extensively with Maine throughout the development, submission and consideration of its State Plan. Although OSHA has determined that the requirements and consultation procedures provided in Executive Order 13132 are not applicable to initial approval decisions under the OSH Act, which have no effect outside the particular state receiving the approval, OSHA has reviewed this final rule, and believes it is consistent with the principles and criteria set forth in the Executive Order.

E. Administrative Procedures

This **Federal Register** document is designated a ''final rule.'' That designation is necessary because OSHA publishes a description of every state plan in 29 CFR part 1952. Because they are set forth in the Code of Federal Regulations, these descriptions can be added or updated only by publishing a ''final rule'' document in the final rules section of the **Federal Register**. Such rules do not contain any new Federal regulatory requirements, but merely provide public information about the state plan.

Today's action is solely a formalization of the initial approval of the Maine State Plan, which was granted on August 5, 2015 (80 FR 46487).

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC, authorized the preparation of this notice. OSHA is issuing this notice under the authority specified by Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), Secretary of Labor's Order No. 1–2012 (77 FR 3912), and 29 CFR parts 1902 and 1956.

Signed in Washington, DC, on January 29, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

Amendments to Regulation

For the reasons set forth in the preamble of this final rule, 29 CFR part 1952 is amended as set forth below.

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

■ 1. The authority citation for part 1952 continues to read as follows:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR part 1902; Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012).

Subpart B—List of Approved State Plans for State and Local Government Employees

■ 2. Add § 1952.28 to read as follows:

§ 1952.28 Maine.

(a) The Maine State Plan for State and local government employees received initial approval from the Assistant Secretary on August 5, 2015.

(b) The Plan further provides assurances of a fully trained, adequate staff within three years of plan approval, including 2 safety and 1 health compliance officers for enforcement inspections, and 3 safety and 1 health consultants to perform consultation services in the public sector. The State has assured that it will continue to provide a sufficient number of adequately trained and qualified personnel necessary for the enforcement of standards as required by 29 CFR 1956.10. The State has also given satisfactory assurance of adequate funding to support the Plan.

(c) The plan only covers State and local government employers and employees within the State. For additional details about the plan, please visit *https://www.osha.gov/dcsp/osp/stateprogs/maine.html.*

[FR Doc. 2016–02069 Filed 2–4–16; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0046]

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, South Branch of the Elizabeth River, Portsmouth-Chesapeake, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Norfolk and Western railroad bridge (Norfolk Southern V6.8 Bridge) across the South Branch of the Elizabeth River, mile 3.6, at Portsmouth-Chesapeake, VA. The deviation is necessary to perform bridge maintenance and repairs. This deviation allows the bridge to remain in the closed-to-navigation position.

DATES: This deviation is effective from 7 a.m. on February 5, 2016 to 7 p.m. on February 7, 2016.

ADDRESSES: The docket for this deviation [USCG–2016–0046] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

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

SUPPLEMENTARY INFORMATION: The Norfolk Southern Corporation, that owns and operates the Norfolk and Western railroad bridge (Norfolk Southern V6.8 Bridge), has requested a temporary deviation from the current operating regulations to install new festoon systems between the bridge towers. The bridge is a vertical lift draw bridge and has a vertical clearance in the closed position of 10 feet above mean high water.

The current operating schedule is set out in 33 CFR 117.997(b). Under this temporary deviation, the bridge will remain in the closed-to-navigation position from 7 a.m. to 7 p.m. from February 5, 2016 through February 7, 2016. During this temporary deviation, the bridge will operate per 33 CFR 117.997(b) from 7 p.m. to 7 a.m.

The South Branch of the Elizabeth River is used by a variety of vessels including deep draft ocean-going

vessels, U.S. government vessels, small commercial vessels, recreational vessels and tug and barge traffic. The Coast Guard has carefully coordinated the restrictions with waterway users.

There will be limited opportunity for vessels to transit through the bridge in the closed position during this temporary deviation. Vessels able to pass through the bridge in the closed position may do so after receiving confirmation from the bridge tender that it is safe to transit through the bridge. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transit to minimize any impact caused by the temporary deviation.

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

Dated: January 28, 2016.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2016–02100 Filed 2–4–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–1125]

RIN 1625–AA00

Safety Zone; Bayou Petite Caillou, Boudreaux Canal Floodgate; Chauvin, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on all navigable waters within a 750 foot radius around the center of the Boudreaux Canal Flood Gates in Chauvin, LA. This safety zone is necessary to protect persons, property, and infrastructure from potential damage and safety hazards associated with repair work on the Boudreaux Canal Sector Flood Gates located on Bayou Petite Caillou. During the periods of enforcement, entry into and transiting or anchoring within this safety zone is prohibited unless specifically authorized by Captain of the Port (COTP) Morgan City or other designated representative.

DATES: This rule is effective without actual notice from February 5, 2016 until February 27, 2016. For the purposes of enforcement, actual notice will be used from January 6, 2016 until February 5, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2015–1125 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Junior Grade Vanessa Taylor, Chief of Waterways Management, U.S. Coast Guard MSU Morgan City 800 David Dr., Morgan City, LA 70380; telephone (985) 380–5334, email *Vanessa.R.Taylor@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because repair work on the Boudreaux Canal Sector Flood Gates located on Bayou Petite Caillou needs to be completed before marine traffic increases during the extremely high traffic periods of the upcoming shrimping season. The Coast Guard received notice of the need for this repair December 16, 2015. Repair work pushed to any later date will unnecessarily create major traffic delays. It is impracticable to publish an NPRM because we must establish this safety zone by January 6, 2016.We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to provide additional safety measure during the repair work so that it may be completed before the high traffic periods during the upcoming shrimping season.

III. Legal Authority and Need for Rule

The legal basis and authorities for this rule are found in 33 U.S.C. 1231.

The purpose of the rule is to establish the necessary temporary safety zone to provide protection for persons and property from the hazards associated with the repairs. This includes commercial and recreational vessels that may be in the area during the repair, removal and re-installation of the Boudreaux Canal Flood Gates.

IV. Discussion of the Rule

This rule establishes a safety zone from January 6, 2016 through January 15, 2016 and from February 18, 2016 through February 27, 2016. The safety zone will cover all navigable waters within a 750 foot radius around coordinate 29°23.117 N., 90°37.038 W. which is located in center of the Boudreaux Canal Flood Gates. This safety zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the inspection, repair, removal, and re-installation of flood gates occurs. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under E.O. 12866. Accordingly,

it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and traffic during the time-of-year of the safety zone. The safety zone only impacts a small designated area of the Waterway in Chauvin, LA during two scheduled time periods. First, during 10 days from January 6, 2016 through January 15, 2016; and second during 9 days from February 18, 2016 through February 27, 2016. This is a time of year when vessel traffic is normally low. Additionally, vessel traffic will be allowed to transit from January 16, 2016 through February 17, 2016, mid-way through the repair timeline. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 informing waterway users of the safety zone and any changes in the schedule. Finally, the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting less than 20 days that will prohibit entry within a 750 foot radius around coordinate 29°23.117 N., 90°37.038 W., which is located in the center of the Boudreaux Canal Flood Gates in Chauvin, LA. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

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

§ 165.T08–1121 Safety Zone; Bayou Petite Caillou, Boudreaux Canal Floodgate; Chauvin, LA.

(a) *Location.* The following area is a safety zone: All waters within a 750 foot radius around coordinate 29°23.117 N., 90°37.038 W., which is located in the center of the Boudreaux Canal Flood Gates in Chauvin, LA.

(b) *Definitions.* As used in this section, designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officers operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP) Morgan City in the enforcement of the safety zones.

(c) *Regulations.* (1) Under the general safety zone regulations in 33 CFR part 165, subpart C, you may not enter the safety zones described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative via VHF–FM channel 16, or through Coast Guard Marine Safety Unit Morgan City at 985–380–5334. Those in the safety zones must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This rule will be enforced from January 6, 2016 through January 15, 2016, and from February 18, 2016 through February 27, 2016.

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

Dated: January 5, 2016.

D.G. McClellan,

Captain, U.S. Coast Guard, Captain of the Port Morgan City, Louisiana.

[FR Doc. 2016–02281 Filed 2–4–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0028]

RIN 1625–AA00

Safety Zone; Hudson River, Anchorage Ground 19–W

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the waters of the Hudson River in the vicinity of Anchorage Ground 19–W. This zone is intended to restrict vessels from a portion of the Hudson River due to the presence of a dielectric oil leak from a submerged power cable, and the hazards associated with the cable repair vessels. This temporary safety zone is necessary to protect people and vessels from the hazards associated with this event. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port New York.

DATES: This rule is effective without actual notice from February 5, 2016 through July 9, 2016. For the purposes of enforcement, actual notice will be used from January 12, 2016 through February 5, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0028 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Kristina Pundt, Waterways Management Division, U.S. Coast Guard Sector New York; telephone 718–354–4352, email *Kristina.H.Pundt@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The Coast Guard received notification of the dielectric oil release from a submerged power cable on January 2, 2016. Thus, waiting for a notice and comment period to run would inhibit the Coast Guard from protecting the public and vessels from the possible hazards associated with this dielectric oil leak and the hazards associated with the cable repairs.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231, 33 CFR 1.05–1 and 160.5; and Department of Homeland Security Delegation No. 0170.1. The Captain of the Port New York (COTP) has determined that a temporary safety zone is necessary to ensure the safety of vessels from the hazards associated with this dielectric oil leak and power cable repairs.

Establishing a safety zone to control vessel movements around the location of the dielectric oil leak will help ensure the safety of persons and property during assessment and response activities and help minimize the associated risks. Therefore, this rule will remain in effect for the time stated herein but will be cancelled if response activities are finished cease before July 9, 2016. The preliminary estimate for completion of the clean-up and cable repairs is February 11, 2016. This TFR provides for an extended enforcement period in case of unforeseen circumstances that prevent the contractors from completing the repairs within their initial estimated timeline.

IV. Discussion of the Rule

This rule establishes a safety zone from January 12, 2016 through July 9, 2016. The safety zone will cover all navigable waters of Anchorage Ground 19–W and the Hudson River within an area approximately 870–930 yards wide and 1,330–1,335 yards long near Edgewater, NJ.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the COTP or a designated representative. Vessel operators must contact the COTP or an on-scene representative to obtain permission to transit through this safety zone. The COTP or an on-scene representative may be contacted by VHF Channel 16.

V. Regulatory Analyses

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

statutes and E.O.s, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under E.O. 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, and will not adversely alter the budget of any grant or loan recipients. Vessel traffic will be able to safely transit around this safety zone. This safety zone only affects a small-designated area of the Hudson River waterway for a relatively short duration. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone for approximately 30 days that will prohibit entry within the dielectric oil spill, cleanup, and power cable repair area, and is therefore categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination will be in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–0028 to read as follows:

§ 165.T01–0028 Safety Zone: Hudson River, Anchorage Ground 19–W.

(a) *Location.* The following area is a temporary safety zone: All U.S. navigable waters of the Hudson River bound by the following points: 40°48′56.00″ N., 073°58′47.08″ W.; thence to 40°48′42.96″ N., 073°58′15.00″ W.; thence to 40°48′08.04″ N., 073°58′38.82″ W.; thence to 40°48′19.84″ N., 073°59′09.31″ W., thence along the western shoreline to the point of origin. All coordinates are North American Datum 1983 (NAD 83).

(b) *Enforcement period.* The safety zone described in paragraph (a) of this section will be enforced from January 12, 2016 until July 9, 2016, unless terminated sooner by the COTP.

(c) *Regulations.* (1) In accordance with the general regulations in 33 CFR 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the COTP or his designated on scene representative.

(2) A ''on-scene representative'' of the COTP is any Coast Guard commissioned, warrant or petty officer or a Federal, State or local law enforcement officer designated by or assisting the COTP to act on his behalf.

(3) Vessel operators must contact the COTP via the Command Center to obtain permission to enter or operate within the safety zone. The COTP may be contacted via VHF Channel 16 or at (718) 354–4353. Vessel operators given permission to enter or operate within the safety zone must comply with all directions given to them by the COTP, via the Command Center or an on-scene representative.

Dated: January 12, 2016.

M.H. Day,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2016–02276 Filed 2–4–16; 8:45 am]

BILLING CODE 9110–04–P

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Income Level for Individuals Eligible for Assistance

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: The Legal Services Corporation (LSC or the Corporation) is required by law to establish maximum income levels for individuals eligible for legal assistance. This document updates the specified income levels to reflect the annual amendments to the Federal Poverty Guidelines issued by the Department of Health and Human Services (HHS).

DATES: Effective February 5, 2016.

FOR FURTHER INFORMATION CONTACT: Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K St. NW., Washington, DC 20007; (202) 295–1563; *sdavis@lsc.gov.*

SUPPLEMENTARY INFORMATION: Section 1007(a)(2) of the Legal Services Corporation Act (Act), 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance. Section 1611.3(c) of the Corporation's regulations establishes a maximum income level equivalent to one hundred and twenty-five percent (125%) of the Federal Poverty Guidelines (Guidelines), which HHS is responsible for updating and issuing. 45 CFR 1611.3(c).

Each year, LSC publishes an update to Appendix A of 45 CFR part 1611 to provide client income eligibility standards based on the most recent Guidelines. The figures for 2016, set out below, are equivalent to 125 percent (125%) of the current Guidelines published by HHS on January 25, 2016 (81 FR 4036).

In addition, LSC is publishing a chart listing income levels that are two hundred percent (200%) of the Guidelines. This chart is for reference purposes only as an aid to grant recipients in assessing the financial eligibility of an applicant whose income is greater than 125 percent (125%) of the applicable Guidelines amount, but less than 200 percent (200%) of the applicable Guidelines amount (and who may be found to be financially eligible under duly adopted exceptions to the annual income ceiling in accordance with 45 CFR 1611.3, 1611.4, and 1611.5).

List of Subjects in 45 CFR Part 1611

Grant programs—law, Legal services.

For reasons set forth in the preamble, the Legal Services Corporation amends 45 CFR part 1611 as follows:

PART 1611—FINANCIAL ELIGIBILITY

■ 1. The authority citation for part 1611 is revised to read as follows:

Authority: 42 U.S.C. 2996e(b)(1), 2996e(b)(3), 2996f(a)(1), 2996f(a)(2), 2996g(e); Sec. 509(h), Pub. L. 104–134, 110 Stat. 1321; Pub. L. 105–119, 11 Stat. 2512.

■ 2. Revise Appendix A to part 1611 to read as follows:

Appendix A to Part 1611— Income Level for Individuals Eligible for Assistance

LEGAL SERVICES CORPORATION 2016 INCOME GUIDELINES *

Size of household	48 Contiguous states and the District of Columbia	Alaska	Hawaii
1	$14,850	$18,550	$17,088
2	20,025	25,025	23,038
3	25,200	31,500	28,988
4	30,375	37,975	34,938
5	35,550	44,450	40,888
6	40,725	50,925	46,838
7	45,913	57,400	52,788
8	51,113	63,900	58,763
For each additional member of the household in excess of 8, add	5,200	6,500	5,975

* The figures in this table represent 125% of the poverty guidelines by household size as determined by HHS.

REFERENCE CHART—200% OF FEDERAL POVERTY GUIDELINES

Size of household	48 Contiguous states and the District of Columbia	Alaska	Hawaii
1	$23,760	$29,680	$27,340
2	32,040	40,040	36,860
3	40,320	50,400	46,380
4	48,600	60,760	55,900
5	56,880	71,120	65,420
6	65,160	81,480	74,940
7	73,460	91,840	84,460
8	81,780	102,240	94,020
For each additional member of the household in excess of 8, add	8,320	10,400	9,560

Dated: February 2, 2016.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2016–02241 Filed 2–4–16; 8:45 am]

BILLING CODE 7050–01–P

Proposed Rules

Federal Register
Vol. 81, No. 24
Friday, February 5, 2016

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

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 800

RIN 0580–AB13

Reauthorization of the United States Grain Standards Act

Correction

In Proposed Rule document 2016–01083 beginning on page 3970 in the issue of Monday, January 25, 2016, make the following correction:

On page 3975, in the third column, preceding amendatory instruction 7 insert the following text:

§ 800.72 [Amended]

■ 6. In § 800.72(b), remove the reference ''§ 800.71'' from the first sentence and add in its place the reference ''§ 800.71(a)(1)''.

[FR Doc. C1–2016–01083 Filed 2–4–16; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0828; Directorate Identifier 2012–NM–036–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for certain Airbus Model A330–200 and –300 series airplanes; and Model A340–200 and –300 series airplanes. The NPRM proposed to supersede AD 2009–15–17 to continue to require inspections for damage to the protective treatments or any corrosion of all main landing gear (MLG) bogie beams, application of protective treatments, and corrective action if necessary. The NPRM also proposed to require modification of the MLG bogie beams, to allow optional methods of compliance for certain actions, and to add airplanes to the applicability. The first supplemental notice of proposed rulemaking (SNPRM) proposed to revise the compliance times and add a one-time inspection for certain airplanes. The NPRM was prompted by reports of thin paint coats and paint degradation on enhanced MLG bogie beams. This second SNPRM proposes to clarify the required actions and the specific configurations to which the actions must be applied. We are proposing this second SNPRM to detect and correct damage or corrosion of the MLG bogie beams, which could cause a runway excursion event, bogie beam detachment from the airplane, or MLG collapse, and could result in damage to the airplane and injury to the occupants. Since these actions impose an additional burden over those proposed in the first SNPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: We must receive comments on this SNPRM by March 21, 2016.

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

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

For Airbus service information identified in this NPRM, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 45 80; email: *airworthiness.A330-A340@airbus.com;* Internet: *http://www.airbus.com.*

For Messier-Dowty service information identified in this NPRM, contact Messier-Dowty: Messier Services Americas, Customer Support Center, 45360 Severn Way, Sterling, VA 20166–8910; telephone 703–450–8233; fax 703–404–1621; Internet: *https://techpubs.services/messier-dowty.com.*

You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0828; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1138; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0828; Directorate Identifier 2012–NM–036–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We

will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We issued an SNPRM to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Model A330–200 Freighter series airplanes, Model A330–200 and A330–300 series airplanes, and Model A340–200 and A340–300 series airplanes. The SNPRM published in the **Federal Register** on March 5, 2014 (79 FR 12414).

We preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on September 25, 2013 (78 FR 58978). The NPRM was prompted by reports of thin paint coats and paint degradation on enhanced MLG bogie beams. The NPRM proposed to supersede AD 2009–15–17, Amendment 39–15980 (74 FR 37523, July 29, 2009), to continue to require inspections for damage to the protective treatments or any corrosion of all MLG bogie beams, application of protective treatments, and corrective action if necessary. The NPRM also proposed to require modification of the MLG bogie beams, which would terminate the repetitive inspections for any modified bogie beam. In addition, the NPRM proposed to allow optional methods of compliance for certain actions, and to add Airbus Model A330–200 Freighter series airplanes to the applicability.

The SNPRM (79 FR 12414, March 5, 2014) (''the first SNPRM'') proposed to revise the compliance times and add a one-time inspection for airplanes that were inspected too early.

Actions Since the First SNPRM Was Issued

Since we issued the first SNPRM, we have determined that it is necessary to clarify the required actions and the specific configurations to which the actions must be applied. The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2013–0267R1, dated March 4, 2014, Corrected May 8, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition on certain Airbus Model A330–200 Freighter, –200, and –300 series airplanes; and Model A340–200 and –300 series airplanes. The MCAI states:

The operator of an A330 aeroplane (which has a common bogie beam with the A340) reported a fracture of the Right Hand (RH) main landing gear (MLG) bogie beam, which occurred while turning during low speed taxi maneuvers. The bogie fractured aft of the pivot point and remained attached to the sliding tube by the brake torque reaction rods. After this RH bogie failure, the aeroplane continued for approximately 40 meters on the forks of the sliding member before coming to rest on the taxiway.

The investigations revealed that this event was due to corrosion pitting occurring on the bore of the bogie beam.

This condition, if not detected and corrected, could lead to a runway excursion event or to detachment of the bogie from the aeroplane, or to MLG collapse, possibly resulting in damage to the aeroplane and injury to the occupants.

To enable early detection and repair of corrosion of the internal surfaces, EASA issued EASA AD 2007–0314 [*http://ad.easa.europa.eu/ad/2007-0314R1*] to require a one-time inspection of all MLG bogie beams, except Enhanced MLG bogie beams, and the reporting of the results to Airbus. EASA AD 2007–0314 was revised and later superseded by EASA AD 2008–0093 [*http://ad.easa.europa.eu/ad/2008-0093*], reducing the inspection threshold period.

The results of subsequent investigations showed thin paint coats and paint degradation, confirmed as well on Enhanced MLG bogie beams. To address this additional concern, EASA issued AD 2011–0141 [*http://ad.easa.europa.eu/ad/2011-0141*] [which was not mandated by the FAA], retaining the requirements of EASA AD 2008–0093, which was superseded, to require a one-time visual inspection of all MLG bogie beams, including a visual examination of the internal diameter for corrosion or damage to protective treatments of the bogie beam and measurement of the paint thickness on the internal bore, accomplishment of the applicable corrective actions and a modification of the MLG bogie beam to improve the coat paint application method, and application of corrosion protection.

Prompted by in-service requests, EASA issued EASA AD 2012–0015 [*http://ad.easa.europa.eu/ad/2012-0015*] [corresponds with FAA NPRM (78 FR 58978, September 25, 2013)] retaining the requirements of EASA AD 2011–0141, which was superseded, and introducing repetitive inspections of the MLG bogie beams, which allows extension of the compliance time for the MLG bogie beam modification from 15 years to 21 years. Modification of a MLG bogie beam constitutes terminating action for the repetitive inspections for that MLG bogie beam.

Reports on inspection results provided to Airbus show that some aeroplanes were initially inspected too early (before 4 years and 6 months since aeroplane first flight with bogie beam installed/installed after overhaul) and have not been re-inspected as required.

For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2012–0015, which is superseded, and redefines the inspection periodicity. This [EASA] AD also introduces a specific one-time inspection for aeroplanes that have been inspected too early.

Prompted by operator comments, this [EASA] AD is revised to clarify the required actions and the specific configurations to which the actions must be applied. Appendix 1 of this [EASA] AD has been amended accordingly.

This [EASA] AD is republished to editorially correct paragraph (4).

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0828.

Related Service Information Under 1 CFR Part 51

We reviewed the following Airbus service information.

- Airbus Mandatory Service Bulletin A330–32–3225, Revision 2, dated October 26, 2012. The service information describes procedures for cleaning the internal bore and accomplishing a detailed inspection of internal surfaces of the left hand (LH) and right hand (RH) MLG bogie beams to detect any damage to the protective treatments and any corrosion, and measuring the paint thickness on the internal bore.
- Airbus Mandatory Service Bulletin A330–32–3237, Revision 1, dated October 14, 2011. The service information describes procedures for a detailed inspection for damage and corrosion of the internal bores of the LH and RH MLG bogie beam and repair, as well as modification and re-identification.
- Airbus Mandatory Service Bulletin A340–32–4268, Revision 3, dated January 14, 2013. The service information describes procedures for cleaning the internal bore and accomplishing a detailed inspection of internal surfaces of the LH and RH MLG bogie beams to detect any damage to the protective treatments and any corrosion, and measuring the paint thickness on the internal bore.
- Airbus Mandatory Service Bulletin A340–32–4279, Revision 1, dated October 14, 2011. The service information describes procedures for a detailed inspection for damage and corrosion of the internal bores of the LH and RH MLG bogie beam, repair, modification, and reidentification.

We reviewed the following Messier-Dowty service bulletins.

- Messier-Dowty Service Bulletin A33/34–32–271, Revision 1, dated November 16, 2007. The service information describes procedures for inspections and corrective actions on both MLG bogie beams.
- Messier-Dowty Service Bulletin A33/34–32–272, Revision 1, including Appendixes A, B, C, and D, dated September 22, 2008. The service information describes procedures for

inspections and corrective actions on both MLG bogie beams.

• Messier-Dowty Service Bulletin A33/34–32–278, including Appendixes A and B, Revision 1, dated August 24, 2011. The service information describes procedures for inspections for damage and corrosion to the protective treatment of the internal bores of the LH and RH MLG bogie beam, and repairs.

• Messier-Dowty Service Bulletin A33/34–32–283, including Appendix A, Revision 1, dated July 10, 2012. The service information describes procedures for modification of the LH and RH MLG bogie beams.

• Messier-Dowty Service Bulletin A33/34–32–284, including Appendix A, Revision 1, dated July 10, 2012. The service information describes procedures for modification of the LH and RH MLG bogie beams.

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

Change to the First SNPRM

Since the first SNPRM was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, paragraphs (m)(1) and (m)(2) of the proposed AD (in the first SNPRM) have been redesignated as paragraphs (n)(1) and (n)(2) of this proposed AD.

Comments

We gave the public the opportunity to participate in developing this proposed AD. We considered the comment received.

Request To Revise Paragraph (l) of the Proposed AD (in the First SNPRM)

Air France requested that we revise paragraph (l) of the proposed AD (in the first SNPRM) by changing the references to paragraphs (n)(1) and (n)(2) to refer to paragraphs (m)(1) and (m)(2).

We agree that the optional terminating action paragraph should refer to the optional methods of compliance paragraphs, which are paragraphs (m)(1) and (m)(2) of the proposed AD (in the first SNPRM). However, no change to this proposed AD is necessary because those paragraphs have been redesignated as paragraphs (n)(1) and (n)(2).

FAA's Determination and Requirements of This SNPRM

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Certain changes described above expand the scope of the first SNPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Differences Between This SNPRM and the MCAI or Service Information

The MCAI specifies repair and corrective actions in accordance with Airbus Mandatory Service Bulletin A330–32–3225, Revision 02, dated October 26, 2012; or A340–32–4268, Revision 03, dated January 14, 2013. However, Airbus Mandatory Service Bulletins A330–32–3225, Revision 02, dated October 26, 2012; and A340–32–4268, Revision 03, dated January 14, 2013; do not describe repair and corrective actions. Paragraphs (i) and (j) of this proposed AD specify repair and corrective actions in accordance with Messier-Dowty Service Bulletin A33/34–32–272, Revision 1, including Appendices A, B, C, and D, dated September 22, 2008. This difference has been coordinated with Airbus.

Costs of Compliance

We estimate that this proposed AD affects 51 airplanes of U.S. registry.

We also estimate that it would take about 34 work-hours per product to comply with the new basic requirements of this proposed AD, and 1 work-hour per product for reporting. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $151,725, or $2,975 per product.

In addition, we estimate that any necessary follow-on actions would take about 10 work-hours, for a cost of $850 per product. We have no way of determining the number of aircraft that might need these actions.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this proposed AD is 2120–0056. The paperwork cost associated with this proposed AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this proposed AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591, ATTN: Information Collection Clearance Officer, AES–200.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2009–15–17, Amendment 39–15980 (74 FR 37523, July 29, 2009), and adding the following new AD:

Airbus: Docket No. FAA–2013–0828; Directorate Identifier 2012–NM–036–AD.

(a) Comments Due Date

We must receive comments by March 21, 2016.

(b) Affected ADs

This AD replaces AD 2009–15–17, Amendment 39–15980 (74 FR 37523, July 29, 2009).

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category, all manufacturer serial numbers (MSN), except those on which Airbus modification 58896 has been embodied in production.

(1) Airbus Model A330–223F, –243F, –201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(2) Airbus Model A340–211, –212, –213, –311, –312, and –313 airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by reports of thin paint coats and paint degradation on enhanced main landing gear (MLG) bogie beams, as well as reports that some airplanes have been inspected too early and not re-inspected as needed. We are issuing this AD to detect and correct damage or corrosion of the MLG bogie beams, which could cause a runway excursion event, bogie beam detachment from the airplane, or MLG collapse, and could result in damage to the airplane and injury to the occupants.

(f) Compliance

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

(g) Repetitive Inspections for Certain Airplane Configurations

For airplanes equipped with basic MLG (201252 series), or growth MLG (201490 series): After 54 months at the earliest, but no later than 72 months since the left-hand (LH) or right-hand (RH) MLG bogie beam's first flight on an airplane, or since its first flight on an airplane after overhaul, as applicable, clean the internal bore and accomplish a detailed inspection of internal surfaces of the LH and RH MLG bogie beams to detect any damage to the protective treatments and any corrosion, and measure the paint thickness on the internal bore, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330–32–3225, Revision 2, dated October 26, 2012; or Airbus Mandatory Service Bulletin A340–32–4268, Revision 3, dated January 14, 2013; as applicable. Repeat the inspections thereafter at intervals not less than 54 months, but not exceeding 72 months, after the most recent inspection. During overhaul of a MLG bogie beam, any corrosion will be removed, which means that the first inspection after overhaul of that MLG bogie beam, as required by this paragraph, is between 54 months and 72 months since its first flight on an airplane after overhaul.

(h) One-Time Detailed Inspection for Certain Airplane Configurations

For airplanes equipped with basic MLG (201252 series), or growth MLG (201490 series) having a LH or RH MLG bogie beam that has already exceeded 72 months since its first flight on an airplane, or since its first flight on an airplane after overhaul, as applicable, as of the effective date of this AD; and that has been inspected as specified in Airbus Mandatory Service Bulletin A330–32–3225 or Airbus Mandatory Service Bulletin A340–32–4268, as applicable, earlier than 54 months since first flight of the affected MLG bogie beam on an airplane, or since its first flight on an airplane after its most recent overhaul, as applicable: Within the applicable compliance time indicated in paragraphs (h)(1) through (h)(4) of this AD, clean the internal bore and accomplish a detailed inspection of the internal surfaces of the LH and RH MLG bogie beams to detect any damage to the protective treatments and any corrosion, and measure the paint thickness on the internal bore, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330–32–3225, Revision 2, dated October 26, 2012; or Airbus Mandatory Service Bulletin A340–32–4268, Revision 3, dated January 14, 2013; as applicable.

(1) For MLG bogie beams having the configurations specified in both paragraphs (h)(1)(i) and (h)(1)(ii) of this AD: Do the detailed inspection specified in paragraph (h) of this AD within 9 months after the effective date of this AD.

(i) MLG bogie beams having between 72 and 120 months since first flight on an airplane, or since the MLG bogie beam's first flight on an airplane after the MLG bogie beam's most recent overhaul, as applicable.

(ii) MLG bogie beams on which the first inspection was done after 51 months and before 54 months since first flight of the MLG bogie beam on an airplane, or since the MLG bogie beam's first flight on an airplane after the MLG bogie beam's most recent overhaul, as applicable.

(2) For MLG bogie beams having the configurations specified in both paragraphs (h)(2)(i) and (h)(2)(ii) of this AD: Do the detailed inspection specified in paragraph (h) of this AD within 3 months after the effective date of this AD.

(i) MLG bogie beams having between 72 and 120 months since first flight on an airplane, or since the MLG bogie beam's first flight on an airplane after the MLG bogie beam's most recent overhaul, as applicable.

(ii) MLG bogie beams on which the first inspection was done after 45 months and before 51 months since first flight of the MLG bogie beam on an airplane, or since the MLG bogie beam's first flight on an airplane after the MLG bogie beam's most recent overhaul, as applicable.

(3) For MLG bogie beams having the configurations specified in both paragraphs (h)(3)(i) and (h)(3)(ii) of this AD: Do the detailed inspection specified in paragraph (h) of this AD within 3 months after the effective date of this AD.

(i) MLG bogie beams having between 72 and 96 months since first flight on an airplane, or since the MLG bogie beam's first flight on an airplane after the MLG bogie beam's most recent overhaul, as applicable.

(ii) MLG bogie beams which has accumulated, at the effective date of this AD, less than 96 months and on which the first inspection was done before 51 months since first flight of the MLG bogie beam on an airplane, or since the MLG bogie beam's first flight on an airplane after the after the MLG bogie beam's most recent overhaul, as applicable.

(4) For MLG bogie beams having the configurations specified in both paragraphs (h)(4)(i) and (h)(4)(ii) of this AD: Do the detailed inspection specified in paragraph (h) of this AD within 1 month after the effective date of this AD.

(i) MLG bogie beams having between 96 and 120 months since first flight on an airplane, or since the MLG bogie beam's first flight on an airplane after the MLG bogie beam's most recent overhaul, as applicable.

(ii) MLG bogie beams which has accumulated, at the effective date of this AD, 96 months or more and on which the first inspection was done before 45 months since first flight of the MLG bogie beam on an airplane, or since the MLG bogie beam's first flight on an airplane after the MLG bogie beam's most recent overhaul, as applicable.

(i) Application of Protective Treatment

If, during any inspection required by paragraph (g) or (h) of this AD, no damage or corrosion is found, before further flight, apply the protective treatments to the MLG bogie beam, in accordance with the Accomplishment Instructions of Messier-Dowty Service Bulletin A33/34–32–272, Revision 1, including Appendixes A, B, C, and D, dated September 22, 2008.

(j) Repair and Application of Protective Treatment

If, during any inspection required by paragraph (g) or (h) of this AD, any damage

or corrosion is found, before further flight, repair and apply the protective treatments to the MLG bogie beam, in accordance with the Accomplishment Instructions of Messier-Dowty Service Bulletin A33/34–32–272, Revision 1, including Appendixes A, B, C, and D, dated September 22, 2008.

(k) Inspection and Corrective Actions

For airplanes equipped with basic MLG (201252 series), growth MLG (201490 series), or enhanced MLG (10–210 series): Before the accumulation of 252 total months on an MLG bogie beam, or within 90 days after the effective date of this AD, whichever occurs later, do the actions specified in paragraphs (k)(1) and (k)(2) of this AD concurrently and in sequence.

(1) Except as provided by paragraph (k)(3) of this AD: Do a detailed inspection for damage and corrosion of the internal bores of the LH and RH MLG bogie beam, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330–32–3237 or A340–32–4279, both Revision 1, both dated October 14, 2011, as applicable. If any damage or corrosion is found, before further flight, repair in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330–32–3237 or A340–32–4279, both Revision 1, both dated October 14, 2011, as applicable.

(2) Except as provided by paragraph (k)(3) of this AD: Modify and re-identify, as applicable, the LH and RH MLG bogie beams, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330–32–3237 or A340–32–4279, both Revision 1, both dated October 14, 2011, as applicable.

(3) The inspection requirements of paragraph (k)(1) of this AD, and the modification requirements only of paragraph (k)(2) of this AD, do not apply to any MLG bogie beam with a serial number listed in Appendix A of Messier-Dowty Service Bulletin A33/34–32–283 or A33/34–32–284, both Revision 1, both dated July 10, 2012, as applicable.

(l) Optional Methods of Compliance for Certain Airplane Configurations

Inspections and corrective actions on both MLG bogie beams done in accordance with the instructions of Messier-Dowty Service Bulletin A33/34–32–271, Revision 1, dated November 16, 2007; or A33/34–32–272, Revision 1, including Appendixes A, B, C, and D, dated September 22, 2008; as applicable; are acceptable methods of compliance for the requirements of paragraph (g) of this AD, provided each inspection is accomplished between 54 months and 72 months since the first flight of the affected MLG bogie beam on an airplane, or since the MLG bogie beam's first flight after the MLG bogie beam's most recent overhaul, as applicable.

(m) Reporting

(1) Submit a report of the findings (both positive and negative) of each inspection required by paragraph (g) or (k) of this AD, as applicable, to Airbus, Customer Service Directorate, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, using the applicable reporting sheet in Airbus Mandatory Service Bulletin A330–32–3237, Revision 1, dated October 14, 2011; or Airbus Mandatory Service Bulletin A340–32–4279, Revision 1, dated October 14, 2011; at the applicable time specified in paragraph (m)(1)(i) or (m)(1)(ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 90 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 90 days after the effective date of this AD.

(2) Submit a report of the findings (both positive and negative) of the inspection required by paragraph (h) of this AD to Airbus, Customer Service Directorate, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, using the applicable reporting sheet in Airbus Service Bulletin A330–32–3237 or A340–32–4279, both dated January 18, 2011, at the applicable time specified in paragraph (m)(2)(i) or (m)(2)(ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(n) Optional Method of Compliance

(1) Inspections for damage and corrosion to the protective treatment of the internal bores of the LH and RH MLG bogie beam, and repairs, done in accordance with Messier-Dowty Service Bulletin A33/34–32–278, including Appendixes A and B, Revision 1, dated August 24, 2011, are acceptable methods of compliance with the corresponding requirements of paragraph (k)(1) of this AD.

(2) Modification of the LH and RH MLG bogie beams, done in accordance with Messier-Dowty Service Bulletins A33/34–32–283 and A33/34–32–284, both including Appendix A, both Revision 1, both dated July 10, 2012, as applicable, is an acceptable method of compliance with the corresponding requirements of paragraph (k)(2) of this AD.

(o) Optional Terminating Action

Modification of both LH and RH MLG bogie beams on an airplane, done in accordance with paragraph (k) of this AD, or as specified in paragraphs (n)(1) and (n)(2) of this AD, terminates the repetitive inspections required by paragraph (g) of this AD for this airplane.

(p) Credit for Previous Actions

(1) This paragraph provides credit for the corresponding inspections and corrective actions done on an LH or RH MLG bogie beam required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Airbus Mandatory Service Bulletin A330–32–3225, dated November 21, 2007; or Revision 1, dated October 30, 2008; provided the inspections and corrective actions were accomplished between 54 months and 72 months since first flight of the affected MLG bogie beam on an airplane, or since its first flight after the MLG bogie beam's most recent overhaul, as applicable. Airbus Mandatory Service Bulletin A330–32–3225, dated November 21, 2007, is not incorporated by reference in this AD. Airbus Mandatory Service Bulletin A330–32–3225, Revision 1, dated October 30, 2008, was incorporated by reference in AD 2009–15–07, Amendment 39–15980 (74 FR 37523, July 29, 2009).

(2) This paragraph provides credit for the corresponding inspections and corrective actions done on an LH or RH MLG bogie beam required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Airbus Mandatory Service Bulletin A340–32–4268, dated November 21, 2007; Revision 1, dated October 30, 2008; or Revision 2, dated October 26, 2012; provided these inspections and corrective actions were accomplished between 54 months and 72 months since first flight of the affected MLG bogie beam on an airplane, or since its first flight after the MLG bogie beam's most recent overhaul, as applicable. Airbus Mandatory Service Bulletin A340–32–4268, dated November 21, 2007; and Revision 2, dated October 26, 2012; are not incorporated by reference in this AD. Airbus Mandatory Service Bulletin A340–32–4268, Revision 1, dated October 30, 2008, was incorporated by reference in AD 2009–15–17, Amendment 39–15980 (74 FR 37523, July 29, 2009).

(3) This paragraph provides credit for the corresponding actions required by paragraph (n)(1) of this AD, if those actions were performed before the effective date of this AD using Messier-Dowty Service Bulletin A33/34–32–271, dated September 13, 2007, which is not incorporated by reference in this AD.

(4) This paragraph provides credit for the corresponding actions required by paragraphs (j) and (n)(1) of this AD, if those actions were performed before the effective date of this AD using Messier-Dowty Service Bulletin A33/34–32–272, including Appendixes A, B, C, and D, dated November 16, 2007, which is not incorporated by reference in this AD.

(5) This paragraph provides credit for the corresponding actions required by paragraphs (k), (m), and (r)(1)(i) of this AD, if those actions were performed before the effective date of this AD using Airbus Mandatory Service Bulletin A330–32–3237, dated January 18, 2011, which is not incorporated by reference in this AD.

(6) This paragraph provides credit for the corresponding actions required by paragraphs (k), (m), and (r)(1)(i) of this AD, if those actions were performed before the effective date of this AD using Airbus Mandatory Service Bulletin A340–32–4279, dated January 18, 2011, which is not incorporated by reference in this AD.

(7) This paragraph provides credit for the corresponding actions required by paragraphs (k)(3), (n)(2), (r)(1)(ii), and (r)(1)(iii) of this AD, if those actions were performed before the effective date of this AD using Messier-Dowty Service Bulletin A33/34–32–283, including Appendix A, dated May 11, 2010, which is not incorporated by reference in this AD.

(8) This paragraph provides credit for the corresponding actions required by paragraphs (k)(3), (n)(2), (r)(1)(ii), and

(r)(1)(iii) of this AD, if those actions were performed before the effective date of this AD using Messier-Dowty Service Bulletin A33/34–32–284, including Appendix A, dated May 11, 2010, which is not incorporated by reference in this AD.

(9) This paragraph provides credit for the corresponding actions required by paragraphs (n)(1) and (r)(1)(ii) of this AD, if those actions were performed before the effective date of this AD using Messier-Dowty Service Bulletin A33/34–32–278, including Appendixes A and B, dated February 17, 2010, which is not incorporated by reference in this AD.

(q) Clarification of Inspection Compliance Times

After accomplishment of the one-time detailed inspection required by paragraph (h) of this AD, the repetitive actions required by paragraph (g) of this AD remain applicable, and must be done within the compliance times specified in paragraph (g) of this AD.

(r) Parts Installation Limitations

(1) After modification of an airplane, as required by paragraph (k) of this AD, or as specified in paragraphs (n)(1) and (n)(2) of this AD, do not install an MLG bogie beam on any airplane unless it is done in compliance with the requirements of paragraph (r)(1)(i), (r)(1)(ii), or (r)(1)(iii) of this AD.

(i) The MLG bogie beam has been modified and re-identified in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330–32–3237 or A340–32–4279, both Revision 1, both dated October 14, 2011, as applicable.

(ii) The MLG bogie beam has been inspected and all applicable corrective actions have been done in accordance with the Accomplishment Instructions of Messier-Dowty Service Bulletin A33/34–32–278, Revision 1, dated August 24, 2011; and modified in accordance with the Accomplishment Instructions of Messier-Dowty Service Bulletin A33/34–32–283 or A33/34–32–284, both Revision 1, both dated July 10, 2012.

(iii) The MLG bogie beam has a serial number listed in Appendix A of Messier-Dowty Service Bulletin A33/34–32–283 or A33/34–32–284, both Revision 1, both dated July 10, 2012.

(2) As of the effective date of this AD, except as specified in paragraph (r)(1) of this AD, installation of an MLG bogie beam on an airplane is allowed, provided that following the installation it is inspected and all applicable repairs and corrective actions have been done in accordance with the requirements of this AD.

(s) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency (EASA) AD 2013–0267R1, dated March 4, 2014, corrected March 8, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0828.

(2) For Airbus service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 45 80; email: *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.*

(3) For Messier-Dowty service information identified in this AD, contact Messier-Dowty: Messier Services Americas, Customer Support Center, 45360 Severn Way, Sterling, VA 20166–8910; telephone 703–450–8233; fax 703–404–1621; Internet *https://techpubs.services/messier-dowty.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 27, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–02161 Filed 2–4–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–433]

Schedules of Controlled Substances: Placement of PB-22, 5F-PB-22, AB-FUBINACA and ADB-PINACA into Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Drug Enforcement Administration proposes placing quinolin-8-yl 1-pentyl-1*H*-indole-3-carboxylate (PB-22; QUPIC), quinolin-8-yl 1-(5-fluoropentyl)-1*H*-indole-3-carboxylate (5-fluoro-PB-22; 5F-PB-22), *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (AB-FUBINACA) and *N*-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (ADB-PINACA), including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible, into schedule I of the Controlled Substances Act. This proposed scheduling action is pursuant to the Controlled Substances Act which requires that such actions be made on the record after opportunity for a hearing through formal rulemaking. If finalized, this action would impose the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, import, export, engage in research, conduct instructional activities or chemical analysis, or possess), or propose to handle PB-22, 5F-PB-22, AB-FUBINACA, or ADB-PINACA.

DATES: Interested persons may file written comments on this proposal in accordance with 21 CFR 1308.43(g). Comments must be submitted electronically or postmarked on or before March 7, 2016. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.

Interested persons, defined at 21 CFR 1300.01 as those ''adversely affected or aggrieved by any rule or proposed rule issuable pursuant to section 201 of the Act (21 U.S.C. 811),'' may file a request for hearing or waiver of hearing pursuant to 21 CFR 1308.44 and in accordance with 21 CFR 1316.45 and/or 1316.47, as applicable. Requests for hearing and waivers of an opportunity for a hearing or to participate in a hearing must be received on or before March 7, 2016.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–433'' on all electronic and written correspondence, including any attachments.

- *Electronic comments:* The Drug Enforcement Administration encourages that all comments be submitted electronically through the Federal eRulemaking Portal which provides the ability to type short comments directly into the comment field on the Web page or attach a file for lengthier comments. Please go to *http://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon completion of your submission you will receive a Comment Tracking Number for your comment. Please be aware that submitted comments are not instantaneously available for public view on Regulations.gov. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.
- *Paper comments:* Paper comments that duplicate the electronic submission are not necessary. Should you wish to mail a paper comment, *in lieu of* an electronic comment, it should be sent via regular or express mail to: Drug Enforcement Administration, Attn: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.
- *Hearing requests:* All requests for a hearing and waivers of participation must be sent to: Drug Enforcement

Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing and waivers of participation should be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT:

Barbara J. Boockholdt, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received in response to this docket are considered part of the public record. They will, unless reasonable cause is given, be made available by the Drug Enforcement Administration (DEA) for public inspection online at *http://www.regulations.gov.* Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter. The Freedom of Information Act (FOIA) applies to all comments received. If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be made publicly available, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place all of the personal identifying information you do not want made publicly available in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be made publicly available, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify the confidential business information to be redacted within the comment.

Comments containing personal identifying information or confidential business information identified as directed above will be made publicly available in redacted form. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be made publicly available. Comments posted to *http://www.regulations.gov* may include any personal identifying information (such as name, address, and phone number) included in the text of your electronic submission that is not identified as directed above as confidential.

An electronic copy of this document and supplemental information to this proposed rule are available at *http://www.regulations.gov* for easy reference.

Request for Hearing, or Waiver of Participation in Hearing

Pursuant to 21 U.S.C. 811(a), this action is a formal rulemaking ''on the record after opportunity for a hearing.'' Such proceedings are conducted pursuant to the provisions of the Administrative Procedure Act (APA), 5 U.S.C. 551–559. 21 CFR 1308.41–1308.45; 21 CFR part 1316, subpart D. In accordance with 21 CFR 1308.44(a)–(c), requests for hearing, notices of appearance, and waivers of an opportunity for a hearing or to participate in a hearing may be submitted only by interested persons, defined as those ''adversely affected or aggrieved by any rule or proposed rule issuable pursuant to section 201 of the Act (21 U.S.C. 811).'' 21 CFR 1300.01. Such requests or notices must conform to the requirements of 21 CFR 1308.44(a) or (b), and 1316.47 or 1316.48, as applicable, and include a statement of interest of the person in the proceeding and the objections or issues, if any, concerning which the person desires to be heard. Any waiver must conform to the requirements of 21 CFR 1308.44(c) and may include a written statement regarding the interested person's position on the matters of fact and law involved in any hearing.

Please note that pursuant to 21 U.S.C. 811(a), the purpose and subject matter of a hearing held in relation to this rulemaking is restricted to: ''(A) find[ing] that such drug or other substance has a potential for abuse, and (B) mak[ing] with respect to such drug or other substance the findings prescribed by subsection (b) of section 812 of this title for the schedule in which such drug is to be placed * * *.'' All requests for hearing and waivers participation must be sent to the DEA using the address information provided above.

Legal Authority

The DEA implements and enforces Titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. Titles II and III are referred to as the ''Controlled Substances Act'' and the ''Controlled Substances Import and Export Act,'' respectively, and are collectively referred to as the ''Controlled Substances Act'' or the ''CSA'' for the purpose of this action. 21 U.S.C. 801–971. The DEA publishes the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR), chapter II. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while providing for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

Under the CSA, controlled substances are classified into one of five schedules based upon their potential for abuse, their currently accepted medical use, and the degree of dependence the substance may cause. 21 U.S.C. 812. The initial schedules of controlled substances established by Congress are found at 21 U.S.C. 812(c), and the current list of scheduled substances is published at 21 CFR part 1308.

Pursuant to 21 U.S.C. 811(a)(1), the Attorney General may, by rule, ''add to such a schedule or transfer between such schedules any drug or other substance if he (A) finds that such drug or other substance has a potential for abuse, and (B) makes with respect to such drug or other substance the findings prescribed by subsection (b) of section 812 of this title for the schedule in which such drug is to be placed * * *.'' The Attorney General has delegated scheduling authority under 21 U.S.C. 811 to the Administrator of the DEA. 28 CFR 0.100.

The CSA provides that proceedings for the issuance, amendment, or repeal of the scheduling of any drug or other substance may be initiated by the Attorney General (1) on her own motion; (2) at the request of the Secretary of the Department of Health and Human Services (HHS); [1] or (3) on the petition of any interested party. 21 U.S.C. 811(a). This proposed action is supported by a recommendation from the Assistant Secretary of the HHS and an evaluation of all other relevant data by the DEA. If finalized, this action would impose the regulatory controls and administrative, civil, and criminal

[1] As discussed in a memorandum of understanding entered into by the Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA), the FDA acts as the lead agency within the HHS in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518, Mar. 8, 1985. The Secretary of the HHS has delegated to the Assistant Secretary for Health of the HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.

sanctions of schedule I controlled substances on any person who handles or proposes to handle PB-22, 5F-PB-22, AB-FUBINACA, or ADB-PINACA.

Background

On February 10, 2014, the DEA published a final order in the **Federal Register** amending 21 CFR 1308.11(h) to temporarily place quinolin-8-yl 1-pentyl-1*H*-indole-3-carboxylate (PB-22; QUPIC); quinolin-8-yl 1-(5-fluoropentyl)-1*H*-indole-3-carboxylate (5-fluoro-PB-22; 5F-PB-22); N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (AB-FUBINACA); and *N*-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (ADB-PINACA) into schedule I of the CSA pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). 79 FR 7577. That final order, which became effective on the date of publication, was based on findings by the Deputy Administrator of the DEA that the temporary scheduling of these four synthetic cannabinoids (SCs) was necessary to avoid an imminent hazard to the public safety pursuant to 21 U.S.C. 811(h)(1). At the time the final order took effect, section 201(h)(2) of the CSA, 21 U.S.C. 811(h)(2), required that the temporary scheduling of a substance expire at the end of two years from the date of issuance of the scheduling order, and it provided that, during the pendency of proceedings under 21 U.S.C. 811(a)(1) with respect to the substance, temporary scheduling of that substance could be extended for up to 1 year. Pursuant to 21 U.S.C. 811(h)(2), the temporary scheduling of PB-22; QUPIC, 5F-PB-22, AB-FUBINACA, and ADB-PINACA expires on February 9, 2016, unless extended. An extension of the temporary order is being ordered by the DEA Administrator in a separate action.

These four SCs have not been investigated for medical use nor are they intended for human use. With no known legitimate use and safety information, manufacturers are surreptitiously adulterating plant material with these SCs and distributors are selling the associated products which pose potentially dangerous consequences to the consumer.

The Assistant Secretary of Health for the U.S. Department of Health and Human Services (HHS) has advised that there are no exemptions or approvals in effect for PB-22, 5F-PB-22, AB-FUBINACA, or ADB-PINACA under section 505 (21 U.S.C. 355) of the Federal Food, Drug, and Cosmetic Act. As stated by the HHS, PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA have no known accepted medical use. They are not the subject of any approved new drug applications (NDAs) or investigational new drug applications (INDs), and are not currently marketed as approved drug products. The HHS recommends that PB-22, 5F-PB-22, AB-FUBINACA, ADB-PINACA, and their salts be placed into schedule I of the Controlled Substances Act (CSA).

Proposed Determination To Schedule PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA

Pursuant to 21 U.S.C. 811(a)(1), proceedings to add a drug or substance to those controlled under the CSA may be initiated by the Attorney General, or her delegate, the DEA Administrator. On December 30, 2014, the DEA requested scientific and medical evaluations and scheduling recommendations from the Assistant Secretary of Health for the U.S. Department of Health and Human Services (HHS) for PB-22, 5F-PB-22, AB-FUBINACA and ADB-PINACA pursuant to 21 U.S.C. 811(b). Upon receipt of the scientific and medical evaluations and scheduling recommendations from the HHS dated January 19, 2016, the DEA reviewed the documents and all other relevant data and conducted its own eight-factor analysis of the abuse potential of PB-22, 5F-PB-22, AB-FUBINACA and ADB-PINACA pursuant to 21 U.S.C. 811(c). Included below is a brief summary of each factor as analyzed by the HHS and the DEA, and as considered by the DEA in its proposed scheduling action. Please note that both the DEA 8-Factor and HHS 8-Factor analyses and the Assistant Secretary's January 19, 2016, letter, are available in their entirety under the tab ''Supporting Documents'' of the public docket of this action at *http://www.regulations.gov,* under Docket Number ''DEA–433.''

1. *The Drug's Actual or Relative Potential for Abuse:* The term ''abuse'' is not defined in the CSA. However, the legislative history of the CSA suggests that the DEA consider the following criteria in determining whether a particular drug or substance has a potential for abuse [2]:

(a) There is evidence that individuals are taking the drug or drugs containing such a substance in amounts sufficient to create a hazard to their health or to the safety of other individuals or of the community; or

(b) There is significant diversion of the drug or drugs containing such a substance from legitimate drug channels; or

(c) Individuals are taking the drug or drugs containing such a substance on their own initiative rather than on the basis of medical advice from a practitioner licensed by law to administer such drugs in the course of his professional practice; or

(d) The drug or drugs containing such a substance are new drugs so related in their action to a drug or drugs already listed as having a potential for abuse to make it likely that the drug will have the same potentiality for abuse as such drugs, thus making it reasonable to assume that there may be significant diversions from legitimate channels, significant use contrary to or without medical advice, or that it has a substantial capability of creating hazards to the health of the user or to the safety of the community.

Review of scientific and medical literature indicates that the ingestion of synthetic cannabinoids leads to adverse health effects. Specifically, adverse effects following ingestion have included: Seizures, neurotoxicity and death for PB-22; respiratory failure, organ failure, and death for 5F-PB-22; diaphoresis, nausea, confusion, tachycardia and death for AB-FUBINACA; and anxiety, delirium, psychosis, aggression, seizures and death for ADB-PINACA.

The American Association of Poison Control Centers (AAPCC) has reported 7,779 exposures to SCs from January 1 through December 31, 2015. The significance of this value is based upon reporting of human exposures to SCs since 2011. While 2012–2014 saw a reduction in exposure calls to the AAPCC, 2015 records demonstrate resurgence in calls to poison centers regarding SCs. In addition, the largest monthly tally ever recorded by AAPCC in reference to SCs occurred in April 2015, with 1,511 calls.

The HHS stated that there are no FDA-approved drug products containing PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA in the United States and there appear to be no legitimate sources for these substances as marketed drugs. According to the HHS, because PB-22, 5F-PB-22, AB-FUBINACA and ADB-PINACA are not approved for medical use and are not formulated or available for clinical use, the human use of these substances is assumed to be on an individual's own initiative, rather than on the basis of medical advice from a practitioner licensed by law to administer drugs. Further, AAPCC reports, published scientific and medical literature, and law enforcement reports indicate that individuals are

[2] Comprehensive Drug Abuse Prevention and Control Act of 1970, H.R. Rep. No. 91–1444, 91st Cong., Sess. 1 (1970); reprinted in 1970 U.S.C.C.A.N. 4566, 4603.

taking these SCs on their own initiative, rather than on the medical advice of a licensed practitioner. As noted by the HHS, pharmacological studies sponsored by NIDA have demonstrated that PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA are similar to other schedule I SCs. All four of these substances, similar to other schedule I SCs, display high affinity binding and potent agonist functional activity at the cannabinoid (CB1) receptor, while drug discrimination studies have demonstrated the ability of all four substances to substitute for delta-9-tetrahydrocannabinol (THC) (see Factor 2). The results supporting CB1 agonist activity of PB-22 and 5F-PB-22 are consistent with the similar findings reported in published literature.

2. *Scientific Evidence of the Drug's Pharmacological Effects, if Known:* In vitro receptor binding and functional assays were conducted with PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA. In addition, drug discrimination assays using Sprague Dawley rats were performed to identify drugs with similar subjective effects to THC. These results indicate that PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA, similar to other schedule I SCs, bind to CB1 receptors with high affinity and act as agonists at CB1 receptors.

Based on results from the receptor binding (Ki), CB1 functional assay, and drug discrimination studies, the HHS concluded that PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA act as full psychoactive cannabinoid agonists with no antagonist activity and that these four substances are more potent than THC, the principal psychoactive chemical in marijuana (schedule I), and are similar in activity to JWH-018 (schedule I).

3. *The State of Current Scientific Knowledge Regarding the Drug or Other Substance:* The DEA is not aware of any currently accepted medical uses for PB-22, 5F-PB-22, AB-FUBINACA or ADB-PINACA. A letter dated November 7, 2013 was sent from the DEA Deputy Administrator to the Assistant Secretary for Health of the Department for Health and Human Services as notification of intent to temporarily place these four substances in schedule I and solicited information, including whether there was an exemption or approval in effect for the substances in question under the Federal Food, Drug and Cosmetic Act. The Assistant Secretary of Health responded that there were no current INDs or NDAs for these synthetic cannabinoids in a letter to the DEA Assistant Administrator dated January 27, 2014. The scientific and medical evaluations provided by the HHS also stated that PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA have no currently accepted medical use. These SCs are not the subject of an approved NDAs or INDs, and are not currently marketed as approved drug products. In recent overdoses, PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA have been found to be laced on green plant material, similar to the SCs that have been previously encountered.

4. *Its History and Current Pattern of Abuse:* Since the initial identification of JWH-018 (November 2008), many additional synthetic cannabinoids have been found to be applied on plant material and encountered as designer drug products. A major concern, as reiterated by public health officials and medical professionals, remains the targeting and direct marketing of SCs and SC-containing products to adolescents and youth. The Monitoring the Future project, begun in 1975, studies changes in beliefs, attitudes, and behavior of young people in the United States. While the Monitoring the Future survey reported decreases in prevalence amongst 8th, 10th, and 12th grade students over the past two years, AAPCC reports for SCs in 2015 were the highest observed since reporting began in 2011. Reports in 2015 more than doubled compared to those shown for 2011. Smoking mixtures of these substances abused for the purpose of achieving intoxication has resulted in numerous emergency department visits and calls to poison control centers. As reported by the AAPCC, adverse effects including severe agitation, anxiety, racing heartbeat, high blood pressure, nausea, vomiting, seizures, tremors, intense hallucinations, psychotic episodes, suicide, and other harmful thoughts and/or actions can occur following ingestion of SCs. Presentations at emergency departments directly linked to the abuse of PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA have resulted in similar symptoms, including severe agitation, seizures, and/or death.

5. *The Scope, Duration, and Significance of Abuse:* PB-22 and 5F-PB-22 are synthetic cannabinoids that have pharmacological effects similar to the schedule I hallucinogen THC. PB-22 and 5F-PB-22 were not reported in the scientific literature prior to their appearance on the illicit drug market. A report from March 2013 identified PB-22 as a component of dried plant material obtained via the Internet between July 2012 and January 2013 in Japan.

AB-FUBINACA is also a synthetic cannabinoid that has pharmacological effects similar to the schedule I hallucinogen THC. First appearing in a 2009 patent filed by the pharmaceutical manufacturer Pfizer, AB-FUBINACA was first reported in the scientific literature as a component of so-called ''herbal products'' purchased via the Internet in July 2012.

ADB-PINACA was first encountered in the United States following reports of serious adverse events in Georgia on August 23, 2013. Reports of ADB-PINACA were not found in the scientific literature prior to its emergence on the designer drug market. The Georgia Bureau of Investigation (GBI) reported on September 12, 2013 that ADB-PINACA, was detected in ''herbal incense'' products sold under the brand name ''Crazy Clown.'' It was later confirmed by the Centers for Disease Control and Prevention (CDC) as the substance responsible for severe adverse events in at least 22 persons who consumed the product. In addition, on August 30, 2013, the Colorado Department of Public Health and Environment (CDPHE) was notified by several hospitals of an increase in the number of patients visiting their emergency departments with altered mental status after using synthetic cannabinoids. On September 8, 2013, the CDPHE, with the assistance of the CDC, began an epidemiologic investigation whereby 221 cases of severe illness due to ingestion of a synthetic cannabinoid were identified. Those that presented at emergency rooms in the Denver, Colorado area around September 1, 2013 had symptoms similar to those found in the August 2013 Georgia incident. Laboratory analysis of samples from the Colorado incident confirmed that the substance abused in the ''herbal incense'' products was ADB-PINACA.

The AAPCC report published on April 23, 2015 showed a marked spike in poison center exposure calls throughout the United States in 2015 related to SCs. The AAPCC reported 1,512 exposure calls in April 2015, representing an almost three-fold increase in exposures to SCs as compared to the previous largest monthly tally (657 exposures in January 2012) since reporting began in 2011. For the first time since reporting began by the AAPCC in 2011, the number of SC cases in 2015 has dramatically risen, more than doubling those reported in 2014. The numbers of SC cases reported in 2015 were the highest ever recorded.

6. *What, if Any, Risk There is to the Public Health:* As stated by the HHS, based solely on their pharmacological similarity to JWH-018 and THC and their potency, the subjective risks to the

public health of PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA are similar to those of other SCs, which are controlled in schedule I of the CSA. Warnings regarding the dangers associated with abuse of synthetic cannabinoids and their products have been issued by numerous state public health departments and poison control centers and private organizations. Some of the common clinical effects reported in emergency rooms in response to the abuse of synthetic cannabinoids include vomiting, anxiety, agitation, irritability, seizures, hallucinations, tachycardia, elevated blood pressure, and loss of consciousness.

At least ten deaths have been reported involving the four SCs, including at least 3 involving PB-22, 5 involving 5F-PB-22, 1 involving AB-FUBINACA, and 1 involving ADB-PINACA. As mentioned above, there are reported instances of emergency department admissions in association with the abuse of PB-22 and 5F-PB-22. Additional deaths involving a variety of SCs have been reported, along with additional instances of severe toxic effects following ingestion of SCs.

7. *Its Psychic or Physiological Dependence Liability:* As stated by the HHS, PB-22, 5F-PB-22, AB-FUBINACA and ADB-PINACA have pharmacological profiles that are similar to other schedule I SCs. Thus it is reasonable to assume that PB-22, 5F-PB-22, AB-FUBINACA and ADB-PINACA possess physiological and psychological dependence liability that is similar to that of other schedule I cannabinoids (THC and JWH-018). While PB-22, 5F-PB-22, AB-FUBINACA and ADB-PINACA are pharmacologically related to JWH-018, no studies regarding the psychic or physiological dependence liability of PB-22, 5F-PB-22, AB-FUBINACA, or ADB-PINACA have been identified.

8. *Whether the Substance is an Immediate Precursor of a Substance Already Controlled Under the CSA:* PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA are not considered an immediate precursor of any controlled substance of the CSA.

Conclusion: After considering the scientific and medical evaluation conducted by the HHS, the HHS's recommendation, and the DEA's own eight-factor analysis, the DEA finds that the facts and all relevant data constitute substantial evidence of the potential for abuse of PB-22, 5F-PB-22, AB-FUBINACA and ADB-PINACA. As such, the DEA hereby proposes to schedule PB-22, 5F-PB-22, AB-FUBINACA and ADB-PINACA as controlled substances under the CSA.

Proposed Determination of Appropriate Schedule

The CSA establishes five schedules of controlled substances known as schedules I, II, III, IV, and V. The CSA also outlines the findings required to place a drug or other substance in any particular schedule. 21 U.S.C. 812(b). After consideration of the analysis and recommendation of the Assistant Secretary for HHS and review of all other available data, the Administrator of the DEA, pursuant to 21 U.S.C. 811(a) and 21 U.S.C. 812(b)(1), finds that:

1. PB-22, 5F-PB-22, AB-FUBINACA and ADB-PINACA have a high potential for abuse that is comparable to other schedule I substances such as delta 9-tetrahydrocannabinol (THC) and JWH-018;

2. PB-22, 5F-PB-22, AB-FUBINACA and ADB-PINACA have no currently accepted medical use in treatment in the United States; and

3. There is a lack of accepted safety for use of PB-22, 5F-PB-22, AB-FUBINACA and ADB-PINACA under medical supervision.

Based on these findings, the Administrator of the DEA concludes that quinolin-8-yl 1-pentyl-1*H*-indole-3-carboxylate (PB-22; QUPIC), quinolin-8-yl 1-(5-fluoropentyl)-1*H*-indole-3-carboxylate (5-fluoro-PB-22; 5F-PB-22), *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (AB-FUBINACA), and *N*-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (ADB-PINACA), including their salts, isomers and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible, warrant control in schedule I of the CSA. 21 U.S.C. 812(b)(1).

Requirements for Handling PB-22, 5F-PB-22, AB-FUBINACA and ADB-PINACA

If this rule is finalized as proposed, PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA would continue [3] to be subject to the CSA's schedule I regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, dispensing, importing, exporting, research, and conduct of instructional activities, including the following:

1. *Registration.* Any person who handles (manufactures, distributes, dispenses, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses) PB-22, 5F-PB-22, AB-FUBINACA, or ADB-PINACA, or who desires to handle PB-22, 5F-PB-22, AB-FUBINACA, or ADB-PINACA, would be required to be registered with the DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958 and in accordance with 21 CFR parts 1301 and 1312.

2. *Security.* PB-22, 5F-PB-22, AB-FUBINACA, or ADB-PINACA would be subject to schedule I security requirements and would need to be handled and stored pursuant to 21 U.S.C. 821, 823 and in accordance with 21 CFR 1301.71–1301.93.

3. *Labeling and Packaging.* All labels and labeling for commercial containers of PB-22, 5F-PB-22, AB-FUBINACA, or ADB-PINACA would need to be in compliance with 21 U.S.C. 825 and 958(e), and be in accordance with 21 CFR part 1302.

4. *Quota.* Only registered manufacturers would be permitted to manufacture PB-22, 5F-PB-22, AB-FUBINACA, or ADB-PINACA in accordance with a quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303.

5. *Inventory.* Any person who becomes registered with the DEA after the effective date of the final rule must take an initial inventory of all stocks of controlled substances (including PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA) on hand on the date the registrant first engages in the handling of controlled substances pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

After the initial inventory, every DEA registrant must take a new inventory of all stocks of controlled substances (including PB-22, 5F-PB-22, AB-FUBINACA, and ADB-PINACA) on hand every two years, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records and Reports.* Every DEA registrant would be required to maintain records and submit reports with respect to PB-22, 5F-PB-22, AB-FUBINACA, and/or ADB-PINACA pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR parts 1304 and 1312.

7. *Order Forms.* Every DEA registrant who distributes PB-22, 5F-PB-22, AB-FUBINACA, or ADB-PINACA would be required to comply with the order form requirements, pursuant to 21 U.S.C. 828, and 21 CFR part 1305.

8. *Importation and Exportation.* All importation and exportation of PB-22, 5F-PB-22, AB-FUBINACA, or ADB-PINACA would need to be in

[3] PB-22, 5F-PB-22, AB-FUBINACA and ADB-PINACA are currently subject to schedule I controls on a temporary basis, pursuant to 21 U.S.C. 811(h). 79 FR 7577, Feb. 10, 2014.

compliance with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312.

9. *Liability.* Any activity involving PB-22, 5F-PB-22, AB-FUBINACA, or ADB-PINACA not authorized by, or in violation of, the CSA or its implementing regulations would be unlawful, and could subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

Executive Orders 12866 and 13563

In accordance with 21 U.S.C. 811(a), this proposed scheduling action is subject to formal rulemaking procedures performed ''on the record after opportunity for a hearing,'' which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth the criteria for scheduling a drug or other substance. Such actions are exempt from review by the Office of Management and Budget (OMB) pursuant to section 3(d)(1) of Executive Order 12866 and the principles reaffirmed in Executive Order 13563.

Executive Order 12988

This proposed regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132

This proposed rulemaking does not have federalism implications warranting the application of Executive Order 13132. The proposed rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175

This proposed rule does not have tribal implications warranting the application of Executive Order 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Regulatory Flexibility Act

The Administrator, in accordance with the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–602, has reviewed this proposed rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. On February 10, 2014, the DEA published a final order to temporarily place these four SCs into schedule I of the CSA pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). The DEA estimates that all entities handling or planning to handle these SCs have already established and implemented the systems and processes required to handle PB-22, 5F-PB-22, AB-FUBINACA, or ADB-PINACA. There are currently 25 registrations authorized to handle PB-22, 5F-PB-22, AB-FUBINACA, and/or ADB-PINACA specifically, as well as a number of registered analytical labs that are authorized to handle schedule I controlled substances generally. These 25 registrations represent 18 entities, of which 8 are small entities. Therefore, the DEA estimates eight small entities are affected by this proposed rule.

A review of the 25 registrations indicates that all entities that currently handle PB-22, 5F-PB-22, AB-FUBINACA, or ADB-PINACA also handle other schedule I controlled substances, and have established and implemented (or maintain) the systems and processes required to handle PB-22, 5F-PB-22, AB-FUBINACA, or ADB-PINACA. Therefore, the DEA anticipates that this proposed rule will impose minimal or no economic impact on any affected entities; and thus, will not have a significant economic impact on any of the eight affected small entities. Therefore, the DEA has concluded that this proposed rule will not have a significant effect on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1501 *et seq.,* the DEA has determined and certifies that this action would not result in any Federal mandate that may result ''in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted for inflation) in any one year * * *.'' Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

Paperwork Reduction Act of 1995

This action does not impose a new collection of information under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501–3521. This action would 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.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, the DEA proposes to amend 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

■ 2. In § 1308.11:

■ a. Add new paragraphs (d)(48) through (d)(51); and

■ b. Remove paragraphs (h)(7) through (10); and

■ c. Redesignate paragraphs (h)(11) through (24) as (h)(7) through (20).

The additions to read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(48) quinolin-8-yl 1-pentyl-1*H*-indole-3-carboxylate (PB-22)	(7222)
(49) quinolin-8-yl 1-(5-fluoropentyl)-1*H*-indole-3-carboxylate (5-fluoro-PB-22; 5F-PB-22)	(7225)
(50) *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (AB-FUBINACA)	(7012)
(51) *N*-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (ADB-PINACA)	(7035)

* * * * *

Dated: February 2, 2016.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2016–02305 Filed 2–4–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2015–1055]

RIN 1625–AA08

Special Local Regulation; Charleston Race Week, Charleston Harbor, Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a special local regulation on the waters of Charleston Harbor in Charleston, SC during the Charleston Race Week from April 15, 2016 through April 17, 2016. This special local regulation is necessary to ensure the safety of participants, spectators, and the general public during the event. This proposed rulemaking would prohibit persons and vessels from being in the regulated area unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before March 7, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2015–1055 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant John Downing, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email *John.Z.Downing@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code
COTP Captain of the Port

II. Background, Purpose, and Legal Basis

On November 18, 2015, the Charleston Ocean Racing Association notified the Coast Guard that it will be sponsoring a series of sailboat races from 8:30 a.m. to 5 p.m. from April 15, 2016 through April 17, 2016. The legal basis for the proposed rule is the Coast Guard's Authority to establish special local regulations: 33 U.S.C 1233. The purpose of the proposed rule is to ensure safety of life on the navigable water of the United States during the Charleston Race Week.

III. Discussion of Proposed Rule

The COTP proposes to establish a special local regulation on the waters of Charleston Harbor in Charleston, South Carolina during Charleston Race Week. The races are scheduled to take place from Friday, April 15, 2016 through Sunday, April 17, 2016. Approximately 285 sailboats are anticipated to participate in the races, and approximately 30 spectator vessels are expected to attend the event. Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative. The Coast Guard will provide notice of the special local regulation by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a ''significant regulatory action,'' under E.O. 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget. This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this proposed rule is not significant for the following reasons: (1) Non-participant persons and vessels may enter, transit through, anchor in, or remain within the regulated area during the enforcement periods if authorized by the Captain of the Port Charleston or a designated representative; (2) vessels not able to enter, transit through, anchor in, or remain within the regulated area without authorization from the Captain of the Port Charleston or a designated representative may operate in the surrounding areas during the enforcement period; and (3) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, (5 U.S.C. 601–612), as amended requires Federal agencies to consider the potential impact of regulations on ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. We have considered the impact of this proposed rule on small entities. This rule may affect the following entities, some of which may be small entities: the owner or operators of vessels intending to enter, transit through, anchor in, or remain within the regulated area during the enforcement period. For the reasons discussed in Regulatory Planning and Review section above, this rule will not have a

significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves special local regulation issued in conjunction with a regatta or marine parade. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary § 100.35T07–1055 to read as follows:

§ 100.35T07–1055 Special Local Regulation; Charleston Race Week, Charleston Harbor, Charleston, SC.

(a) Regulated Area. The rule establishes special local regulations on certain waters of Charleston Harbor in Charleston, South Carolina. The special local regulations will be enforced daily from 8:30 a.m. until 5 p.m. from April 15, 2016 through April 17, 2016. The special local regulations consist of the following three race areas.

1. *Race Area #1.* All waters encompassed within an 700 yard radius of position 32°46′10″ N., 79°55′15″ W.

2. *Race Area #2.* All waters encompassed within a 700 yard radius of position 32°46′02″ N., 79°54′15″ W.

3. *Race Area #3.* All waters encompassed within a 700 yard radius of position 32°45′55″ N., 79°53′39″ W.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the

Captain of the Port Charleston in the enforcement of the regulated areas.

(c) *Regulations.*

(1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area, except persons and vessels participating in Charleston Race Week or serving as safety vessels. Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at (843)740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(2) The Coast Guard will provide notice of the regulated area by Marine Safety Information Bulletins, Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement Date.* This rule will be enforced from April 15 through April 17, 2016 from 8:30 a.m. to 5 p.m. daily.

Dated: January 12, 2016.

G. L. Tomasulo,

Captain, U.S. Coast Guard, Captain of the Port Charleston.

[FR Doc. 2016–02280 Filed 2–4–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

[Docket No. SLSDC–2016–0004]

2135–AA39

Seaway Regulations and Rules: Periodic Update, Various Categories

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Seaway Regulations and Rules in various categories. The changes will update the following sections of the Regulations and Rules: Condition of Vessels; Seaway Navigation; and, Information and Reports. These amendments are necessary to take account of updated procedures and will enhance the safety of transits through the Seaway. Several of the amendments are merely editorial or for clarification of existing requirements.

DATES: Comments are due March 7, 2016.

ADDRESSES: *Docket:* For access to the docket to read background documents or comments received, go to *http://www.Regulations.gov;* or in person at the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Carrie Mann Lavigne, Chief Counsel, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, New York 13662; 315/764–3200.

SUPPLEMENTARY INFORMATION: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Regulations and Rules in various categories. The changes will update the following sections of the Regulations and Rules: Condition of Vessels; Seaway Navigation; and, Information and Reports. These updates are necessary to take account of updated procedures which will enhance the safety of transits through the Seaway. Many of these changes are to clarify existing requirements in the regulations. Where new requirements or regulations are made, an explanation for such a change is provided below.

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

The SLSDC is amending four sections of the Condition of Vessels portion of the joint Seaway regulations. In section 401.10, ''Mooring lines'', the two Corporations are proposing to permit vessels not greater than 200 m in overall length to use soft lines instead of wire lines. Over the past 3 years, vessels greater than 150 m in overall length have been permitted to use type approved soft lines on a test basis, with successful results. Based on these same results, the SLSDC is proposing to amend section 401.11, ''Minimum Requirements—mooring lines and fairleads'' to permit the operator of vessels of more than 150 m but not more than 200 m to use either soft or wire lines.

In 401.13, ''Hand lines'', the SLSDC is proposing to change the maximum diameter of hand lines to 18 mm from 17 mm due to the fact that 17 mm lines are no longer available. The proposed change to 401.17, ''Pitch indicators and alarms,'' would make a minor administrative change by removing the effective date for the requirement.

In the Seaway Navigation portion of the regulations, the two Corporations are proposing to make changes in several sections. Section 401.29, ''Maximum draft'', is being restructured in order to clarify the requirements for use of an operational Draft Information System. In 401.37, ''Mooring at tie-up walls'', the Seaway Corporations are proposing to require that crew members handling lines on tie-up walls wear approved personal flotation devices instead of life jackets that can be unsafe due to their bulky nature. The SLSDC is proposing to change the requirement in 401.45, ''Emergency procedures'', to make clear that when a vessel is entering the locks too fast in an emergency situation, the vessel will not be required to deploy mooring lines.

In the Information and Reports section, a change to section 401.79, ''Advance notice of arrival, vessels requiring inspection'' is being proposed that would require all foreign flagged vessels of 300 GRT or above to submit an electronic Notice of Arrival.

The other changes to the joint regulations are merely editorial or to clarify existing requirements.

Regulatory Evaluation

This proposed regulation involves a foreign affairs function of the United States and therefore Executive Order 12866 does not apply and evaluation under the Department of

Transportation's Regulatory Policies and Procedures is not required.

Regulatory Flexibility Act Determination

I certify that this proposed regulation will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Regulations and Rules primarily relate to commercial users of the Seaway, the vast majority of who are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This proposed regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) because it is not a major federal action significantly affecting the quality of the human environment.

Federalism

The Corporation has analyzed this proposed rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and have determined that this proposal does not have sufficient federalism implications to warrant a Federalism Assessment.

Unfunded Mandates

The Corporation has analyzed this proposed rule under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

Paperwork Reduction Act

This proposed regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting and recordkeeping requirements, Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation is proposing to amend 33 CFR part 401, Regulations and Rules, as follows:

PART 401—SEAWAY REGULATIONS AND RULES

Subpart A—Regulations

■ 1. The authority citation for subpart A of part 401 continues to read as follows:

Authority: 33 U.S.C. 983(a) and 984(a)(4), as amended; 49 CFR 1.52, unless otherwise noted.

■ 2. In § 401.10, revise paragraph (b) to read as follows:

§ 401.10 Mooring lines.

* * * * *

(b) Unless otherwise permitted by an officer, vessels greater than 200 m shall only use wire mooring lines with a breaking strength that complies with the minimum specifications set out in the table to this section shall be used for securing a vessel in lock chambers.

* * * * *

■ 3. In the table at the end of § 401.10, revise the last sentence of the first column to read as follows:

§ 401.10 Mooring lines.

* * * * *

More than 180 m but not more than 225.5 m * * *

* * * * *

■ 4. In 401.12, revise paragraphs (a)–(d) and add a new paragraph (e) to read as follows:

§ 401.12 Minimum requirements–mooring lines and fairleads.

(a) Unless otherwise permitted by the officer the minimum requirements in respect to mooring lines which shall be available for securing on either side of the vessel, winches and the location of fairleads on vessels are as follows:

(1) Vessels of 100 m or less in overall length shall have at least three mooring lines—wires or synthetic hawsers, two of which shall be independently power operated and one if synthetic, may be hand held;

(i) One line shall lead forward from the break of the bow and one line shall lead astern from the quarter and be independently power operated by winches, capstans or windlasses and lead through closed chocks or fairleads acceptable to the Manager and the Corporation; and

(ii) One synthetic hawser may be hand held or if wire line is used shall be powered. The line shall lead astern from the break of the bow through a closed chock to suitable bitts on deck for synthetic line or led from a capstan, winch drums or windlass to an approved fairlead for a wire line.

(2) Vessels of more than 100 m but not more than 150 m in overall length shall have three mooring lines—wires or synthetic hawsers, which shall be independently power operated by winches, capstans or windlasses.

(i) All lines shall be led through closed chocks or fairleads acceptable to the Manager and the Corporation.

(ii) One mooring line shall lead forward and one shall lead astern from the break of the bow and one mooring line shall lead astern from the quarter.

(3) Vessels of more than 150 m but not more than 200 m in overall length shall have four mooring lines, wires or synthetic hawsers, which shall be independently power operated by winches.

(i) One mooring line shall lead forward and one mooring line shall lead astern from the break of the bow.

(ii) One mooring line shall lead forward and one mooring line shall lead astern from the quarter.

(iii) All lines shall be led through a type of fairlead acceptable to the Manager and the Corporation.

(4) Vessels of more than 200 m in overall length shall have four mooring lines—wires, independently power operated by the main drums of adequate power operated winches as follows:

(i) One mooring line shall lead forward and one mooring line shall lead astern from the break of the bow.

(ii) One mooring line shall lead forward and one mooring line shall lead astern from the quarter.

(iii) All lines shall be led through a type of fairlead acceptable to the Manager and the Corporation.

(5) Every vessel shall have a minimum of two spare mooring lines available and ready for immediate use.

* * * * *

■ 5. In § 401.13, revise paragraph (b) to read as follows:

§ 401.13 Handlines.

* * * * *

(b) Be of uniform thickness and have a diameter of not less than 12 mm and not more than 18 mm and a minimum length of 30 m. The ends of the lines shall be back spliced or tapered; and

* * * * *

■ 6. In § 401.17, revise paragraph (b) to read as follows:

§ 401.17 Pitch indicators and alarms.

* * * * *

(b) Visible and audible pitch alarms, with a time delay of not greater than 8 seconds, in the wheelhouse and engineer room to indicate wrong pitch.

■ 7. In § 401.29, revise paragraph (c) as follows:

§ 401.29 Maximum draft.

* * * * *

(c) Any vessel will be permitted to load at an increased draft of not more than 7 cm above the maximum permissible draft in effect as prescribed under § 401.29(b) if it is equipped with a Draft Information System (DIS) and meets the following:

(1) An operational Draft Information System (DIS) approved by a member of the International Association of Classification Societies (IACS) as compliant with the Implementation Specifications found at *www.greatlakes-seaway.com* and having on board:

(i) An operational AIS with accuracy = 1 (DGPS); and

(ii) Up-to-date electronic navigational charts; and

(iii) Up-to-date charts containing high resolution bathymetric data; and

(2) The DIS Tool Display shall be located close to the primary conning position, be visible and legible; and equipped with a pilot plug, if using a portable DIS.

(i) Verification document of the DIS must be kept on board the vessel at all times and made available for inspection.

(ii) A company letter attesting to officer training on use of the DIS must be kept on board and made available for inspection.

(iii) In every navigation season, a vessel intending to use the DIS must notify the Manager of the Corporation in writing at least 24 hours prior to the commencement of its initial transit in the System with the DIS.

(iv) If for any reason the DIS or AIS becomes inoperable, malfunctions or is not used while the vessel is transiting at a draft greater than the maximum permissible draft prescribed under § 401.29(b) in effect at the time, the vessel must notify the Manager or the Corporation immediately.

■ 8. In § 401.37, revise paragraph (b) as follows:

§ 401.37 Mooring at tie-up walls.

* * * * *

(b) Crew members being put ashore on landing booms and handling mooring lines on tie-up walls shall wear approved personal flotation devices.

■ 9. Revise § 401.44 as follows:

§ 401.44 Mooring in locks.

(a) Mooring lines shall only be placed on mooring posts as directed by the officer in charge of the mooring operation.

(b) No winch from which a mooring line runs shall be operated until the officer in charge of a mooring operation has signaled that the line has been placed on a mooring post.

(c) Once the mooring lines are on the mooring posts, lines shall be kept slack until the ''all clear'' signal is given by the lock personnel. When casting off signal is received, mooring lines shall be kept slack until the ''all clear'' signal is given by the lock personnel.

(d) Vessels being moored by ''Hands Free Mooring'' system (HFM) shall have a minimum of 2 well rested crew members on deck during the lockage.

■ 10. Revise § 401.45 as follows:

§ 401.45 Emergency procedure.

When the speed of a vessel entering a lock chamber has to be checked, the master shall take all necessary precautions to stop the vessel in order to avoid contact with lock structures. At no time shall the vessel deploy its anchors to stop the vessel when entering a lock chamber.

■ 11. Revise § 401.47 as follows:

§ 401.47 Leaving a lock.

(a) Mooring lines shall only be cast off as directed by the officer in charge of a mooring operation.

(b) No vessel shall proceed out of a lock until the exit gates, ship arresters and the bridge, if any, are in a fully open position.

(c) When ''Hands Free Mooring system (HFM) is used, no vessel shall use its engine(s) until the lock operator provides the ''all clear'' instruction.

■ 12. In § 401.79 revise paragraph (a) as follows:

§ 401.79 Advance notice of arrival, vessels requiring inspection.

(a) Advance notice of arrival. All foreign flagged vessels of 300 GRT or above intending to transit the Seaway shall submit a completed electronic Notice of Arrival (NOA) prior to entering at call in point 2 (CIP2) as follows:

* * * * *

■ 13. In § 401.80 add a new paragraph (c) as follows:

§ 401.80 Reporting dangerous cargo.

* * * * *

(c) Vessels carrying ''Certain Dangerous Cargo (CDC) as defined in the Transport Canada ''Marine Transportation Security Regulations'' (MTSR's) and the United States Coast Guard regulations under the Marine Transportation Security Act shall report the ''Certain Dangerous Cargo'' to the nearest Seaway station prior to a Seaway transit.

■ 14. In Part 401, Subpart A, Appendix 1, revise the Caution statement to read as follows:

Appendix 1

Ship Dimensions

* * * * *

Caution: Masters must take into account the ballast draft of the vessel when verifying the maximum permissible dimensions. Bridge wings, antennas, masts and, in some cases, the samson posts or store cranes could be outside the limits of the block diagram and could override the lock wall. Masters and pilots must take this into consideration and exercise extreme caution when entering or exiting locks to ensure that the vessel does not contact any of the structures on the lock.

* * * * *

Issued at Washington, DC, on February 1, 2016. Saint Lawrence Seaway Development Corporation.

Carrie Lavigne,

Chief Counsel.

[FR Doc. 2016–02168 Filed 2–4–16; 8:45 am]

BILLING CODE 4910–61–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2015–0152; FRL–9941–95–Region 4]

Air Quality Plans; Georgia; Infrastructure Requirements for the 2010 Sulfur Dioxide National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of the State Implementation Plan (SIP) submission, submitted by the State of Georgia, through the Georgia Department of Natural Resources (DNR), Environmental Protection Division (GAEPD), on October 22, 2013, and supplemented on July 25, 2014, to demonstrate that the State meets the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2010 1-hour sulfur dioxide (SO_2) national ambient air quality standard (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure'' SIP. GAEPD certified that the Georgia SIP contains provisions that ensure the 2010 1-hour SO_2 NAAQS is implemented, enforced, and maintained in Georgia. EPA is proposing to determine that Georgia's infrastructure submission, submitted on October 22, 2013, and supplemented on July 25, 2014, addresses certain required infrastructure elements for the 2010 1-hour SO_2 NAAQS.

DATES: Written comments must be received on or before March 7, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2015–0152, by one of the following methods:

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

2. *Email: R4–ARMS@epa.gov.*

3. *Fax:* (404) 562–9019.

4. *Mail:* ''EPA–R04–OAR–2015–0152,'' Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Lynorae Benjamin, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2015–0152. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

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FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Notarianni can be reached via electronic mail at *notarianni.michele@epa.gov* or via telephone at (404) 562–9031.

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I. Background and Overview

On June 22, 2010 (75 FR 35520), EPA promulgated a revised primary SO_2 NAAQS to an hourly standard of 75 parts per billion (ppb) based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs for the 2010 1-hour SO_2 NAAQS to EPA no later than June 22, 2013.[1]

This action is proposing to approve portions of Georgia's infrastructure SIP submissions[2] for the applicable requirements of the 2010 1-hour SO_2 NAAQS, with the exception of the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2, and 4), for which EPA is not proposing any action today regarding these requirements. For the aspects of Georgia's submittal proposed for approval today, EPA notes that the Agency is not approving any specific rule, but rather proposing that Georgia's already approved SIP meets certain CAA requirements.

II. What elements are required under Sections 110(a)(1) and (2)?

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains.

[1] In these infrastructure SIP submissions states generally certify evidence of compliance with sections 110(a)(1) and (2) of the CAA through a combination of state regulations and statutes, some of which have been incorporated into the federally-approved SIP. In addition, certain federally-approved, non-SIP regulations may also be appropriate for demonstrating compliance with sections 110(a)(1) and (2). Georgia's existing SIP consists largely of Georgia's Rule for Air Quality rules adopted by GAEPD and approved by EPA through the SIP revision process. However, there are some state regulations that are not part of the Georgia federally-approved SIP. Throughout this rulemaking, unless otherwise indicated, the term ''State rules'' or ''State regulations'' indicate that the cited regulation has been approved into Georgia's federally-approved SIP. The term ''Georgia Air Quality Act'' indicates cited Georgia State statutes, which are not a part of the SIP unless otherwise indicated. The Georgia Air Quality Act is located at *http://epd.georgia.gov/existing-rules-and-corresponding-laws.*

[2] Georgia's 2010 1-hour SO_2 NAAQS infrastructure SIP submissions dated October 22, 2013, and supplemented on July 25, 2014, are also collectively referred to as ''Georgia's SO_2 infrastructure SIP'' in this action.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS. The requirements are summarized below and in EPA's September 13, 2013, memorandum entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2).'' [3]

- 110(a)(2)(A): Emission Limits and Other Control Measures
- 110(a)(2)(B): Ambient Air Quality Monitoring/Data System
- 110(a)(2)(C): Programs for Enforcement of Control Measures and for Construction or Modification of Stationary Sources [4]
- 110(a)(2)(D)(i)(I) and (II): Interstate Pollution Transport
- 110(a)(2)(D)(ii): Interstate Pollution Abatement and International Air Pollution
- 110(a)(2)(E): Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies
- 110(a)(2)(F): Stationary Source Monitoring and Reporting
- 110(a)(2)(G): Emergency Powers
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- 110(a)(2)(I): Plan Revisions for Nonattainment Areas [5]
- 110(a)(2)(J): Consultation with Government Officials, Public Notification, and Prevention of Significant Deterioration (PSD) and Visibility Protection
- 110(a)(2)(K): Air Quality Modeling and Submission of Modeling Data
- 110(a)(2)(L): Permitting fees
- 110(a)(2)(M): Consultation and Participation by Affected Local Entities

III. What is EPA's approach to the review of infrastructure SIP submissions?

EPA is acting upon the SIP submissions from Georgia that address the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2010 1-hour SO_2 NAAQS. The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' and these SIP submissions are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must address.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Although the term ''infrastructure SIP'' does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as ''nonattainment SIP'' or ''attainment plan SIP'' submissions to address the nonattainment planning requirements of part D of title I of the CAA, ''regional haze SIP'' submissions required by EPA rule to address the visibility protection requirements of CAA section 169A, and nonattainment new source review (NNSR) permit program submissions to address the permit requirements of CAA, title I, part D.

Section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submissions, and section 110(a)(2) provides more details concerning the required contents of these submissions. The list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive program provisions, and some of which pertain to requirements for both authority and substantive program provisions.[6] EPA therefore believes that while the timing requirement in section 110(a)(1) is unambiguous, some of the other statutory provisions are ambiguous. In particular, EPA believes that the list of required elements for infrastructure SIP submissions provided in section 110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submission.

The following examples of ambiguities illustrate the need for EPA to interpret some section 110(a)(1) and section 110(a)(2) requirements with respect to infrastructure SIP submissions for a given new or revised NAAQS. One example of ambiguity is that section 110(a)(2) requires that ''each'' SIP submission must meet the list of requirements therein, while EPA has long noted that this literal reading of the statute is internally inconsistent and would create a conflict with the nonattainment provisions in part D of title I of the Act, which specifically address nonattainment SIP requirements.[7] Section 110(a)(2)(I) pertains to nonattainment SIP requirements and part D addresses when attainment plan SIP submissions to address nonattainment area requirements are due. For example, section 172(b) requires EPA to establish a schedule for submission of such plans for certain pollutants when the Administrator promulgates the designation of an area as nonattainment, and section 107(d)(1)(B) allows up to two years, or in some cases three years, for such designations to be promulgated.[8] This ambiguity illustrates that rather than apply all the stated requirements of section 110(a)(2) in a strict literal sense, EPA must determine

[3] Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather are due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D, title I of the CAA; and (2) Submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, title I of the CAA. This proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment planning requirements of 110(a)(2)(C).

[4] This rulemaking only addresses requirements for this element as they relate to attainment areas.

[5] As mentioned above, this element is not relevant to this proposed rulemaking.

[6] For example: Section 110(a)(2)(E)(i) provides that states must provide assurances that they have adequate legal authority under state and local law to carry out the SIP; section 110(a)(2)(C) provides that states must have a SIP-approved program to address certain sources as required by part C of title I of the CAA; and section 110(a)(2)(G) provides that states must have legal authority to address emergencies as well as contingency plans that are triggered in the event of such emergencies.

[7] See, *e.g.,* ''Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NOx SIP Call; Final Rule,'' 70 FR 25162, at 25163—65 (May 12, 2005) (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

[8] EPA notes that this ambiguity within section 110(a)(2) is heightened by the fact that various subparts of part D set specific dates for submission of certain types of SIP submissions in designated nonattainment areas for various pollutants. Note, *e.g.,* that section 182(a)(1) provides specific dates for submission of emissions inventories for the ozone NAAQS. Some of these specific dates are necessarily later than three years after promulgation of the new or revised NAAQS.

which provisions of section 110(a)(2) are applicable for a particular infrastructure SIP submission.

Another example of ambiguity within sections 110(a)(1) and 110(a)(2) with respect to infrastructure SIPs pertains to whether states must meet all of the infrastructure SIP requirements in a single SIP submission, and whether EPA must act upon such SIP submission in a single action. Although section 110(a)(1) directs states to submit ''a plan'' to meet these requirements, EPA interprets the CAA to allow states to make multiple SIP submissions separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submissions to meet the infrastructure SIP requirements, EPA can elect to act on such submissions either individually or in a larger combined action.[9] Similarly, EPA interprets the CAA to allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submission for a given NAAQS without concurrent action on the entire submission. For example, EPA has sometimes elected to act at different times on various elements and sub-elements of the same infrastructure SIP submission.[10]

Ambiguities within sections 110(a)(1) and 110(a)(2) may also arise with respect to infrastructure SIP submission requirements for different NAAQS. Thus, EPA notes that not every element of section 110(a)(2) would be relevant, or as relevant, or relevant in the same way, for each new or revised NAAQS. The states' attendant infrastructure SIP submissions for each NAAQS therefore could be different. For example, the monitoring requirements that a state might need to meet in its infrastructure SIP submission for purposes of section 110(a)(2)(B) could be very different for different pollutants because the content and scope of a state's infrastructure SIP submission to meet this element might be very different for an entirely new NAAQS than for a minor revision to an existing NAAQS.[11]

EPA notes that interpretation of section 110(a)(2) is also necessary when EPA reviews other types of SIP submissions required under the CAA. Therefore, as with infrastructure SIP submissions, EPA also has to identify and interpret the relevant elements of section 110(a)(2) that logically apply to these other types of SIP submissions. For example, section 172(c)(7) requires that attainment plan SIP submissions required by part D have to meet the ''applicable requirements'' of section 110(a)(2). Thus, for example, attainment plan SIP submissions must meet the requirements of section 110(a)(2)(A) regarding enforceable emission limits and control measures and section 110(a)(2)(E)(i) regarding air agency resources and authority. By contrast, it is clear that attainment plan SIP submissions required by part D would not need to meet the portion of section 110(a)(2)(C) that pertains to the PSD program required in part C of title I of the CAA, because PSD does not apply to a pollutant for which an area is designated nonattainment and is thus subject to part D planning requirements. As this example illustrates, each type of SIP submission may implicate some elements of section 110(a)(2) but not others.

Given the potential for ambiguity in some of the statutory language of section 110(a)(1) and section 110(a)(2), EPA believes that it is appropriate to interpret the ambiguous portions of section 110(a)(1) and section 110(a)(2) in the context of acting on a particular SIP submission. In other words, EPA assumes that Congress could not have intended that each and every SIP submission, regardless of the NAAQS in question or the history of SIP development for the relevant pollutant, would meet each of the requirements, or meet each of them in the same way. Therefore, EPA has adopted an approach under which it reviews infrastructure SIP submissions against the list of elements in section 110(a)(2), but only to the extent each element applies for that particular NAAQS.

Historically, EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submissions for particular elements.[12] EPA most recently issued guidance for infrastructure SIPs on September 13, 2013 (2013 Guidance).[13] EPA developed this document to provide states with up-to-date guidance for infrastructure SIPs for any new or revised NAAQS. Within this guidance, EPA describes the duty of states to make infrastructure SIP submissions to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure SIP submissions.[14] The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). Significantly, EPA interprets sections 110(a)(1) and 110(a)(2) such that infrastructure SIP submissions need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submission for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.

As an example, section 110(a)(2)(E)(ii) is a required element of section 110(a)(2) for infrastructure SIP submissions. Under this element, a state must meet the substantive requirements of section 128, which pertain to state

[9] See, *e.g.,* ''Approval and Promulgation of Implementation Plans; New Mexico; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Permitting,'' 78 FR 4339 (January 22, 2013) (EPA's final action approving the structural PSD elements of the New Mexico SIP submitted by the State separately to meet the requirements of EPA's 2008 $PM_{2.5}$ NSR rule), and ''Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Infrastructure and Interstate Transport Requirements for the 2006 $PM_{2.5}$ NAAQS,'' (78 FR 4337) (January 22, 2013) (EPA's final action on the infrastructure SIP for the 2006 $PM_{2.5}$ NAAQS).

[10] On December 14, 2007, the State of Tennessee, through the Tennessee Department of Environment and Conservation, made a SIP revision to EPA demonstrating that the State meets the requirements of sections 110(a)(1) and (2). EPA proposed action for infrastructure SIP elements (C) and (J) on January 23, 2012 (77 FR 3213) and took final action on March 14, 2012 (77 FR 14976). On April 16, 2012 (77 FR 22533) and July 23, 2012 (77 FR 42997), EPA took separate proposed and final actions on all other section 110(a)(2) infrastructure SIP elements of Tennessee's December 14, 2007, submittal.

[11] For example, implementation of the 1997 $PM_{2.5}$ NAAQS required the deployment of a system of new monitors to measure ambient levels of that new indicator species for the new NAAQS.

[12] EPA notes, however, that nothing in the CAA requires EPA to provide guidance or to promulgate regulations for infrastructure SIP submissions. The CAA directly applies to states and requires the submission of infrastructure SIP submissions, regardless of whether or not EPA provides guidance or regulations pertaining to such submissions. EPA elects to issue such guidance in order to assist states, as appropriate.

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

[14] EPA's September 13, 2013, guidance did not make recommendations with respect to infrastructure SIP submissions to address section 110(a)(2)(D)(i)(I). EPA issued the guidance shortly after the U.S. Supreme Court agreed to review the DC Circuit decision in *EME Homer City,* 696 F.3d7 (D.C. Cir. 2012) which had interpreted the requirements of section 110(a)(2)(D)(i)(I). In light of the uncertainty created by ongoing litigation, EPA elected not to provide additional guidance on the requirements of section 110(a)(2)(D)(i)(I) at that time. As the guidance is neither binding nor required by statute, whether EPA elects to provide guidance on a particular section has no impact on a state's CAA obligations.

boards that approve permits or enforcement orders and heads of executive agencies with similar powers. Thus, EPA reviews infrastructure SIP submissions to ensure that the state's implementation plan appropriately addresses the requirements of section 110(a)(2)(E)(ii) and section 128. The 2013 Guidance explains EPA's interpretation that there may be a variety of ways by which states can appropriately address these substantive statutory requirements, depending on the structure of an individual state's permitting or enforcement program (*e.g.,* whether permits and enforcement orders are approved by a multi-member board or by a head of an executive agency). However they are addressed by the state, the substantive requirements of section 128 are necessarily included in EPA's evaluation of infrastructure SIP submissions because section 110(a)(2)(E)(ii) explicitly requires that the state satisfy the provisions of section 128.

As another example, EPA's review of infrastructure SIP submissions with respect to the PSD program requirements in sections 110(a)(2)(C), (D)(i)(II), and (J) focuses upon the structural PSD program requirements contained in part C and EPA's PSD regulations. Structural PSD program requirements include provisions necessary for the PSD program to address all regulated sources and new source review (NSR) pollutants, including greenhouse gases (GHGs). By contrast, structural PSD program requirements do not include provisions that are not required under EPA's regulations at 40 CFR 51.166 but are merely available as an option for the state, such as the option to provide grandfathering of complete permit applications with respect to the 2012 fine particulate matter ($PM_{2.5}$) NAAQS. Accordingly, the latter optional provisions are types of provisions EPA considers irrelevant in the context of an infrastructure SIP action.

For other section 110(a)(2) elements, however, EPA's review of a state's infrastructure SIP submission focuses on assuring that the state's implementation plan meets basic structural requirements. For example, section 110(a)(2)(C) includes, *inter alia,* the requirement that states have a program to regulate minor new sources. Thus, EPA evaluates whether the state has an EPA-approved minor NSR program and whether the program addresses the pollutants relevant to that NAAQS. In the context of acting on an infrastructure SIP submission, however, EPA does not think it is necessary to conduct a review of each and every provision of a state's existing minor source program (*i.e.,* already in the existing SIP) for compliance with the requirements of the CAA and EPA's regulations that pertain to such programs.

With respect to certain other issues, EPA does not believe that an action on a state's infrastructure SIP submission is necessarily the appropriate type of action in which to address possible deficiencies in a state's existing SIP. These issues include: (i) Existing provisions related to excess emissions from sources during periods of startup, shutdown, or malfunction that may be contrary to the CAA and EPA's policies addressing such excess emissions (''SSM''); (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that may be contrary to the CAA because they purport to allow revisions to SIP-approved emissions limits while limiting public process or not requiring further approval by EPA; and (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (''NSR Reform''). Thus, EPA believes it may approve an infrastructure SIP submission without scrutinizing the totality of the existing SIP for such potentially deficient provisions and may approve the submission even if it is aware of such existing provisions.[15] It is important to note that EPA's approval of a state's infrastructure SIP submission should not be construed as explicit or implicit re-approval of any existing potentially deficient provisions that relate to the three specific issues just described.

EPA's approach to review of infrastructure SIP submissions is to identify the CAA requirements that are logically applicable to that submission. EPA believes that this approach to the review of a particular infrastructure SIP submission is appropriate, because it would not be reasonable to read the general requirements of section 110(a)(1) and the list of elements in 110(a)(2) as requiring review of each and every provision of a state's existing SIP against all requirements in the CAA and EPA regulations merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may include some outmoded provisions and historical artifacts. These provisions, while not fully up to date, nevertheless may not pose a significant problem for the purposes of ''implementation, maintenance, and enforcement'' of a new or revised NAAQS when EPA evaluates adequacy of the infrastructure SIP submission. EPA believes that a better approach is for states and EPA to focus attention on those elements of section 110(a)(2) of the CAA most likely to warrant a specific SIP revision due to the promulgation of a new or revised NAAQS or other factors.

For example, EPA's 2013 Guidance gives simpler recommendations with respect to carbon monoxide than other NAAQS pollutants to meet the visibility requirements of section 110(a)(2)(D)(i)(II), because carbon monoxide does not affect visibility. As a result, an infrastructure SIP submission for any future new or revised NAAQS for carbon monoxide need only state this fact in order to address the visibility prong of section 110(a)(2)(D)(i)(II).

Finally, EPA believes that its approach with respect to infrastructure SIP requirements is based on a reasonable reading of sections 110(a)(1) and 110(a)(2) because the CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow EPA to take appropriately tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a ''SIP call'' whenever the Agency determines that a state's implementation plan is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise comply with the CAA.[16] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[17]

[15] By contrast, EPA notes that if a state were to include a new provision in an infrastructure SIP submission that contained a legal deficiency, such as a new exemption for excess emissions during SSM events, then EPA would need to evaluate that provision for compliance against the rubric of applicable CAA requirements in the context of the action on the infrastructure SIP.

[16] For example, EPA issued a SIP call to Utah to address specific existing SIP deficiencies related to the treatment of excess emissions during SSM events. See ''Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revisions,'' 74 FR 21639 (April 18, 2011).

[17] EPA has used this authority to correct errors in past actions on SIP submissions related to PSD programs. See ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule,'' 75 FR 82536 (December 30, 2010). EPA has previously used its authority under CAA section 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. See,

Significantly, EPA's determination that an action on a state's infrastructure SIP submission is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on an infrastructure SIP submission, EPA believes that section 110(a)(2)(A) may be among the statutory bases that EPA relies upon in the course of addressing such deficiency in a subsequent action.[18]

IV. What is EPA's analysis of how Georgia addressed the elements of sections 110(a)(1) and (2) ''Infrastructure'' provisions?

The Georgia 2010 1-hour SO_2 infrastructure submissions address the provisions of sections 110(a)(1) and (2) as described below.

1. 110(a)(2)(A): *Emission Limits and Other Control Measures:* Section 110(a)(2)(A) requires that each implementation plan include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements. Several regulations within Georgia's SIP are relevant to air quality control regulations. The following State regulations include enforceable emission limitations and other control measures: 391–3–1-.01, ''Definitions. Amended.'', 391–3–1-.02, ''Provisions. Amended.'', and 391–3–1-.03, ''Permits. Amended.'' These regulations collectively establish enforceable emissions limitations and other control measures, means or techniques for activities that contribute to SO_2 concentrations in the ambient air, and provide authority for GAEPD to establish such limits and measures as well as schedules for compliance through SIP-approved permits to meet the applicable requirements of the CAA.

EPA has made the preliminary determination that the provisions contained in these State rules are adequate to protect the 2010 1-hour SO_2 NAAQS in the State.

In this action, EPA is not proposing to approve or disapprove any existing state provisions with regard to excess emissions during start up, shut down, and malfunction (SSM) operations at a facility. EPA believes that a number of states have SSM provisions which are contrary to the CAA and existing EPA guidance, ''State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown'' (September 20, 1999), and the Agency is addressing such state regulations in a separate action.[19]

Additionally, in this action, EPA is not proposing to approve or disapprove any existing state rules with regard to director's discretion or variance provisions. EPA believes that a number of states have such provisions which are contrary to the CAA and existing EPA guidance (52 FR 45109 (November 24, 1987)), and the Agency plans to take action in the future to address such state regulations. In the meantime, EPA encourages any state having a director's discretion or variance provision which is contrary to the CAA and EPA guidance to take steps to correct the deficiency as soon as possible.

2. 110(a)(2)(B) *Ambient Air Quality Monitoring/Data System:* Section 110(a)(2)(B) requires SIPs to provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on ambient air quality, and (ii) upon request, make such data available to the Administrator. Georgia's authority to monitor ambient air quality is found in the Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. Section 12–9–6(b)(13)). Annually, states develop and submit to EPA for approval statewide ambient monitoring network plans consistent with the requirements of 40 CFR parts 50, 53, and 58. The annual network plan involves an evaluation of any proposed changes to the monitoring network, includes the annual ambient monitoring network design plan, and includes a certified evaluation of the agency's ambient monitors and auxiliary support equipment.[20] On June 15, 2015, EPA received Georgia's plan for 2015. On October 13, 2015, EPA approved Georgia's monitoring network plan. Georgia's approved monitoring network plan can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2015–0152. This State statute, along with Georgia's Ambient Air Monitoring Network Plan, provide for the establishment and operation of ambient air quality monitors, the compilation and analysis of ambient air quality data, and the submission of these data to EPA upon request. No specific statutory or regulatory authority is necessary for GAEPD to authorize data analysis or the submission of such data to EPA, and to provide data submissions in response to Federal regulations. EPA has made the preliminary determination that Georgia's SIP and practices are adequate for the ambient air quality monitoring and data system requirements related to the 2010 1-hour SO_2 NAAQS.

3. 110(a)(2)(C) *Programs for Enforcement of Control Measures and for Construction or Modification of Stationary Sources:* This element consists of three sub-elements: enforcement, state-wide regulation of new and modified minor sources and minor modifications of major sources, and preconstruction permitting of major sources and major modifications in areas designated attainment or unclassifiable for the subject NAAQS as required by CAA title I part C (*i.e.,* the major source PSD program).

Enforcement: GAEPD's Enforcement Program covers mobile and stationary sources, consumer products, and fuels. The enforcement requirements are met through two Georgia Rules for Air Quality: 391–3–1–.07—''Inspections and Investigations. Amended.'' and 391–3–1–.09—''Enforcement. Amended.'' Georgia also cites to enforcement authority found in Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. Section 12–9–13) in its submittal. Collectively, these regulations and State statute provide for enforcement of SO_2 emission limits and control measures.

PSD Permitting for Major Sources: EPA interprets the PSD sub-element to require that a state's infrastructure SIP submission for a particular NAAQS demonstrate that the state has a complete PSD permitting program in place covering the structural PSD

e.g., 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062 (November 16, 2004) (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

[18] See, *e.g.,* EPA's disapproval of a SIP submission from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). See, *e.g.,* 75 FR 42342 at 42344 (July 21, 2010) (proposed disapproval of director's discretion provisions); 76 FR 4540 (Jan. 26, 2011) (final disapproval of such provisions).

[19] On June 12, 2015, EPA published a final action entitled, ''State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction.'' *See* 80 FR 33840.

[20] On occasion, proposed changes to the monitoring network are evaluated outside of the network plan approval process in accordance with 40 CFR part 58.

requirements for all regulated NSR pollutants. A state's PSD permitting program is complete for this sub-element (and prong 3 of D(i) and J related to PSD) if EPA has already approved or is simultaneously approving the state's implementation plan with respect to all structural PSD requirements that are due under the EPA regulations or the CAA on or before the date of the EPA's proposed action on the infrastructure SIP submission. The following Georgia Rules for Air Quality collectively establish a preconstruction, new source permitting program in the State that meets the PSD requirements of the CAA for SO_2 emissions sources: 391–3–1–.02.—''Provisions. Amended,'' which includes PSD requirements under 391–3–1–.02(7), and 391–3–1–.03.—''Permits. Amended,'' which includes Nonattainment New Source Review (NNSR) requirements under 391–3–1–.03(8)(c) and (g). Georgia's infrastructure SIP demonstrates that new major sources and major modifications in areas of the State designated attainment or unclassifiable for the specified NAAQS are subject to a federally-approved PSD permitting program meeting all the current structural requirements of part C of title I of the CAA to satisfy the infrastructure SIP PSD elements.[21]

Regulation of minor sources and modifications: Section 110(a)(2)(C) also requires the SIP to include provisions that govern the minor source program that regulates emissions of the 2010 1-hour SO_2 NAAQS. Georgia's SIP approved Air Quality Control Rule 391–3–1–.03(1)—''Construction (SIP) Permit.'' governs the preconstruction permitting of modifications, construction of minor stationary sources, and minor modifications of major stationary sources.

EPA has made the preliminary determination that Georgia's SIP is adequate for program enforcement of control measures, PSD permitting for major sources, and regulation of new and modified minor sources related to the 2010 1-hour SO_2 NAAQS.

4. 110(a)(2)(D)(i)(I) and (II) *Interstate Pollution Transport:* Section 110(a)(2)(D)(i) has two components: 110(a)(2)(D)(i)(I) and 110(a)(2)(D)(i)(II). Each of these components has two subparts resulting in four distinct components, commonly referred to as ''prongs,'' that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (''prong 1''), and interfering with maintenance of the NAAQS in another state (''prong 2''). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (''prong 3''), or to protect visibility in another state (''prong 4'').

110(a)(2)(D)(i)(I)—prongs 1 and 2: EPA is not proposing any action in this rulemaking related to the interstate transport provisions pertaining to the contribution to nonattainment or interference with maintenance in other states of section 110(a)(2)(D)(i)(I) (prongs 1 and 2) because Georgia's 2010 1-hour SO_2 NAAQS infrastructure submissions did not address prongs 1 and 2.

110(a)(2)(D)(i)(II)—prong 3: With regard to section 110(a)(2)(D)(i)(II), the PSD element, referred to as prong 3, this requirement may be met by a state's confirmation in an infrastructure SIP submission that new major sources and major modifications in the state are subject to: a PSD program meeting all the current structural requirements of part C of title I of the CAA, or (if the state contains a nonattainment area that has the potential to impact PSD in another state) to a NNSR program. As discussed in more detail above under section 110(a)(2)(C), Georgia's SIP contains provisions for the State's PSD program that reflects the relevant SIP revisions pertaining to the required structural PSD requirements to satisfy the requirement of prong 3 of section 110(a)(2)(D)(i)(II). Georgia addresses prong 3 through rules 391–3–1–.02.—''Provisions. Amended,'' and 391–3–1–.03.—''Permits. Amended,'' which include the PSD and NNSR requirements, respectively. EPA has made the preliminary determination that Georgia's SIP is adequate for interstate transport for PSD permitting of major sources and major modifications related to the 2010 1-hour SO_2 NAAQS for section 110(a)(2)(D)(i)(II) (prong 3).

110(a)(2)(D)(i)(II)—prong 4: EPA is not proposing any action in this rulemaking related to the interstate transport provisions pertaining to the contribution to nonattainment or interference with maintenance in other states of section 110(a)(2)(D)(i)(II) (prong 4) and will consider these requirements in relation to Georgia's 2010 1-hour SO_2 NAAQS infrastructure submissions in a separate rulemaking.

5. 110(a)(2)(D)(ii): *Interstate Pollution Abatement and International Air Pollution:* Section 110(a)(2)(D)(ii) requires SIPs to include provisions ensuring compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement. The following two Georgia Rules for Air Quality provide Georgia the authority to conduct certain actions in support of this infrastructure element: 391–3–1–.02(7) for the State's PSD regulation and 391–3–1–.03 for the State's permitting regulations. As described above, Georgia Rules for Air Quality 391–3–1–.02.—''Provisions. Amended,'' and 391–3–1–.03.—''Permits. Amended,'' collectively require any new major source or major modification to undergo PSD or NNSR permitting and thereby provide notification to other potentially affected Federal, state, and local government agencies.

Additionally, Georgia does not have any pending obligation under section 115 and 126 of the CAA. EPA has made the preliminary determination that Georgia's SIP and practices are adequate for ensuring compliance with the applicable requirements relating to interstate and international pollution abatement for the 2010 1-hour SO_2 NAAQS.

6. 110(a)(2)(E) *Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies:* Section 110(a)(2)(E) requires that each implementation plan provide (i) necessary assurances that the state will have adequate personnel, funding, and authority under state law to carry out its implementation plan, (ii) that the state comply with the requirements respecting state boards pursuant to section 128 of the Act, and (iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provisions. EPA's analysis of sub-elements 110(a)(2)(E)(i), (ii), and (iii) is described below.

In support of EPA's proposal to approve sub-elements 110(a)(2)(E)(i) and (iii), GAEPD's infrastructure SIP demonstrates that it is responsible for promulgating rules and regulations for the NAAQS, emissions standards and general policies, a system of permits, fee schedules for the review of plans, and other planning needs. In its SIP submittal, Georgia describes its authority for Section 110(a)(2)(E)(i) as the CAA section l05 grant process, the

[21] For more information on the structural PSD program requirements that are relevant to EPA's review of infrastructure SIPs in connection with the current PSD-related infrastructure SIP requirements, see the technical support document in the docket for this rulemaking.

Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. 12–9–10), and Georgia Rule for Air Quality 391–3–1–.03(9) which establishes Georgia's Air Permit Fee System. For Section 110(a)(2)(E)(iii), the State does not rely on localities in Georgia for specific SIP implementation. Georgia's authority for this infrastructure element relating to local or regional implementation of SIP provisions is found in Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. Section 12–9–5(b)(17)). As evidence of the adequacy of GAEPD's resources with respect to sub-elements (i) and (iii), EPA submitted a letter to Georgia on March 20, 2015, outlining CAA section 105 grant commitments and the current status of these commitments for fiscal year 2014. The letter EPA submitted to GAEPD can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2015–0152. Annually, states update these grant commitments based on current SIP requirements, air quality planning, and applicable requirements related to the NAAQS. There were no outstanding issues in relation to the SIP for fiscal year 2014, therefore, GAEPD's grants were finalized and closed out. In addition, the requirements of 110(a)(2)(E)(i) and (iii) are met when EPA performs a completeness determination for each SIP submittal. This determination ensures that each submittal provides evidence that adequate personnel, funding, and legal authority under state law has been used to carry out the state's implementation plan and related issues. GAEPD's authority is included in all prehearing and final SIP submittal packages for approval by EPA. GAEPD is responsible for submitting all revisions to the Georgia SIP to EPA for approval. EPA has made the preliminary determination that Georgia has adequate resources for implementation of the 2010 1-hour SO_2 NAAQS.

Section 110(a)(2)(E)(ii) requires that the state comply with section 128 of the CAA. Section 128 requires that the SIP provide: (1) the majority of members of the state board or body which approves permits or enforcement orders represent the public interest and do not derive any significant portion of their income from persons subject to permitting or enforcement orders under the CAA; and (2) any potential conflicts of interest by such board or body, or the head of an executive agency with similar powers be adequately disclosed. With respect to the requirements of section 110(a)(2)(E)(ii) pertaining the state board requirements of CAA section 128, Georgia's infrastructure SIP submission cites Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. Section 12–9–5) *Powers and duties of Board of Natural Resources as to air quality generally*) which provides the powers and duties of the Board of Natural Resources as to air quality and provides that at least a majority of members of this board represent the public interest and not derive any significant portion of income from persons subject to permits or enforcement orders and that potential conflicts of interest will be adequately disclosed. This provision has been incorporated into the federally approved SIP.

EPA has made the preliminary determination that the State has adequately addressed the requirements of section 128(a), and accordingly has met the requirements of section 110(a)(2)(E)(ii) with respect to infrastructure SIP requirements. Therefore, EPA is proposing to approve GAEPD's infrastructure SIP submissions as meeting the requirements of sub-elements 110(a)(2)(E)(i), (ii) and (iii).

7. 110(a)(2)(F) *Stationary Source Monitoring and Reporting:* Section 110(a)(2)(F) requires SIPs to meet applicable requirements addressing: (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions related data from such sources, and (iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to this section, which reports shall be available at reasonable times for public inspection. GAEPD's SIP submissions identify how the major source and minor source emission inventory programs collect emission data throughout the State and ensure the quality of such data. These data are used to compare against current emission limits and to meet requirements of EPA's Air Emissions Reporting Rule (AERR). The following State rules enable Georgia to meet the requirements of this element: Georgia Rule for Air Quality 391–3–1–.02(3)—''Sampling.'' [22]; 391–3–1–.02(6)(b)—''Source Monitoring.''; 391–3–1–.02(7)—''Prevention of Significant Deterioration of Air Quality.''; 391–3–1–.02(8)—''New Source Performance Standards.''; 391–3–1–.02(9)—''Emission Standards for Hazardous Air Pollutants.''; 391–3–1–.02(11)—''Compliance Assurance Monitoring.''; and 391–3–1–.03—''Permits. Amended.'' Also, the Georgia Air Quality Act Article I: Air Quality (O.C.G.A. 12–9–5(b)(6)) provides the State with the authority to conduct actions regarding stationary source emissions monitoring and reporting in support of this infrastructure element. These rules collectively require emissions monitoring and reporting for activities that contribute to SO_2 concentrations in the air, including requirements for the installation, calibration, maintenance, and operation of equipment for continuously monitoring or recording emissions, or provide authority for GAEPD to establish such emissions monitoring and reporting requirements through SIP-approved permits and require reporting of SO_2 emissions.

Additionally, Georgia is required to submit emissions data to EPA for purposes of the National Emissions Inventory (NEI). The NEI is EPA's central repository for air emissions data. EPA published the AERR on December 5, 2008, which modified the requirements for collecting and reporting air emissions data (73 FR 76539). The AERR shortened the time states had to report emissions data from 17 to 12 months, giving states one calendar year to submit emissions data. All states are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through EPA's online Emissions Inventory System. States report emissions data for the six criteria pollutants and their associated precursors—NO_X, SO_2, ammonia, lead, carbon monoxide, particulate matter, and volatile organic compounds. Many states also voluntarily report emissions of hazardous air pollutants. Georgia made its latest update to the 2011 NEI on December 12, 2014. EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the Web site *http://www.epa.gov/ttn/chief/eiinformation.html.* EPA has made the preliminary determination that Georgia's SIP and practices are adequate for the stationary source monitoring systems related to the 1-hour SO_2 NAAQS. Accordingly, EPA is proposing to approve Georgia's infrastructure SIP submission with respect to section 110(a)(2)(F).

Georgia Rule for Air Quality 391–3–1–.02(3), ''Sampling,'' [23] addresses the use

[22] Georgia Rule for Air Quality 391–3–1–.02(3)—''Sampling.'' is not approved into Georgia's federally-approved SIP.

[23] Georgia Rule for Air Quality 391–3–1–.02(3)—''Sampling.'' is not approved into Georgia's federally-approved SIP.

of credible evidence.[24] EPA is unaware of any provision preventing the use of credible evidence in the Georgia SIP.

8. 110(a)(2)(G) *Emergency Powers:* Section 110(a)(2)(G) of the Act requires that states demonstrate authority comparable with section 303 of the CAA and adequate contingency plans to implement such authority. Georgia's infrastructure SIP submissions cite air pollution emergency episodes and preplanned abatement strategies in the Georgia Air Quality Act: Article 1: Air Quality (O.C.G.A. Sections 12–9–2 *Declaration of public policy,* 12–9–6 *Powers and duties of director as to air quality generally,* 12–9–12 *Injunctive relief,* 12–9–13 *Proceedings for enforcement,* and 12–9–14 *Powers of director in situations involving imminent and substantial danger to public health*), and Rule 391–3–1–.04 ''Air Pollution Episodes.'' O.C.G.A. Section 12–9–2 provides ''[i]t is declared to be the public policy of the state of Georgia to preserve, protect, and improve air quality . . . to attain and maintain ambient air quality standards so as to safeguard the public health, safety, and welfare.'' O.C.G.A. Section 12–9–6(b)(10) provides the Director of GAEPD authority to ''issue orders as may be necessary to enforce compliance with [the Georgia Air Quality Act Article 1: Air Quality (O.C.G.A)] and all rules and regulations of this article.'' O.C.G.A. Section 12–9–12 provides that ''[w]henever in the judgment of the director any person has engaged in or is about to engage in any act or practice which constitutes or will constitute an unlawful action under [the Georgia Air Quality Act Article 1: Air Quality (O.C.G.A)], he may make application to the superior court of the county in which the unlawful act or practice has been or is about to be engaged in, or in which jurisdiction is appropriate, for an order enjoining such act or practice or for an order requiring compliance with this article. Upon a showing by the director that such person has engaged in or is about to engage in any such act or practice, a permanent or temporary injunction, restraining order, or other order shall be granted without the necessity of showing lack of an adequate remedy of law.'' O.C.G.A. Section 12–19–13 specifically pertains to enforcement proceedings when the Director of GAEPD has reason to believe that a violation of any provision of the Georgia Air Quality Act Article 1: Air Quality (O.C.G.A), or environmental rules, regulations or orders have occurred. O.C.G.A. Section 12–9–14 also provides that the Governor may issue orders as necessary to protect the health of persons who are, or may be, affected by a pollution source or facility after ''consult[ation] with local authorities in order to confirm the correctness of the information on which action proposed to be taken is based and to ascertain the action which such authorities are or will be taking.''

Rule 391–3–1–.04 ''Air Pollution Episodes'' provides that the Director of GAEPD ''will proclaim that an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency exists when the meteorological conditions are such that an air stagnation condition is in existence and/or the accumulation of air contaminants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a substantial threat to the health of persons in the specific area affected.'' Collectively the cited provisions provide that GAEPD demonstrates authority comparable with section 303 of the CAA and adequate contingency plans to implement such authority in the State. EPA has made the preliminary determination that Georgia's SIP, and State laws are adequate for emergency powers related to the 2010 1-hour SO_2 NAAQS. Accordingly, EPA is proposing to approve Georgia's infrastructure SIP submission with respect to section 110(a)(2)(G).

9. 110(a)(2)(H) *SIP Revisions:* Section 110(a)(2)(H), in summary, requires each SIP to provide for revisions of such plan (i) as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and (ii) whenever the Administrator finds that the plan is substantially inadequate to attain the NAAQS or to otherwise comply with any additional applicable requirements. GAEPD is responsible for adopting air quality rules and revising SIPs as needed to attain or maintain the NAAQS in Georgia. The State has the ability and authority to respond to calls for SIP revisions, and has provided a number of SIP revisions over the years for implementation of the NAAQS. Georgia has no areas that have been designated as nonattainment for the 2010 1-hour SO_2 NAAQS. *See* 78 FR 47191 (August 5, 2013).

The Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. Section 12–9–6(b)(12) and 12–9–6(b)(13)) provide Georgia the authority to conduct certain actions in support of this infrastructure element. Section 12–9–6(b)(l2) of the Georgia Air Quality Act requires GAEPD to submit SIP revisions whenever revised air quality standards are promulgated by EPA. EPA has made the preliminary determination that Georgia adequately demonstrates a commitment to provide future SIP revisions related to the 2010 1-hour SO_2 NAAQS when necessary. Accordingly, EPA is proposing to approve Georgia's infrastructure SIP submission for the 2010 1-hour SO_2 NAAQS with respect to section 110(a)(2)(H).

10. 110(a)(2)(J) *Consultation with Government Officials, Public Notification, and PSD and Visibility Protection:* EPA is proposing to approve Georgia's infrastructure SIP submission for the 2010 1-hour SO_2 NAAQS with respect to the general requirement in section 110(a)(2)(J) to include a program in the SIP that complies with the applicable consultation requirements of section 121, the public notification requirements of section 127, PSD and visibility protection. EPA's rationale for applicable consultation requirements of section 121, the public notification requirements of section 127, PSD, and visibility is described below.

Consultation with government officials (121 consultation): Section 110(a)(2)(J) of the CAA requires states to provide a process for consultation with local governments, designated organizations, and Federal Land Managers carrying out NAAQS implementation requirements pursuant to section 121 relative to consultation. The following State rules and statutes, as well as the State's Regional Haze Implementation Plan (which allows for consultation between appropriate state, local, and tribal air pollution control agencies as well as the corresponding Federal Land Managers), provide for consultation with government officials whose jurisdictions might be affected by SIP development activities: Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. Section 12–9–5(b)(17)); Georgia Administrative Procedures Act (O.C.G.A. § 50–13–4); and Georgia Rule 391–3–1–.02(7) as it relates to Class I areas. Section 12–9–5(b)(l7) of the Georgia Air Quality Act states that the DNR Board is to ''establish satisfactory processes of consultation and cooperation with local governments or other designated organizations of elected officials or federal agencies for the purpose of planning, implementing, and determining requirements under this article to the extent required by the federal act.''

[24] ''*Credible Evidence,*'' makes allowances for owners and/or operators to utilize ''any credible evidence or information relevant'' to demonstrate compliance with applicable requirements if the appropriate performance or compliance test had been performed, for the purpose of submitting compliance certification, and can be used to establish whether or not an owner or operator has violated or is in violation of any rule or standard.

Additionally, Georgia adopted statewide consultation procedures for the implementation of transportation conformity which includes the development of mobile inventories for SIP development.[25] These consultation procedures were developed in coordination with the transportation partners in the State and are consistent with the approaches used for development of mobile inventories for SIPs. Required partners covered by Georgia's consultation procedures include Federal, state and local transportation and air quality agency officials. EPA has made the preliminary determination that Georgia's SIP and practices adequately demonstrate consultation with government officials related to the 2010 1-hour SO_2 NAAQS when necessary. Accordingly, EPA is proposing to approve Georgia's infrastructure SIP submission with respect to section 110(a)(2)(J) consultation with government officials.

Public notification (127 public notification): GAEPD has public notice mechanisms in place to notify the public of instances or areas exceeding the NAAQS along with associated health effects through the Air Quality Index reporting system in required areas. GAEPD's Ambient Monitoring Web page (*www.georgiaair.org/amp*) provides information regarding current and historical air quality across the State. Daily air quality forecasts may be disseminated to the public in Atlanta through the Georgia Department of Transportation's electronic billboards. In its SIP submission, Georgia also notes that the non-profit organization in Georgia, ''Clean Air Campaign,'' disseminates statewide air quality information and ways to reduce air pollution. Georgia rule 391–3–1–.04 ''Air Pollution Episodes'' enables the State to conduct certain actions in support of this infrastructure element. In addition, the following State statutes provide Georgia the authority to conduct certain actions in support of this infrastructure element. OCGA 12–9–6(b)(8) provides authority to the Georgia Board of Natural Resources ''To collect and disseminate information and to provide for public notification in matters relating to air quality. . .''. EPA has made the preliminary determination that Georgia's SIP and practices adequately demonstrate the State's ability to provide public notification related to the 2010 1-hour SO_2 NAAQS when necessary. Accordingly, EPA is proposing to approve Georgia's infrastructure SIP submission with respect to section 110(a)(2)(J) public notification.

PSD: With regard to the PSD element of section 110(a)(2)(J), this requirement may be met by a state's confirmation in an infrastructure SIP submission that new major sources and major modifications in the state are subject to a PSD program meeting all the current structural requirements of part C of title I of the CAA. As discussed in more detail above under section 110(a)(2)(C), Georgia's SIP contains provisions for the State's PSD program that reflect the relevant SIP revisions pertaining to the required structural PSD requirements to satisfy the requirement of the PSD element of section 110(a)(2)(J). EPA has made the preliminary determination that Georgia's SIP and practices are adequate PSD permitting of major sources and major modifications related to the 2010 1-hour SO_2 NAAQS for the PSD element of section 110(a)(2)(J).

Visibility protection: EPA's 2013 Guidance notes that it does not treat the visibility protection aspects of section 110(a)(2)(J) as applicable for purposes of the infrastructure SIP approval process. EPA recognizes that states are subject to visibility protection and regional haze program requirements under part C of the Act (which includes sections 169A and 169B). However, there are no newly applicable visibility protection obligations after the promulgation of a new or revised NAAQS. Thus, EPA has determined that states do not need to address the visibility component of 110(a)(2)(J) in infrastructure SIP submittals to fulfill its obligations under section 110(a)(2)(J). As such, EPA has made the preliminary determination that it does not need to address the visibility protection element of section 110(a)(2)(J) in Georgia's infrastructure SIP submission related to the 2010 1-hour SO_2 NAAQS.

11. 110(a)(2)(K) *Air Quality Modeling and Submission of Modeling Data:* Section 110(a)(2)(K) of the CAA requires that SIPs provide for performing air quality modeling so that effects on air quality of emissions from NAAQS pollutants can be predicted and submission of such data to the EPA can be made. The Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. Section 12–9–6(b)(13)) provides GAEPD the authority to conduct modeling actions and to submit air quality modeling data to EPA in support of this element. GAEPD maintains personnel with training and experience to conduct source-oriented dispersion modeling with models such as AERMOD that would likely be used for modeling SO_2 emissions from sources. The State also notes that its SIP-approved PSD program, which includes specific (dispersion) modeling provisions, provides further support of GAEPD's ability to address this element. All such modeling is conducted in accordance with the provisions of 40 CFR part 51, Appendix W, ''Guideline on Air Quality Models.''

Additionally, Georgia supports a regional effort to coordinate the development of emissions inventories and conduct regional modeling for several NAAQS, including the 2010 1-hour SO_2 NAAQS, for the Southeastern states. Taken as a whole, Georgia's air quality regulations and practices demonstrate that GAEPD has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the 1-hour SO_2 NAAQS. EPA has made the preliminary determination that Georgia's SIP and practices adequately demonstrate the State's ability to provide for air quality and modeling, along with analysis of the associated data, related to the 2010 1-hour SO_2 NAAQS. Accordingly, EPA is proposing to approve Georgia's infrastructure SIP submission with respect to section 110(a)(2)(K).

12. 110(a)(2)(L) *Permitting Fees:* Section 110(a)(2)(L) requires the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under the CAA, a fee sufficient to cover (i) the reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V.

Georgia's PSD and NNSR permitting programs are funded with title V fees. The Georgia Rule for Air Quality 391–3–1–.03(9) ''Permit Fees.'' incorporates the EPA-approved title V fee program and fees for synthetic minor sources. Georgia's authority to mandate funding for processing PSD and NNSR permits is found in Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. 12–9–10). The State notes that these title V operating program fees cover the reasonable cost of implementation and enforcement of PSD and NNSR permits after they have been issued. EPA has made the preliminary determination that Georgia's SIP and practices adequately provide for permitting fees related to the

[25] Georgia rule 391–3–1–.15, *Georgia Transportation Conformity and Consultation Interagency Rule,* is approved into the State's SIP. *See* 77 FR 35866.

2010 1-hour SO_2 NAAQS, when necessary. Accordingly, EPA is proposing to approve Georgia's infrastructure SIP submission with respect to section 110(a)(2)(L).

13. 110(a)(2)(M) *Consultation/ participation by affected local entities:* Section 110(a)(2)(M) of the Act requires states to provide for consultation and participation in SIP development by local political subdivisions affected by the SIP. Consultation and participation by affected local entities is authorized by the Georgia Air Quality Act: Article 1: Air Quality (O.C.G.A. 12–9–5(b)(17)) and the Georgia Rule for Air Quality 391–3–1–.15—''Transportation Conformity'', which defines the consultation procedures for areas subject to transportation conformity. Furthermore, GAEPD has demonstrated consultation with, and participation by, affected local entities through its work with local political subdivisions during the developing of its Transportation Conformity SIP and has worked with the Federal Land Managers as a requirement of the regional haze rule. EPA has made the preliminary determination that Georgia's SIP and practices adequately demonstrate consultation with affected local entities related to the 2010 1-hour SO_2 NAAQS when necessary.

V. Proposed Action

With the exception of interstate transport provisions pertaining to the contribution to nonattainment or interference with maintenance in other states and visibility protection requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2, and 4), EPA is proposing to approve Georgia's October 22, 2013, SIP submission as supplemented on July 25, 2014, for the 2010 1-hour SO_2 NAAQS for the above described infrastructure SIP requirements. EPA is proposing to approve Georgia's infrastructure SIP submission for the 2010 1-hour SO_2 NAAQS because the submission is consistent with section 110 of the CAA.

VI. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: January 12, 2016.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2016–02303 Filed 2–4–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300 and 600

[Docket No. 150507434–5999–01]

RIN 0648–BF09

Magnuson-Stevens Fishery Conservation and Management Act; Seafood Import Monitoring Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA), this proposed rule would establish filing and recordkeeping procedures relating to the importation of certain fish and fish products, in order to implement the MSA's prohibition on the import and trade, in interstate or foreign commerce, of fish taken, possessed, transported or sold in violation of any foreign law or regulation. The information to be filed is proposed to be collected at the time of entry, and makes use of an electronic single window consistent with the Safety and Accountability for Every (SAFE) Port Act of 2006 and other applicable statutes. Specifically, NMFS proposes to integrate collection of catch and landing documentation for certain fish and fish products within the government-wide International Trade Data System (ITDS) and require electronic information collection through the Automated Commercial Environment (ACE) maintained by the Department of Homeland Security, Customs and Border Protection (CBP). Under these procedures, NMFS would require an annually renewable International Fisheries Trade Permit (IFTP) and specific data for certain fish and fish products to be filed and retained as a condition of import to enable the United States to exclude the entry into commerce of products of illegal fishing activities. The information to be collected and retained will help authorities verify that the fish or fish products were lawfully acquired by providing information that traces

each import shipment from point of harvest to entry-into commerce. The rule will also decrease the incidence of seafood fraud by collecting information at import and requiring retention of documentation so that the information reported (*e.g.,* regarding species and harvest location) can be verified. This proposed rule stipulates the catch and landing data for imports of certain fish and fish products which would be required to be submitted electronically to NMFS through ACE and the requirements for recordkeeping concerning such imports.

DATES: Written comments must be received by April 5, 2016. Public webinars will take place from 3:00 to 5:00 p.m. eastern standard time on February 18 and 24, 2016. An in-person public listening session will be held in Boston, Massachusetts from 11:00 a.m. to 1:00 p.m. eastern standard time on March 7, 2016.

ADDRESSES: Written comments on this action, identified by NOAA–NMFS–2015–0122, may be submitted by either of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0122,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Mark Wildman, International Fisheries Division, Office for International Affairs and Seafood Inspection, NOAA Fisheries, 1315 East-West Highway, Silver Spring, MD 20910.

All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All personal identifying information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Enter N/A in the required fields if you wish to remain anonymous. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (PDF) formats only.

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 the NOAA Fisheries Office for International Affairs and Seafood Inspection and by email to *OIRA Submission@omb.eop.gov* or fax to (202) 395–7285.

Information on how to participate in the February 18 and 24, 2016 public webinars will be posted online at *www.iuufishing.noaa.gov.* The March 7, 2016 public listening session will take place at the Seafood Expo North America, Boston Convention and Exhibition Center, Room 104A, 415 Summer Street, Boston, MA 02210. All information about these public information sessions will be posted online at *www.iuufishing.noaa.gov.*

Special Accommodations

The March 7, 2016 public listening session is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mark Wildman, at (301) 427–8350, at least 5 days prior to the meeting date.

FOR FURTHER INFORMATION CONTACT: Mark Wildman, Office for International Affairs and Seafood Inspection, NOAA Fisheries (phone (301) 427–8350, or email *mark.wildman@noaa.gov*).

SUPPLEMENTARY INFORMATION:

Background

On June 17, 2014, the White House released a *Presidential Memorandum* entitled ''Establishing a Comprehensive Framework to Combat Illegal, Unreported, and Unregulated Fishing and Seafood Fraud.'' Among other actions, the Memorandum established a Presidential Task Force on Combating Illegal, Unreported, and Unregulated (IUU) Fishing and Seafood Fraud (Task Force), co-chaired by the Departments of State and Commerce, with membership including a number of other Federal agency and White House offices: The Departments of Agriculture, Defense, Health and Human Services, Homeland Security, Interior, and Justice; the Federal Trade Commission; the U.S. Agency for International Development; the Council on Environmental Quality; the Office of Management and Budget; the Office of Science and Technology Policy; the National Security Council; and the Office of the U.S. Trade Representative.

The Task Force was directed to report to the President ''recommendations for the implementation of a comprehensive framework of integrated programs to combat IUU fishing and seafood fraud that emphasizes areas of greatest need.'' Those recommendations were provided to the President through the National Ocean Council, and NMFS requested comments from the public on how to effectively implement the recommendations of the Task Force (79 FR 75536, December 18, 2014). Oversight for implementing the recommendations of the Task Force has been charged to the National Ocean Council Standing Committee on IUU Fishing and Seafood Fraud (NOC Committee).

Recommendation 14 concerns the development of a risk-based traceability program (including defining operational standards and the types of information to be collected) as a means to combat IUU fishing and seafood fraud. Recommendation 15 calls for the implementation of the first phase of that risk-based traceability program that tracks fish and fish products identified as being at risk of IUU fishing or seafood fraud from point of harvest to point of entry into U.S. commerce. The first step taken to address Recommendations 14 and 15 was the identification of those species likely to be at risk of IUU fishing or seafood fraud. *See* At-Risk Species section below for further detail. The second step taken is this proposed rulemaking, which would establish data reporting and related operational requirements at the point of entry into U.S. commerce for imported fish and fish products of at-risk species. The data reporting requirements would apply to importers of record. The importers of record are the importers as identified in CBP entry filings for shipments containing the designated at-risk species. Customs brokers may fulfill these requirements on behalf of the importer of record at the importer of record's request. This rule implements MSA section 307(1)(Q), which makes it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish taken, possessed, transported, or sold in violation of any foreign law or regulation or any treaty or binding conservation measure to which the United States is a party. *See* 16 U.S.C. 1857(1)(Q).

As indicated in the Task Force's recommendations to the President, it is the goal of the U.S. government ''to eventually expand the program to all seafood at first point of sale or import.'' The process for expansion will account for, among other factors, consideration of authorities needed for more robust implementation, stakeholder input, and the cost-effectiveness of program expansion. By December 2016, the NOC Committee will issue a report that includes an evaluation of the program as set out in a final rule and implemented to date, as well as recommendations of how and under what timeframe it would be expanded.

International Trade Data System (ITDS)

The SAFE Port Act (Pub. L. 109–347) requires all Federal agencies with a role

in import admissibility decisions to participate in a single window system that allows information to be collected electronically through ITDS. Department of the Treasury has the U.S. Government lead on ITDS development and partner government agency integration. CBP developed the Automated Commercial Environment (ACE) as single window for the collection and dissemination of information to support ITDS. To comply with SAFE Port Act, NMFS is in the process of establishing ITDS as the electronic means of collecting NMFS-required catch and trade data at the point of entry for imports subject to existing trade monitoring programs. (80 FR 81251, December 29, 2015.) NMFS anticipates completing the final ITDS rule prior to finalizing this rule that would require entry filers, when importing at-risk species, to submit data elements at the point of entry into U.S. commerce and use the CBP ACE portal for submission of import data and/or document images (as applicable for HTS codes covered under multiple programs).

This proposed rule would also require the importer of record to obtain a permit to import a designated at-risk species (*see* International Fisheries Trade Permit section below for more detail). At-risk species, and some products derived from such species, would be identified by Harmonized Tariff Schedule (HTS) codes (in combination with other codes where applicable), and entries filed under these codes would be subject to the additional data requirements set forth in this proposed rule. While some HTS codes will have a direct correspondence to the at-risk species, other applicable HTS codes, particularly for processed products, may be broader (*i.e.,* potentially including species other than those designated at-risk.) In such cases, supplementary product identifiers supplied at entry filing (*e.g.,* acceptable market name, scientific name) would be used to determine if the shipment includes at-risk species and is subject to additional data collection. NMFS is proposing to exclude highly processed fish products (fish oil, slurry, sauces, sticks, balls, cakes, puddings, and other similar highly processed fish products) from the additional data requirements in cases for which the species of fish comprising the product or the harvesting event(s) or aquaculture operation(s) of the shipment of the product cannot be feasibly identified.

Additional species and products may be subsequently identified for inclusion in the Seafood Traceability Program as part of the continuing process to implement Recommendations 14 and 15. Use of ITDS and the ACE portal is envisioned as the mechanism for implementing additional data collection requirements for imports of all fish species, if a decision is made to expand the Seafood Traceability Program, through future rulemaking, to include all fish species.

Entry Into U.S. Commerce

This proposed rule addresses only the collection of information on imported fish and fish products at the point of entry into U.S. commerce. For imported fish and fish products, entry into commerce is the landing on, bringing into, or introduction into, or attempted landing on, bringing into, or introduction into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States. *See* 16 U.S.C. 1802(22) (A) and (B). ''Imported fish and fish products'' do not include transit shipments that are not being imported into the United States and therefore do not enter U.S. commerce. However, the permitting, reporting and recordkeeping requirements of this proposed rule would apply only in cases of entries for consumption, withdrawals from a bonded warehouse for consumption or withdrawals from a foreign trade zone for consumption.

For U.S. domestic wild capture fisheries, entry into U.S. commerce occurs at the first point of landing or sale or transfer to a dealer or processor in the United States. In the case of harvesting vessels that process at-sea, transfer their catch to a processor at-sea, transfer their catch to a carrier or tender vessel at-sea, or transship their catch in port, entry into commerce is the offloading of the transferred and/or processed product for transshipment in an established U.S. port or roadstead. For U.S. domestic aquaculture products, entry into U.S. commerce is the first sale to a processing facility or directly to a consumer market.

For the designated at-risk species, equivalent information is already being collected at the point of entry into commerce for the products of U.S. domestic fisheries pursuant to various Federal and/or State fishery management and reporting programs. For this reason, this proposed rule does not duplicate data reporting and record retention requirements already in place for products of U.S. domestic fisheries, and instead focuses on accessing the data necessary to establish traceability from point of harvest to entry into U.S. commerce for imported fish and fish products. Together, the requirements already in place for products of U.S. domestic fisheries and the requirements proposed in this rule for imported fish and fish products provide a framework for the designated at-risk species to trace seafood, whether domestic or imported, back to the point of harvest or capture to verify that seafood entering U.S. commerce is both legally caught and not fraudulently represented.

With respect to aquaculture, U.S. domestic aquaculture is largely regulated at the state level. NOAA understands that U.S. states generally do not collect with respect to products of U.S. aquaculture operations the data this rule proposes to collect on imports. This is a concern as the IUU Task Force Action Plan calls for a traceability program that applies without regard to whether seafood is domestic or imported to ensure that seafood entering U.S. commerce is not the product of IUU fishing or fraud. NMFS is aware of gaps in the collection of traceability information for domestic aquaculture-raised shrimp and abalone, and is working with its federal and state partners to identify and implement measures to address those gaps. While it remains NMFS' full intention to include shrimp and abalone in the final rule, implementation of measures to address those gaps may affect the timing of implementation of the reporting and recordkeeping requirements for imports of shrimp and abalone. In particular, if gaps remain unaddressed by the time of publication of a final rule, NMFS intends to delay implementation of the rule for shrimp and abalone until such time as, working with its state and federal partners, it is able to determine that the gaps have been addressed and publishes a notice in the **Federal Register** specifying implementation of this rule for those species.

At-Risk Species

A working group including representatives from NMFS and other Federal agency partners solicited comment on principles to be applied in the identification of fish species likely to be most at risk of IUU fishing or seafood fraud (80 FR 24246, April 30, 2015). Taking into consideration public comment received, the working group evaluated the strength and utility of various indicators of IUU fishing or seafood fraud as well as their measurability and the robustness of data available to assess them. The working group endeavored to minimize overlap of principles to ensure that alignment with multiple principles did not overstate associated risk, and also to

distinguish between risk of IUU fishing and risk of seafood fraud.

The working group identified the following draft principles: Enforcement capability, existence of a catch documentation scheme, complexity of the supply chain, known species substitution, history of mislabeling (other than misidentification of species), and history of fisheries violations. Applying those principles to a base list of species, thirteen fish species/species groups were identified as likely to be most at risk of IUU fishing or seafood fraud. NMFS solicited public comment on the draft principles and draft list of at-risk species (80 FR 45955, August 3, 2015). After taking into consideration public comment, NMFS issued final principles and applied those principles to determine a list of at-risk species (80 FR 66867, October 30, 2015). Public comments received in response to each of the above notices can be viewed through the docket created on the Federal e-Rulemaking Portal: *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0090.*

Pursuant to the process described above, NMFS issued a list of at-risk species and species groups that includes: Abalone; Atlantic Cod; Pacific Cod; Blue Crab; Red King Crab; Dolphinfish (Mahi Mahi); Grouper; Red Snapper; Sea Cucumber; Shrimp; Sharks; Swordfish; and Albacore, Bigeye, Skipjack, and Yellowfin Tuna. Although bluefin tuna species were determined to be at a lower risk of IUU fishing and seafood fraud than other tuna species and were not included on the list of at-risk species, the reporting and recordkeeping requirements proposed in this rule apply to HTS codes for fish and fish products of all tuna species including bluefin tuna. NMFS notes that bluefin tuna was historically a target of IUU fishing, and in response, two regional fisheries organizations implemented a catch documentation scheme which together include two of the three species world-wide. While NMFS continues to view the bluefin tuna to be at considerably lower risk of IUU fishing and seafood fraud than other tuna species and has made no modification to the list of at-risk species published on October 30, it proposes to cover bluefin tuna in this proposed rule (and has therefore included the HTS codes for bluefin tuna in the above list) in order to establish consistent treatment of tuna species, and avoid possible concerns that one species of tuna may be treated less favorably than others.

Although NOAA has, as discussed, previously sought comment on the list of species to which this rule will apply (80 FR 45955, August 3, 2015), NOAA recognizes that the public may further comment on the list of species and species groups, including whether any species should be added or deleted. It would be helpful if such comments include information on the factors established in Recommendations 14 and 15 of the IUU Task Force Action Plan. Because NOAA responded on October 30, 2015 (80 FR 66867) to comments received on the proposed list that was published on August 3, 2015 (80 FR 45955), NOAA requests that comments not be submitted on this proposal that are duplicative of those submitted on the list of species and contain no new information.

Under this proposed rule, importers would therefore be subject to the permitting, reporting and recording keeping requirements, which are described below, with respect to imports of the species and species groups as proposed, subject to revision at the time of issuance of the final rule. Entries of the fish and fish product of species covered by this rule filed under the following HTS codes would be designated in ACE as requiring the additional data in order to obtain release of the inbound shipment:

HTS code	Commodity description
0301940100	TUNA BLUEFIN ATLANTIC, PACIFIC LIVE.
0301950000	TUNA BLUEFIN SOUTHERN LIVE.
0302310000	TUNA ALBACORE FRESH.
0302320000	TUNA YELLOWFIN FRESH.
0302330000	TUNA SKIPJACK FRESH.
0302340000	TUNA BIGEYE FRESH.
0302350100	TUNA BLUEFIN ATLANTIC, PACIFIC FRESH.
0302360000	TUNA BLUEFIN SOUTHERN FRESH.
0302470010	SWORDFISH STEAKS FRESH.
0302470090	SWORDFISH FRESH.
0302510010	GROUNDFISH COD ATLANTIC FRESH.
0302510090	GROUNDFISH COD NSPF FRESH.
0302810010	SHARK DOGFISH FRESH.
0302810090	SHARK NSPF FRESH.
0302895058	SNAPPER (LUTJANIDAE SPP.) FRESH.
0302895061	GROUPER FRESH.
0302895072	DOLPHINFISH FRESH.
0303410000	TUNA ALBACORE FROZEN.
0303420020	TUNA YELLOWFIN WHOLE FROZEN.
0303420040	TUNA YELLOWFIN EVISCERATED HEAD-ON FROZEN.
0303420060	TUNA YELLOWFIN EVISCERATED HEAD-OFF FROZEN.
0303430000	TUNA SKIPJACK FROZEN.
0303440000	TUNA BIGEYE FROZEN.
0303450110	TUNA BLUEFIN ATLANTIC FROZEN.
0303450150	TUNA BLUEFIN PACIFIC FROZEN.
0303460000	TUNA BLUEFIN SOUTHERN FROZEN.
0303490200	TUNA NSPF FROZEN.
0303570010	SWORDFISH STEAKS FROZEN.
0303570090	SWORDFISH FROZEN.
0303630010	GROUNDFISH COD ATLANTIC FROZEN.
0303630090	GROUNDFISH COD NSPF FROZEN.
0303810010	SHARK DOGFISH FROZEN.
0303810090	SHARK NSPF FROZEN.
0303890067	SNAPPER (LUTJANIDAE SPP.) FROZEN.
0303890070	GROUPER FROZEN.
0304440010	GROUNDFISH COD ATLANTIC FILLET FRESH.

HTS code	Commodity description
0304440015	GROUNDFISH COD NSPF FILLET FRESH.
0304450000	SWORDFISH FILLET FRESH.
0304530010	GROUNDFISH COD ATLANTIC MEAT FRESH.
0304530010	GROUNDFISH COD ATLANTIC MEAT FRESH.
0304530015	GROUNDFISH COD NSPF MEAT FRESH.
0304530015	GROUNDFISH COD NSPF MEAT FRESH.
0304540000	SWORDFISH MEAT FRESH.
0304711000	GROUNDFISH COD NSPF FILLET BLOCKS FROZEN >4.5KG.
0304711000	GROUNDFISH COD NSPF FILLET BLOCKS FROZEN >4.5KG.
0304715000	GROUNDFISH COD NSPF FILLET FROZEN.
0304715000	GROUNDFISH COD NSPF FILLET FROZEN.
0304870000	TUNA NSPF FILLET FROZEN.
0304895055	DOLPHINFISH FILLET FROZEN.
0304895055	DOLPHINFISH FILLET FROZEN.
0304911000	SWORDFISH MEAT FROZEN >6.8KG.
0304919000	SWORDFISH MEAT FROZEN NOT >6.8KG.
0304951010	GROUNDFISH COD NSPF MINCED FROZEN >6.8KG.
0304951010	GROUNDFISH COD NSPF MINCED FROZEN >6.8KG.
0304991190	TUNA NSPF MEAT FROZEN >6.8KG.
0305320010	GROUNDFISH COD NSPF FILLET DRIED/SALTED/BRINE.
0305494020	GROUNDFISH COD, CUSK, HADDOCK, HAKE, POLLOCK SMOKED.
0305510000	GROUNDFISH COD NSPF DRIED.
0305620010	GROUNDFISH COD NSPF SALTED MOISTURE CONTENT >50%.
0305620025	GROUNDFISH COD NSPF SALTED MOISTURE CONTENT BET 45–50%.
0305620030	GROUNDFISH COD NSPF SALTED MOISTURE CONTENT BET 43–45%.
0305620045	GROUNDFISH COD NSPF SALTED MOISTURE CONTENT NOT >43%.
0305620050	GROUNDFISH COD NSPF FILLET SALTED MOISTURE >50%.
0305620060	GROUNDFISH COD NSPF FILLET SALTED MOISTURE CONTENT 45–50%.
0305620070	GROUNDFISH COD NSPF FILLET SALTED MOISTURE CONTENT 43–45%.
0305620080	GROUNDFISH COD NSPF FILLET SALTED MOISTURE NOT >43%.
0305710000	SHARK FINS.
0306142000	CRABMEAT NSPF FROZEN.
0306144010	CRAB KING FROZEN.
0306144090	CRAB NSPF FROZEN.
0306160003	SHRIMP COLD-WATER SHELL-ON FROZEN <15.
0306160006	SHRIMP COLD-WATER SHELL-ON FROZEN 15/20.
0306160009	SHRIMP COLD-WATER SHELL-ON FROZEN 21/25.
0306160012	SHRIMP COLD-WATER SHELL-ON FROZEN 26/30.
0306160015	SHRIMP COLD-WATER SHELL-ON FROZEN 31/40.
0306160018	SHRIMP COLD-WATER SHELL-ON FROZEN 41/50.
0306160021	SHRIMP COLD-WATER SHELL-ON FROZEN 51/60.
0306160024	SHRIMP COLD-WATER SHELL-ON FROZEN 61/70.
0306160027	SHRIMP COLD-WATER SHELL-ON FROZEN >70.
0306160040	SHRIMP COLD-WATER PEELED FROZEN.
0306170003	SHRIMP WARM-WATER SHELL-ON FROZEN <15.
0306170006	SHRIMP WARM-WATER SHELL-ON FROZEN 15/20.
0306170009	SHRIMP WARM-WATER SHELL-ON FROZEN 21/25.
0306170012	SHRIMP WARM-WATER SHELL-ON FROZEN 26/30.
0306170015	SHRIMP WARM-WATER SHELL-ON FROZEN 31/40.
0306170018	SHRIMP WARM-WATER SHELL-ON FROZEN 41/50.
0306170021	SHRIMP WARM-WATER SHELL-ON FROZEN 51/60.
0306170024	SHRIMP WARM-WATER SHELL-ON FROZEN 61/70.
0306170027	SHRIMP WARM-WATER SHELL-ON FROZEN >70.
0306170040	SHRIMP WARM-WATER PEELED FROZEN.
0306260020	SHRIMP COLD-WATER SHELL-ON FRESH/DRIED/SALTED/BRINE.
0306260040	SHRIMP COLD-WATER PEELED FRESH/DRIED/SALTED/BRINE.
0306270020	SHRIMP WARM-WATER SHELL-ON FRESH/DRIED/SALTED/BRINE.
0306270040	SHRIMP WARM-WATER PEELED FRESH/DRIED/SALTED/BRINE.
0308110000	SEA CUCUMBERS LIVE/FRESH.
0308190000	SEA CUCUMBERS FROZEN/DRIED/SALTED/BRINE.
1604141010	TUNA NSPF IN ATC (FOIL OR FLEXIBLE) IN OIL.
1604141091	TUNA ALBACORE IN ATC (OTHER) IN OIL.
1604141099	TUNA NSPF IN ATC (OTHER) IN OIL.
1604142251	TUNA ALBACORE IN ATC (FOIL OR FLEXIBLE) NOT IN OIL IN QUOTA.
1604142259	TUNA ALBACORE IN ATC (OTHER) NOT IN OIL IN QUOTA.
1604142291	TUNA NSPF IN ATC (FOIL OR FLEXIBLE) NOT IN OIL IN QUOTA.
1604142299	TUNA NSPF IN ATC (OTHER) NOT IN OIL IN QUOTA.
1604143051	TUNA ALBACORE IN ATC (FOIL/FLEXIBLE) NOT IN OIL OVER QUOTA.
1604143059	TUNA ALBACORE IN ATC (OTHER) NOT IN OIL OVER QUOTA.
1604143091	TUNA NSPF IN ATC (FOIL OR FLEXIBLE) NOT IN OIL OVER QUOTA.
1604143099	TUNA NSPF IN ATC (OTHER) NOT IN OIL OVER QUOTA.
1604144000	TUNA NSPF NOT IN ATC NOT IN OIL >6.8KG.
1604145000	TUNA NSPF NOT IN ATC NOT IN OIL NOT >6.8KG.
1605100510	CRAB PRODUCTS PREPARED DINNERS IN ATC.

HTS code	Commodity description
1605100590	CRAB PRODUCTS PREPARED DINNERS NOT IN ATC.
1605102010	CRABMEAT KING IN ATC.
1605102051	CRABMEAT SWIMMING (CALLINECTES) IN ATC.
1605104002	CRABMEAT KING FROZEN.
1605104025	CRABMEAT SWIMMING (CALLINECTES) FROZEN.
1605104025	CRABMEAT SWIMMING (CALLINECTES) FROZEN.
1605211000	SHRIMPS AND PRAWNS, NOT IN AIRTIGHT CONTAINERS.
1605291000	SHRIMPS AND PRAWNS, OTHER.
1605570500	ABALONE PRODUCTS PREPARED DINNERS.
1605576000	ABALONE PREPARED/PRESERVED.

For the above listed HTS codes that may be used to make entry for designated at-risk species and for species which are not so designated, the scientific name of the species in the shipment, or a disclaimer, will be required to discern whether the shipment offered for entry is subject to additional data collection under the proposed traceability program. This proposed rule does not cover highly processed fish products (fish oil, slurry, sauces, sticks, balls, cakes, puddings, and other similar highly processed fish products) for which the species of fish comprising the product or the harvesting event(s) or aquaculture operation(s) of the shipment of the product cannot be feasibly identified and therefore HTS codes for such fish and fish products have not been included in the list above. However other program requirements (*e.g.,* TTVP) may have data reporting requirements applicable to these codes.

Regulatory requirements for reporting and recordkeeping already exist for certain products subject to this rule. In particular, tuna products would be subject to this proposed rule and are now subject to the Tuna Tracking and Verification Program (TTVP) (*See http://www.nmfs.noaa.gov/pr/dolphinsafe/tunaHTScodes.htm*), which monitors compliance under the Dolphin Protection Consumer Information Act (DPCIA) (16 U.S.C. 1385). NMFS seeks to avoid any duplication of reporting and recordkeeping by ensuring that those entities currently subject to the TTVP requirements will only have to report the required information to the ACE portal once (and, similarly, those entities subject to both sets of requirements will only keep one set of records for purposes of tracking and verification). Furthermore, in light of the similarity in underlying reporting and recordkeeping requirements of the IUU fishing seafood fraud traceability program and the TTVP program, which verifies whether tuna product marketed as ''dolphin safe'' meets the eligibility conditions for the dolphin safe label, NMFS intends to ensure that any future changes to the IUU fishing and risk of seafood fraud requirements such as converting certain recordkeeping requirements to a reporting requirement, as discussed below, will be replicated in the TTVP program (through the inclusion of appropriate HTS codes) so that entities serving the U.S. tuna product market will not be subject to conflicting reporting and recordkeeping requirements. Comments regarding HTS codes should address the extent to which the listed codes accurately reflect the potential universe of products associated with the list of at-risk species and the cost effectiveness of including more or fewer codes.

Data for Reporting and Recordkeeping

The working group considered the minimum types of information that should be reported in order to determine that imports of at-risk species are not products of illegal fishing or are fraudulently represented. The area of harvest or the location of the aquaculture facility, and the time at which the harvest took place, represents the initial ''link'' in the supply chain. At-risk species entering U.S. commerce will be traced to their harvest and its authorization. Information on each point of transshipment and processing throughout the fish or fish product's chain of custody culminating at the point of entry into U.S. commerce can also be used to trace product back to point of harvest.

The data to be reported for at-risk species would be in addition to the information required by CBP as part of normal entry processing via the ACE portal. To avoid duplication, the interagency working group considered data that are already collected by CBP on the entry/entry summary, and data that are, or will be, collected via ACE by NMFS and other ITDS partner government agencies (*e.g.,* Food and Drug Administration, Fish and Wildlife Service, Department of State).

NMFS issued a notice (80 FR 37601, July 1, 2015) to request public input on the minimum types of information necessary for an effective seafood traceability program to combat IUU fishing and seafood fraud, as well as the operational standards related to collecting, verifying and securing that data. A number of respondents from the trade community expressed concern that any additional documentation and the electronic collection of data would create a burden to the industry, and could compromise the confidential relationships between buyers and suppliers. While changes will need to be made that may pose a challenge in the near term for some industry members, it is anticipated that the long-term benefits of electronic data collection will outweigh these challenges. To address concerns about data confidentiality, data security will be given the highest priority. Information collected via ACE and maintained in CBP systems is highly sensitive commercial, financial and proprietary information, generally exempt from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552(b)(4)) and prohibited from disclosure by the Trade Secrets Act (18 U.S.C. 1905). NMFS further notes that information required to be submitted to the agency under the MSA is subject to MSA confidentiality of information requirements at 16 U.S.C. 1881a(b).

Several comments expressed the desire for all fish species to be included in the initial phase of the traceability program, not just the subset of identified at-risk species. Others commented that monitoring and control should not stop at the point of entry into U.S. commerce, but carry all the way through to the final retail consumer, where many feel that most fraud occurs, especially in terms of mislabeling. Although this proposed rule is the initial phase, and is designed in such a way that it can be expanded to eventually include all species, as warranted by risk analysis, it is not designed to expand traceability from the point of entry into commerce to the final consumer. As noted earlier, the MSA makes it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish taken, possessed,

transported or sold in violation of any foreign law or regulation. Other state and Federal agencies have broader authority regarding mislabeling and other misrepresentation of food products and consumer protection that may be applied at other points in the supply chain up to the final sale.

The comments reflected almost universal support for the use of scientific names for accurate species identification, with the addition of FDA-approved market names on consumer labeling for user-friendliness. Many of the comments suggested that the United Nations Food and Agriculture Organization (FAO) Fishing Area alone is not sufficient to identify a precise location of harvest, and that fishing location should be more closely defined by including the country of origin (for product harvested within another country's waters), regional designation, or even GPS coordinates.

The domestic fishing community also expressed the desire for importers to be held to the same documentation standards that apply to U.S. fisheries because they feel that they ''already provide a staggering amount of information and demonstrate a high degree of traceability.'' The NOC Committee agrees that data regarding fish and fish products from both domestic and foreign sources must be required to enable officials to determine lawful harvest and, also, reduce the incidence of fraud. Much of the data needed to combat IUU fishing is already being collected in many foreign fisheries, and using the single-window ITDS system at the point of entry would help streamline and unify the data reporting and verification process, and provide the needed inter-operability of information exchange across the supply chain.

After consideration of comments as outlined above, NMFS proposes that, at the point of entry for species covered by this rule, importers of record would be required to report the following information for each entry in addition to other information that CBP and other agencies, including NMFS, currently require:

- Information on the entity(ies) harvesting or producing the fish (as applicable): Name and flag state of harvesting vessel(s) and evidence of authorization; Unique vessel identifier(s) (if available); Type(s) of fishing gear; Name(s) of farm or aquaculture facility.
- Information on the fish that was harvested and processed, including: Species of fish (scientific name, acceptable market name, and ASFIS number); Product description(s); Name(s) of product; Quantity and/or weight of the product(s).
- Information on where and when the fish were harvested and landed: Area(s) of wild-capture or aquaculture harvest; Harvest date(s); Location(s) of aquaculture facility; Point of first landing; Date of first landing; Name of entity(ies) (processor, dealer, vessel) to which fish was landed. Such information may be contained, for example, in catch certificates, landing reports, and port inspection reports. Entries may comprise products from more than one harvest event and each event relevant to entry must be reported.
- The NMFS IFTP number issued to the importer of record for the entry.

Additional information on each point in the chain of custody regarding the shipment of the fish or fish product to point of entry into U.S. commerce would be established as a recordkeeping requirement on the part of the importer of record to ensure that information is readily available to NMFS to allow it to trace the fish or fish product from the point of entry into U.S. commerce back to the point of harvest to verify the information that is reported upon entry. Such information would include records regarding each custodian of the fish and fish product, including, as applicable, transshippers, processors, storage facilities, and distributors. The information contained in the records must be provided to NMFS upon request and be sufficient for NMFS to conduct a trace back to verify the veracity of the information that is reported on entry. NMFS expects that typical supply chain records that are kept in the normal course of businesses, including declarations by harvesting/carrier vessels, bills of lading and forms voluntarily used or required under foreign government or international monitoring programs which include such information as the identity of the custodian, the type of processing, and the weight of the product, would provide sufficient information for NMFS to conduct a trace back. In addition to relying on such records, the trade may choose to use model forms that NMFS has developed to track and document chain of custody information through the supply chain. NMFS seeks comments on proposed model forms it has developed for this purpose which are available in the docket for this rulemaking at *www.regulations.gov.*

Due to technological limitations of automated data processing for imaged documents and requirements associated with the phase-in of ITDS, this proposed rule requires that chain of custody information be retained by the importer of record and made available to NMFS upon request. However, NMFS recognizes the conservation value of requiring reporting of key chain of custody data elements for the purpose of real-time verification and compliance risk assessment if those data can be accessed and analyzed using automated processes. While constraints on the expansion of information collected through message sets prior to full operationalization of ITDS by December 31, 2016 preclude the inclusion in this proposed rule of a reporting requirement for chain of custody information in that manner, NMFS will identify (including based on its experience with audits conducted pursuant to this rule) key chain of custody data elements that pose conservation benefits for real-time reporting by one year from full implementation of the final rule, and implement through subsequent rulemaking the reporting of key chain of custody data via message set into the ITDS system.

As explained above, NMFS proposes that the importer of record, or entry filer acting on their behalf, report the data required under the proposed program via the ACE portal as part of the CBP entry/entry summary process. To this end, importers of record who enter the designated at-risk species would be required to supply the data required to be reported under this proposed rule electronically through the ACE Partner Government Agency Message Set for NMFS (NMFS Message Set) and/or the DIS. The format for the NMFS Message Set would be designated for each of the affected commodities (by HTS code) and specified in the following documents that would be jointly developed by NMFS and CBP and made available to importers and other entry filers by CBP (*http://www.cbp.gov/trade/ace/catair*):

- CBP and Trade Automated Interface Requirements—Appendix PGA
- CBP and Trade Automated Interface Requirements—PGA Message Set
- Automated Broker Interface (ABI) Requirements—Implementation Guide for NMFS

In developing software for assembling and transferring the additional data to ACE, importers may wish to consider interoperability with existing traceability systems that are prevalent in the private sector supply chain or which may exist for certain commodities subject to catch/trade documentation schemes under the auspices of a regional fishery management organization (RFMO). While NMFS does not endorse any particular private sector traceability system, use of such systems may facilitate the collection of the

required information along the supply chain in order to report this information through ACE. However, importers of record are still responsible for the accuracy of the information in their import transactions, irrespective of whether integration software or other automated supply chain solutions are utilized.

Where RFMO catch/documentation schemes apply to the affected at-risk species, including those that have been implemented by NMFS through regulation (*e.g.,* the swordfish statistical document of the International Commission for the Conservation of Atlantic Tunas), it is anticipated that compliance with the entry data collection requirements of these schemes would for the most part meet the data reporting and recordkeeping requirements of the traceability program proposed here. However, ITDS provides sufficient flexibility to collect additional data in cases where the data requirements of the seafood traceability program proposed by this rule would exceed those of an RFMO scheme applicable to the same species. NMFS will work with CBP to avoid duplication of reporting requirement in cases where more than one reporting program applies to a particular fish or fish product, and to ensure that all the data are reported to meet the requirements of each applicable reporting program.

International Fisheries Trade Permit (IFTP)

The ITDS proposed rule would establish the IFTP to consolidate existing permits under the highly migratory species international trade program (HMS ITP) and Antarctic marine living resources (AMLR) program, and would require a permit for the TTVP. (80 FR 81251, December 29, 2015). (*See* Intersection with Other Applicable Requirements section below for further detail on the existing trade monitoring programs.) This proposed rule would extend the IFTP requirement in the ITDS proposed rule to include importers of record identified in CBP entry filings for shipments containing the designated at-risk species covered by this rule. Requiring the IFTP would allow NMFS to identify, and have current contact information for, importers of the at-risk species covered by this rule. This will enable NMFS to provide information about data reporting and recordkeeping requirements applicable to at-risk species; alert permit holders in advance of any pending changes to data reporting and recordkeeping requirements, including additional data elements or at-risk species; and minimize the potential for disruptions in trade and costly delays in release of shipments.

To obtain the IFTP, U.S. importers of record for designated at-risk species covered by this rule and seafood products derived from such species would electronically submit their application and fee for the IFTP via the National Permitting System Web site designated by NMFS. The fee charged for the IFTP would be calculated, at least annually, in accordance with procedures set forth in Chapter 9 of the NOAA Finance Handbook for determining the administrative costs for special products and services (*http://www.corporateservices.noaa.gov/finance/Finance%20Handbook.html*); the permit fee would not exceed such costs. An importer of record who is required to have an IFTP only needs one IFTP. Separate permits are not required, for example, if the imported species are covered under more than one program or the importer trades in more than one covered species.

Reporting and Recordkeeping

This proposed rule would require that an IFTP holder (*i.e.,* importer of record as identified on CBP entry/entry summary) report certain data for entries of at-risk species covered by this rule. NMFS would provide detailed information to permit holders regarding submission of such data, as well as on recordkeeping, in a compliance guide for industry that will be prepared in advance of NMFS' implementation of a final rule. (The guide may include information on electronic filing through ITDS.) The IFTP holder/importer of record would be required to maintain or have access to, and make available for inspection, electronic or paper versions of records associated with an entry for at-risk species at their place of business for a period of five years after the date of entry.

NMFS believes the costs of this rule will be relatively minor. Nonetheless, NMFS recognizes that the public may comment on this aspect of the proposed rule and possibly suggest alternative approaches. Section 2.6 of the Draft Regulatory Impact Review and Initial Regulatory Flexibility Analysis discusses several alternatives that were considered and ultimately rejected by NMFS. Any comments on these alternatives or any other modifications to the proposed reporting and recordkeeping requirements should explain how they maintain the rule's effectiveness at combating IUU fishing and seafood fraud.

This proposed rule recognizes that the importer of record may be different from the entity that actually completes CBP entry filings (*i.e.,* customs broker). An importer of record must obtain an IFTP and is responsible for complying with all of the requirements of this rule. The importer could arrange for a customs broker to submit required data elements for at-risk species through ACE. The customs broker would have to report the IFTP number of the importer of record along with the other required data elements for the specific entry but would not need to obtain an IFTP. However, the importer of record must still comply with the record keeping and inspection requirements of this rule.

Verification of Entries

To implement this proposed regulation, business rules would be programmed into ACE to automatically validate that the importer of record has satisfied all of the NMFS Message Set and document image requirements as applicable to HTS codes subject to multiple programs (*e.g.,* all data fields are populated and conform to format and coding specifications, required image files are attached). Absent validation of the NMFS requirements in ACE, the entry filed would be rejected and the entry filer would be notified of the deficiencies that must be addressed in order for the entry to be certified by ACE prior to release by NMFS and CBP. In addition to automated validation of the data submitted, entries may be subject to verification by NMFS that the supplied data elements are true and can be corroborated via auditing procedures (*e.g.,* vessel was authorized by the flag state, legal catch was landed to an authorized entity, processor receipts correspond to outputs). For shipments selected for verification, if verification of the data cannot be completed by NMFS pre-release, NMFS may request that CBP place a hold on a shipment pending verification by NMFS or allow conditional release, contingent upon timely provision of records by the importer of record to allow data verification. Entries for which timely provision of records is not provided to NMFS or that cannot be verified as lawfully acquired and non-fraudulent by NMFS, will be subject to enforcement or other appropriate action by NMFS in coordination with CBP. Such responses could include a re-delivery order for the shipment, exclusion from entry into commerce of the shipment, or enforcement action against the entry filer or importer of record.

To select entries for verification, NMFS would work with CBP to develop a specific program within ITDS to

screen information for the covered commodities based on risk criteria. For example, risk-based screening and targeting procedures can be programmed to categorize entries by volume and certain attributes (*e.g.,* ocean area of catch, vessel type or gear), and then randomly select entries for verification on a percentage basis within groups of entries defined by the associated attributes. In applying these procedures, NMFS would implement a verification scheme, including levels of inspection sufficient to assure that imports of the at-risk species are not products of illegal fisheries and are not fraudulently represented. Given the volume of imports, and the perishable nature of seafood, it would not likely be cost-effective for most verifications to be conducted on a pre-release basis. However, the verification scheme may involve targeted operations on a pre-release basis that are focused on particular products or ports of concern.

A verification program as described above will facilitate a determination of whether imported seafood has been lawfully acquired and not misrepresented and deter the infiltration of illegally harvested and misrepresented seafood into the supply chain. In addition to market access deterrence, there may be price effects in that illegal or would be fraudulent seafood must be diverted to lower value markets. Taken together, market access and price effects would reduce the incentives for illegal fishing operations and for seafood fraud. Conversely, authorized fisheries stand to benefit from import monitoring programs that aim to identify and exclude products of IUU fishing and seafood fraud, both through enhanced market share and potentially higher prices.

Voluntary Third Party Certifications and Trusted Trader Program

NMFS is considering how voluntary third party seafood certification programs could simplify entry filing for designated at-risk species or could be used to meet reporting requirements under this proposed rule. NMFS requests comment on how interoperability of third party data systems could be applied to meet the data reporting requirements on a pre-arrival basis or at the point of entry. Such interoperable systems would have to provide the information necessary for NMFS to trace product to the harvest event and therefore be sufficient to identify product that is the result of IUU fishing or is misrepresented.

Additionally, NMFS is considering how a Trusted Trader program might be used to streamline entry processing for designated at-risk species. The Trusted Trader Program is intended to streamline entry processing consistent with ensuring that all traders in the supply chain comply with applicable U.S. regulations. Participants in the Trusted Trader Program would collect or have access to the same data as non-participants, but may not need to provide it prior to entry. NMFS requests comment regarding the potential design and use of a Trusted Trader Program in connection with the requirements proposed in this rule, in particular how it could be used to streamline entry while allowing the United States to determine that imported seafood has been lawfully acquired and not misrepresented and to deter the infiltration of illegally harvested and misrepresented seafood into the supply chain.

Consideration of the European Union Catch Certification Scheme

The European Union (EU) adopted the IUU Regulation on September 29, 2008, which included a catch certification scheme for importation and exportation of fishery products. The EU's IUU regulations do not include a traceability scheme equivalent to that as contemplated by the IUU Task Force and as proposed in this rule. However, NMFS is interested in comments on how some of the elements inherent in the EU's IUU regulations may be adapted to this rule as a means of facilitating compliance and reducing burden for exporters, either through the design of the traceability process itself or as part of a trusted trader program.

Implementation Timeframe

NMFS requests specific comment on the implementation date for the data reporting and recordkeeping requirements for at-risk species under this proposed rule. While some firms may have adequate information systems already in place, other firms may need lead time to develop and implement mechanisms for transmitting the required information along the supply chain so that the data are available for entry filers to submit via ACE. NMFS anticipates that this proposed rule would become effective in September 2016, consistent with timeframes described in the IUU and Seafood Fraud Task Force Action Plan, but that the date by which importers are required to comply with the requirements in the rule will be sometime after that. NMFS seeks comment on an appropriate implementation date or dates, taking into account any time firms may require to adapt to their practices to comply with the requirements of this rule as well as logistical considerations such as compliance with anticipated revisions to ITDS that will allow chain of custody information to be submitted electronically. As an initial estimate, NMFS anticipates that firms may need between 90 days and 12 months to adapt their practices to comply with the requirements of this rule and proposes an implementation date of somewhere between 90 days and 12 months following publication of the final rule.

In addition to seeking comments on the implementation timeframe for this first phase of the traceability program, feedback is also sought on the lead time needed for seafood trade participants to implement potential expansion of this rule, either by inclusion of additional species and/or additional data elements. NMFS proposes to implement changes to reporting or recordkeeping requirements for species and data elements through notice and comment rulemaking procedures. Future proposed rules would specify the changes to reporting or recordkeeping requirements and would direct potentially affected parties to the pertinent CBP documents (Appendix PGA, PGA Message Set, Implementation Guide for NMFS) as described in the Customs and Trade Automated Interface Requirements (CATAIR) available at: *http://www.cbp.gov/sites/default/files/documents/ACE%20NMFS%20PGA%20MS%20Guidelines%20-%20July%2022%202015.pdf*) that would be developed jointly by NMFS and CBP to provide the implementation details (*e.g.,* species by HTS code, data elements, message set format, DIS requirements).

International Cooperation and Assistance

Subject to the availability of resources, NMFS intends to provide assistance to exporting nations to support compliance with the requirements of this proposed rule, including by providing assistance to build capacity to: (1) Undertake effective fisheries management; (2) strengthen fisheries governance structures and enforcement bodies to combat IUU fishing and seafood fraud; and (3) establish, maintain, or support systems to enable export shipments of fish and fish products to be traced back to point of harvest.

Intersection With Other Applicable Requirements

The proposed requirements for additional data collection at entry into U.S. commerce for imported at-risk species could intersect with data collection requirements applicable to imports of those same species under

several other authorities. Some of these authorities are related to combating IUU fishing, while other authorities are aimed at other concerns such as managing bycatch.

NMFS has previously issued regulations to implement programs for fishery products subject to RFMO documentation requirements and/or catch documentation under domestic laws. These regulations pertain to trade monitoring under three main programs: The HMS ITP, which regulates trade in specified commodities of tuna, swordfish, billfish, and shark fins under the MSA and requirements adopted by several tuna RFMOs to which the United States is a contracting party; the AMLR program, which regulates trade in Antarctic and Patagonian toothfish and other fishery products managed under the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR); and TTVP, which regulates trade of purse seine harvested in frozen and/or processed tuna products under the Marine Mammal Protection Act. Monitoring authority, conducted under the TTVP, is also provided for tuna products by the DPCIA, which specifies the conditions under which tuna products are eligible to be labeled as dolphin-safe.

Many of these monitoring programs require parties who import into or export, and/or re-export from the U.S. regulated species to: Obtain a permit from NMFS, obtain documentation on the flag-nation authorization for the harvest from the foreign exporter, and submit this information to NMFS. Depending on the commodity, specific information may also be required, for example: The flag nation of the harvesting vessel, the ocean area of catch, the fishing gear used, the name of the harvesting vessel and details and authorizations related to harvest, landing, transshipment and export/re-export.

In addition to these three programs, NMFS may implement or recommend trade measures for certain commodities under several other authorities. The High Seas Driftnet Fishing Moratorium Protection Act (HSDFMPA) (16 U.S.C. 1826d–k) sets forth a process for identification and certification of nations for IUU fishing, bycatch of protected living marine resources, and unsustainable shark fishing. Certain fish and fish products from identified nations that do not receive positive certifications could be subject to denial of port privileges and/or import prohibitions under the authority provided in the High Seas Driftnet Fisheries Enforcement Act (HSDFEA) (16 U.S.C. 1826a–c). There are also identification and/or certification procedures in other statutes, including the Pelly Amendment to the Fishermen's Protective Act (22 U.S.C. 1978) and the Atlantic Tunas Convention Act (ATCA) (16 U.S.C. 971 *et seq.*). These procedures may result in trade restrictions or other measures for fishery products from a certified country that are associated with the activity that resulted in the certification. Further, import prohibitions for certain fishery products could also be applied under provisions of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) and other statutes, depending on the circumstances of the fish harvest and the conservation concerns of the United States.

Multilateral efforts to combat IUU fishing may also result in requirements to take trade action. The United States is a member or contracting party to several RFMOs that have established procedures to identify nations and/or vessels whose fishing activities undermine the effectiveness of the conservation and management measures adopted by the organization. Fishery products exported by such nations or harvested by such vessels may be subject to import prohibitions. Relevant RFMO statutes include the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*), the Antarctic Marine Living Resources Convention Act (AMLRCA) (16 U.S.C. 2431 *et seq.*), the Western and Central Pacific Fisheries Convention Implementation Act (WCPFCIA) (16 U.S.C. 6901 *et seq.*), and the Tuna Conventions Act (TCA) (16 U.S.C. 951 *et seq.*). Implementation of such RFMO-derived trade measures may require the collection of information about certain fish products from certain countries, including the United States, and some of these existing measures do involve the at-risk species designated in this proposed rule.

For existing programs involving collection and reporting of trade information that overlap with the at-risk species proposed for data collection in this current rulemaking, NMFS has examined the data required under those existing programs and has adjusted the NMFS Message Set specified in the ABI Implementation Guide to ensure that all regulatory requirements are met while avoiding duplication. Likewise, NMFS has avoided duplication between the at-risk species data reporting and recordkeeping requirements contained in this proposed rule and any documentation requirements affecting designated at-risk species that have been implemented pursuant to other existing programs. Should future trade monitoring requirements be applied for designated at-risk species under any statutory authority, NMFS will consider how to avoid duplication of data collection accordingly. However, entry filers should carefully examine the data reporting and recordkeeping requirements contained in this proposed rule and other applicable rules, as further explained in the ABI Implementation Guide, for the commodities that comprise the shipment to ensure that all regulatory requirements are met for all trade-related programs that are applicable. The ABI Implementation Guide will be updated by NMFS and CBP to provide the trade with a single comprehensive resource addressing all applicable program requirements for imports of fish and fish products subject to data reporting and recordkeeping requirements under NMFS statutory authority. NMFS would welcome public comment as to whether there are any additional duplicative data reporting or recordkeeping requirements which have not been identified.

Classification

This proposed rule is published under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* The NMFS Assistant Administrator has determined that this proposed action is consistent with the provisions of this and other applicable laws, subject to further consideration after public comment.

Executive Order 12866

This proposed rule has been determined to be significant for the purposes of Executive Order (E.O.) 12866 because it may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866. NMFS has prepared a regulatory impact review of this action, which is available from NMFS (see **ADDRESSES**). This analysis describes the economic impact this proposed action, if adopted, would have on U.S. businesses and consumers. NMFS invites the public to comment on this proposal and the supporting analysis.

The regulatory action being considered, and its legal basis, is described in the preamble of this proposed rule. This proposed rule would require a permit (IFTP) for importers of at-risk species. Additionally, information pertaining to the harvest and landing of the product prior to U.S. import would be required at the point of entry into U.S. commerce, and certain records must be retained. With regard to the possible economic effects of this action, NMFS

anticipates that U.S. entities would not be significantly affected by this action because it does not directly restrict trade in the designated at-risk species and does not pose entirely new burdens with regard to the collection and submission of information necessary to determine product admissibility. Some of the data proposed to be collected at entry or to be subject to recordkeeping requirements is already collected by the seafood industry in order to comply with food safety and product labeling requirements. In addition, the majority of the countries exporting fish and fish products derived from the designated at-risk species to the U.S. market also export a number of these same fish and fish products to the European Union (E.U.) market. Consequently, many harvesting states, port states, and intermediary/exporting states that would be affected by this rule may already have comparable information collection systems in place to satisfy the requirements of E.U. regulation on IUU fishing.

Regulatory Flexibility Act

This proposed rule has been determined to be significant for the purposes of Executive Order (E.O.) 12866 because it may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866. An Initial Regulatory Flexibility Analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule will have on small entities and includes a description of the action, why it is being considered, and the legal basis for this action. The purpose of the RFA is to relieve small businesses, small organizations, and small governmental entities of burdensome regulations and recordkeeping requirements. Major goals of the RFA are: (1) To increase agency awareness and understanding of the impact of their regulations on small business, (2) to require agencies to communicate and explain their findings to the public, and (3) to encourage agencies to use flexibility and to provide regulatory relief to small entities. The RFA emphasizes predicting impacts on small entities as a group distinct from other entities and the consideration of alternatives that may minimize the impacts while still achieving the stated objective of the action. Below is a summary of the IRFA for the proposed rule which was prepared in conjunction with a Regulatory Impact Review (RIR). The IRFA/RIR is available from NMFS (see **ADDRESSES**).

The primary objective of this proposed rule is to collect or have access to additional data on imported fish and fish products to determine that it has been lawfully acquired and is not fraudulent and to deter illegally caught or misrepresented seafood from entering into U.S. commerce. These data reporting and recordkeeping requirements affect *inter alia* importers of seafood products, many of which are small businesses. Given the level of imports contributing to the annual supply of seafood, collecting and evaluating information about fish and fish products sourced overseas are a part of normal business practices for U.S. seafood dealers. The permitting, electronic reporting and recordkeeping requirements proposed by this rulemaking would build on current business practices (*e.g.,* information systems to facilitate product recalls, to maintain product quality, or to reduce risks of food borne illnesses) and are not estimated to pose significant adverse or long-term economic impacts on small entities.

If this rule is finalized, NMFS estimates there will be approximately 2,000 new applicants for the IFTP, with an estimated industry-wide increase in annual costs to importers of $60,000 in permit fees. Data sets to be submitted electronically to determine product admissibility are, to some extent, either already collected by the trade in the course of supply chain management, already required to be collected and submitted under existing trade monitoring programs (*e.g.,* tuna, swordfish, toothfish), or collected in support of third party certification schemes voluntarily adopted by the trade. Incremental costs are likely to consist of developing interoperable systems to ensure that the data are transmitted along with the product to ensure the information is available to the entry filer.

The proposed rule would apply to U.S. entities that import fish and fish products derived from the designated at-risk species. This proposed rule would be implemented so as to avoid duplication or conflict with any other Federal rules. To the extent that the proposed requirements overlap with other reporting requirements applicable to the designated at-risk species, this will be been taken into account to avoid collecting data more than once or by means other than the single window (ACE portal). As stated above, this rule is intended to allow NMFS to determine that imported seafood has been lawfully acquired and is not fraudulently represented and to deter illegally caught or misrepresented seafood from entering into U.S. commerce. Given the large volume of fish and fish product imports to the U.S. market, the number of exporting countries, and the fact that traceability systems are being increasingly used within the seafood industry, it is not expected that this rule would significantly affect the overall volume of trade or alter trade flows in the U.S. market for fish and fish products that are legally harvested and accurately represented.

NMFS considered several alternatives in this rulemaking: The requirements described in the proposed rule, a no-action alternative and various combinations of data reporting and recordkeeping for the supply chain information applicable to the at-risk species. NMFS prefers the proposed rule approach, because it would implement the initial phase of a traceability program as envisioned by Recommendations 14 and 15 of the Task Force. In addition, it is consistent with the existing requirement that all applicable U.S. government agencies are required to implement ITDS under the authority of the SAFE Port Act and Executive Order 13659, Streamlining the Export/Import Process (79 FR 10657, February 28, 2014). Also, the proposed traceability program takes into account the burden of data collection from the trade and the government requirements for admissibility determinations.

National Environmental Policy Act

Under NOAA Administrative Order (NAO 216–6), the promulgation of regulations that are procedural and administrative in nature are categorically excluded from the requirement to prepare an Environmental Assessment. These proposed regulations to implement a seafood traceability program are procedural and administrative in nature in that they would impose reporting and recordkeeping requirements for ongoing authorized catch and trade activities. Fishing activity and trade in seafood products are not further restricted relative to any existing laws or regulations, either foreign or domestic. Given the procedural and administrative nature of this rulemaking, an Environmental Assessment was not prepared.

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. The information collection burden for the requirements proposed under this rule

(IFTP, harvest and landing data submitted at entry, image files submitted at entry, and provision of records of supply chain information) as applicable to imports of the designated at-risk species are estimated to be an increase of 18,542 hours and $278,130. Recordkeeping/reporting costs (permit application fees at $30 each) will total $60,000. This proposed rule does not anticipate any other information collection burden than what is identified in this section, and therefore is not requesting approval from OMB for the burden associated with any other aspects of the rule.

Public comment is sought regarding: Whether this proposed data reporting 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. The public may also wish to comment on how alternative compliance schedules for these reporting and record keeping requirements may affect burden. Draft model forms are also available on both *www.regulations.gov* and *www.reginfo.gov* for public review and comment. Send comments on these or any other aspects of the collection of information to the NOAA Fisheries Office for International Affairs and Seafood Inspection at the **ADDRESSES** above, and by email to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to 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.

List of Subjects

50 CFR Part 300

Exports, Fisheries, Fishing, Fishing vessels, Illegal, unreported or unregulated fishing, Foreign relations, Imports, International trade permits, Treaties.

50 CFR Part 600

Administrative practice and procedure, Confidential business information, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

Dated: February 1, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300, subpart R, as proposed to be added December 29, 2015, (80 FR 81251), is proposed to be further amended and 50 CFR part 600 is proposed to be amended as follows:

50 CFR CHAPTER III—INTERNATIONAL FISHING AND RELATED ACTIVITIES

PART 300—INTERNATIONAL FISHERIES REGULATIONS

■ 1. The authority citation for 50 CFR part 300 continues to read as follows:

Authority: 16 U.S.C. 951 *et seq.;* 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 5501 *et seq.;* 16 U.S.C. 2431 *et seq.;* 31 U.S.C. 9701 *et seq.*

■ 2. Further amend § 300.321, proposed to be added December 29, 2015, (80 FR 81251), by adding a definition for ''Seafood Traceability Program'' in alphabetical order, and revising the definitions of ''Catch and Statistical Document/Documentation'', ''Documentation and data sets required under this subpart'' and ''Fish or fish products regulated under this subpart'' to read as follows:

§ 300.321 Definitions.

* * * * *

Catch and Statistical Document/Documentation means a document or documentation, in paper or electronic form, accompanying regulated seafood imports and exports that is submitted by importers and exporters to document compliance with TTVP, AMLR, and HMS ITP trade documentation programs as described in § 216.24(f) of this title, and subparts G and M of this part, or the Seafood Traceability Program as described in this subpart.

Documentation and data sets required under this subpart refers to documentation and data that must be submitted by an importer or exporter to NMFS at the time of, or in advance of, the import, export, or re-export, as well as documentation and data that must be retained by the importer or exporter of record in conjunction with a filing, for seafood products regulated under the TTVP, AMLR, and HMS ITP programs as described in § 216.24(f) of this title, and subparts G and M of this part, or the Seafood Traceability Program as described in this subpart.

Fish or fish products regulated under this subpart means species and products containing species regulated under this subpart, the AMLR program, the HMS ITP, or the TTVP.

* * * * *

Seafood Traceability Program means the data reporting and recordkeeping requirements established under § 300.324 of this title.

* * * * *

■ 3. Further revise § 300.323, proposed to be added December 29, 2015, (80 FR 81251), to read as follows:

§ 300.323 Reporting and Recordkeeping Requirements.

A person entering for consumption or withdrawal from a foreign trade zone or bonded warehouse for consumption, exporting, or re-exporting fish or fish products regulated under this subpart from any ocean area, or any area of jurisdiction for aquaculture facilities, must file all data sets, reports, and documentation required under the AMLR program, HMS ITP, TTVP and Seafood Traceability Program and under other regulations that incorporate by reference the requirements of this subpart. A paper or electronic copy of all required reports and documentation, and all supporting records upon which an entry filing or export declaration is made, must be maintained by the importer of record, and made available for inspection, at the importer of record's place of business for a period of five years from the date of the import, export or re-export.

■ 4. Further redesignate § 300.324, proposed to be added December 29, 2015, (80 FR 81251), as § 300.325 and add new § 300.324 to read as follows:

§ 300.324 Seafood Traceability Program.

This section establishes a Seafood Traceability Program which comprises data reporting requirements at point of entry for imported fish or fish products and recordkeeping requirements. The data reported and retained will facilitate: A determination that the fish or fish products are not misrepresented or the product of IUU fishing, including that they were not taken in violation of any foreign law or regulation, and exclusion of products from entry into U.S. commerce that are misrepresented or the product of IUU fishing. The data reporting and recordkeeping requirements under the program enable verification of the product offered for entry back to the harvesting event(s).

(a) The following species or species groups are subject to this Seafood Traceability Program: Abalone; Atlantic Cod; Pacific Cod; Blue Crab; Red King Crab; Dolphinfish (Mahi Mahi); Grouper; Red Snapper; Sea Cucumber; Shrimp Sharks; Swordfish; Tunas (Albacore, Bigeye, Skipjack, Yellowfin,

and Bluefin). The harmonized tariff schedule numbers applicable to these species or species groups are listed in the documents referenced in paragraph (c) of this section. Data required to be reported and retained under this program is not required for HTS codes applicable to fish oil, slurry, sauces, sticks, balls, cakes, pudding and other similar highly processed fish products for which the species of fish comprising the product or the harvesting event(s) or aquaculture operation(s) of the shipment of the product cannot currently be feasibly identified.

(b) In addition to data reporting requirements applicable pursuant to other authorities and requirements set out elsewhere in U.S. law and regulation (*e.g.,* under other NMFS programs or CBP requirements) to the particular commodity offered for entry, the importer of record is required to provide the following data set in ACE at the time of entry for each entry containing the species or species groups listed under paragraph (a) of this section:

(1) Information on the entity(ies) harvesting or producing the fish: Name and flag state of harvesting vessel(s) and evidence of authorization; Unique vessel identifier(s) (if available); Type(s) of fishing gear; Name(s) of farm or aquaculture facility.

(2) Information on the fish that was harvested and processed: Species of fish (scientific name, acceptable market name, and ASFIS number); Product description(s); Name of product(s); Quantity and/or weight of the product(s).

(3) Information on where and when the fish were harvested and landed: Area(s) of wild-capture or aquaculture location; Date(s) of harvest or trip(s); Location of aquaculture facility; Point(s) of first landing; Date(s) of first landing; Name of entity(ies) (processor, dealer, vessel) to which fish was landed. Some entries may comprise products from more than one harvest event and each event relevant to the shipment must be documented.

(4) The NMFS-issued IFTP number for the importer of record.

(c) The importer of record, either directly or through an entry filer, is required to submit the data under paragraph (b) of this section through ACE as a message set and/or image files in conformance with the procedures and formats prescribed by NMFS and Customs and Border Protection and made available at: *http://www.cbp.gov/trade/ace/catair.*

(d) Import shipments of fish or fish products subject to this program may be selected for inspection and/or the information or records supporting entry may be selected for audit, on a pre- or post- release basis, in order to verify the information submitted at entry.

(e) In addition to the entry recordkeeping requirements specified at 19 CFR part 16, the importer of record is required to maintain records containing information on the chain of custody of the fish or fish products sufficient to trace the fish or fish product from point of entry into U.S. commerce to the point of harvest, including information that identifies each custodian of the fish or fish product (such as any transshipper, processor, storage facility or distributor). Such records may include widely used commercial documents such as declarations by the harvesting/carrier vessels or bills of lading. Regardless of whether data is reported at entry or maintained by the importer, the importer must retain records in electronic or paper format under the recordkeeping requirements specified in § 300.323.

■ 5. Revise redesignated § 300.325, proposed to be added December 29, 2015, (80 FR 81251), as § 300.324, to read as follows:

§ 300.325 Prohibitions.

In addition to the prohibitions specified in § 300.4, § 300.117, § 300.189, § 600.725 and § 635.71 of this title, it is unlawful for any person subject to the jurisdiction of the United States to:

(a) violate any provision of this subpart, or any permit issued under this subpart.

(b) Import species listed in § 300.324(a) without a valid IFTP or without submitting complete and accurate information as required under § 300.324(b)–(c).

50 CFR CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

■ 6. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

■ 7. In § 600.725, revise paragraph (a) to read as follows:

§ 600.725 General prohibitions.

* * * * *

(a) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, land, import, export or re-export, any fish or parts thereof taken or retained in violation of the Magnuson-Stevens Act or any other statute administered by NOAA or any regulation or permit issued there under, or import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish taken, possessed, transported, or sold in violation of any foreign law or regulation, or any treaty or in contravention of binding conservation measure adopted by an international agreement or organization to which the United States is a party.

* * * * *

[FR Doc. 2016–02216 Filed 2–4–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–BE70

Fisheries of the Caribbean, Gulf of Mexico and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 35

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

ACTION: Notice of availability; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) has submitted Amendment 35 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) for review, approval, and implementation by NMFS. Amendment 35 would remove black snapper, mahogany snapper, dog snapper, and schoolmaster from the FMP; and clarify the Council's intent regarding the golden tilefish longline endorsement program.

DATES: Written comments must be received on or before April 5, 2016.

ADDRESSES: You may submit comments on Amendment 35 identified by ''NOAA–NMFS–2015–0076'' by any of the following methods:

• *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0076,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Nikhil Mehta, Southeast Regional

Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

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).

Electronic copies of Amendment 35 may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov.* Amendment 35 includes a draft environmental assessment, a Regulatory Flexibility Act analysis, a Regulatory Impact Review, and a Fishery Impact Statement.

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, telephone: 727–824–5305; email: *nikhil.mehta@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the **Federal Register** notifying the public that the plan or amendment is available for review and comment.

The FMP being revised by Amendment 35 was prepared by the Council and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Actions Contained in Amendment 35

Amendment 35 includes actions to remove black snapper, mahogany snapper, dog snapper, and schoolmaster from the FMP, and to clarify the Council's intent regarding the golden tilefish longline endorsement program.

Remove Four Species From the FMP

Black snapper, mahogany snapper, dog snapper, and schoolmaster are currently in the FMP, but have extremely low landings in state and Federal waters, and almost all harvest (recreational and commercial) occurs in waters off South Florida. Currently, NMFS does not manage these species in Federal waters of the Gulf of Mexico (Gulf); however, these species are subject to regulations in Florida state waters. As described in Amendment 35, there are currently different regulations for recreational bag limits, size limits, and catch levels for these species between the Gulf, South Atlantic, and Florida. Inconsistent regulations make enforcement difficult and may be confusing to the public. Amendment 35 would remove black snapper, mahogany snapper, dog snapper, and schoolmaster from NMFS management in Federal waters of the South Atlantic to ensure that only species requiring Federal management are included in the FMP and to provide consistent regulations for these species across state and Federal jurisdictional boundaries.

Black snapper is part of the deep-water complex within the FMP. The deep-water complex currently includes black snapper, yellowedge grouper, silk snapper, misty grouper, queen snapper, sand tilefish, and blackfin snapper. If black snapper is removed from the FMP, the annual catch limit (ACL) for the deep-water complex would be reduced from 170,279 lb (77,237 kg), round weight, to 169,896 lb (77,063 kg), round weight, a difference of 382 lb (173 kg), round weight.

Dog snapper and mahogany snapper are part of the other snappers complex within the FMP. The other snappers complex currently includes cubera snapper, gray snapper, lane snapper, dog snapper, and mahogany snapper. If dog snapper and mahogany snapper are removed from the FMP, the other snappers complex ACL would be reduced from 1,517,716 lb (688,424 kg), round weight, to 1,513,883 lb (686,688 kg), round weight, a difference of 3,833 lb (1,739 kg), round weight.

Dog snapper, mahogany snapper, and black snapper are not typically targeted by commercial or recreational fishermen; therefore, bycatch associated with harvest of these species is extremely low. Schoolmaster is currently designated as an ecosystem component (EC) species. The Council is not considering retaining dog snapper, mahogany snapper, and black snapper in the FMP as Ecosystem Component (EC) species, because the objective of the amendment is to establish a consistent regulatory environment across the jurisdictional boundaries of Gulf and South Atlantic Federal waters and Florida state waters. NMFS does not manage these species in Gulf Federal waters; therefore, retaining them as EC species would not create consistent regulations across jurisdictional boundaries. Additionally, if these species are designated as EC species, the state of Florida would not be able to extend management authority for them into Federal waters.

A stock assessment has not been performed for any of these species; however, there is no indication these stocks are depleted. Therefore, removing these stocks from the FMP is not expected to result in any adverse biological effects.

Clarify Regulations for Golden Tilefish Endorsement Holders

The final rule for Amendment 18B to the FMP (78 FR 23858, April 23, 2013) established a longline endorsement program for the commercial golden tilefish component of the snapper-grouper fishery. An endorsement is required to fish for golden tilefish with longline gear. Amendment 18B also established a golden tilefish hook-and-line quota and modified the golden tilefish commercial trip limits. The golden tilefish longline endorsement, sector quotas, and trip limits were implemented because the commercial ACL was being harvested rapidly with longline gear, and fishermen who had historically used hook-and-line gear to target golden tilefish were not able to participate in the golden tilefish portion of the snapper-grouper fishery. Establishing gear specific commercial quotas was intended to help ensure that fishermen fishing with each gear type have a fair and equitable allocation of the commercial quota.

At the time the golden tilefish longline endorsement and gear-specific quotas were established, the Council did not intend for longline endorsement holders to fish on the 500-lb (227-kg) gutted weight hook-and-line quota, or for non-endorsement holders to fish on the longline quota. NMFS and the Council are aware that, since Amendment 18B was implemented, some longline endorsement holders are transferring their golden tilefish longline endorsement to another vessel to then fish for golden tilefish using hook-and-line gear. Other longline endorsement holders are renewing their Federal commercial snapper-grouper vessel permit but waiting to renew their golden tilefish longline endorsement so that they are able to fish for golden tilefish using hook-and-line gear while their longline endorsement is not valid. Neither scenario is consistent with the intent of the Council in Amendment 18B. Therefore, the Council determined that they should clarify their intent and request NMFS modify the regulations for golden tilefish endorsement holders. Currently, the regulations state, ''vessels with a golden tilefish longline endorsement are not eligible to fish for golden tilefish using hook-and-line gear

under this 500-lb (227-kg), gutted weight, trip limit.'' (50 CFR 622.191(a)(2)(ii)). Amendment 35 and implementing regulations would clarify that ''vessels that have valid or renewable golden tilefish longline endorsements anytime during the fishing year, are not eligible to fish for golden tilefish using hook-and-line gear under this 500-lb (227-kg) trip limit.'' Thus, a fisherman who owns a vessel with a valid or renewable golden tilefish longline endorsement would not be eligible to fish for golden tilefish using hook-and-line gear under the 500-lb (227-kg), gutted weight, hook-and-line trip limit, during that fishing year.

A proposed rule that would implement measures outlined in Amendment 35 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council has submitted Amendment 35 for Secretarial review, approval, and implementation. Comments received by April 5, 2016, whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the amendment. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: February 2, 2016.

Emily H. Menashes,

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

[FR Doc. 2016–02271 Filed 2–4–16; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 81, No. 24

Friday, February 5, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Submission for OMB Review; Comment Request

February 1, 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 March 7, 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.

Agricultural Research Service

Title: Electronic Mailing List Subscription Form—Nutrition and Food Safety.

Omb Control Number: 0518–0036.

Summary of Collection: The National Agricultural Library's Food and Nutrition Information Center (FNIC) currently maintains several on-line ''discussion groups.'' This voluntary ''Electronic Mailing List Subscription Form'' gives individuals working in the area of nutrition and food safety an opportunity to participate in these groups. Data collected using this form will help FNIC determine a person's eligibility to participate in these discussion groups. The authority for the National Agricultural Library (NAL) to collect this information is contained in the CFR, Title 7, Volume 1, Part 2, and Subpart K, Sec. 2.65 (92).

Need and Use of the Information: FNIC will collect the name, email address, job title, employer, mailing address and telephone number in order to approve subscriptions for nutrition and food safety on-line discussion groups. Failure to collect this information would inhibit FNIC's ability to provide subscription services to these discussion groups.

Description of Respondents: Individuals or households; State, Local and Tribal Governments.

Number of Respondents: 1,000.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 17.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–02211 Filed 2–4–16; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2014–0054]

Environmental Impact Statement; Introduction of the Products of Biotechnology

AGENCY: Animal and Plant Health Inspection Service, USDA.

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

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service (APHIS) plans to prepare a programmatic environmental impact statement in connection with potential changes to the regulations regarding the importation, interstate movement, and environmental release of certain genetically engineered organisms. This notice identifies reasonable alternatives and potential issues to be evaluated in the environmental impact statement and requests public comments to further define the scope of the alternatives and environmental impacts and issues for APHIS to consider.

DATES: We will consider all comments that we receive on or before March 7, 2016.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0054.*
- *Postal Mail/Commercial Delivery:* Send your comments to Docket No. APHIS–2014–0054, 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-2014-0054* 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: Sidney W. Abel, Assistant Deputy

Administrator, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 851–3943.

SUPPLEMENTARY INFORMATION:

Background

The Plant Protection Act (PPA) authorizes the Animal and Plant Health Inspection Service (APHIS) to protect plant health in the United States. Under that authority, APHIS currently regulates the introduction (movement into the United States or interstate, or release into the environment) of genetically engineered (GE) organisms that may present a plant pest risk through its regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests.'' These regulations are intended to protect against plant pest risks to plant health by providing for the safe importation, interstate movement, or release into the environment of certain GE organisms.

APHIS' regulation of certain GE organisms to protect plant health is aligned with the Federal Coordinated Framework for the Regulation of Biotechnology (henceforth referred to as the Coordinated Framework), the comprehensive Federal regulatory policy for ensuring the safety of biotechnology research and products in the United States. The Coordinated Framework describes how Federal agencies will use existing Federal statutes to ensure public health and environmental safety while maintaining regulatory flexibility to avoid impeding the growth of the biotechnology industry. The Coordinated Framework sets forth a risk-based, scientifically sound basis for the oversight of activities that introduce biotechnology products into the environment and describes the roles and responsibilities for the three major Federal agencies involved in regulating biotechnology products: APHIS, the Environmental Protection Agency (EPA), and the Food and Drug Administration (FDA). Currently, the Federal agencies are in the process of working with the Executive Office of the President to modernize a number of Coordinated Framework issues and activities; that effort is distinct from and entirely compatible with APHIS' effort to revise its biotechnology regulations at 7 CFR part 340. This notice only addresses proposed changes to the APHIS regulations. It is not intended to circumscribe, restrict, or otherwise preclude future actions taken under other Federal statutes and their respective authorities.

During the past 28 years of APHIS' regulation of certain GE organisms pursuant to the PPA and 7 CFR part 340, advances in biotechnology and new issues raised by a range of stakeholders have emerged. Over this period, APHIS has also gained considerable experience in assessing the plant pest and noxious weed risks of GE organisms. Our evaluations of any potential plant pest risks of APHIS regulated GE organisms have included assessments of weediness of the regulated article or other plants with which it can interbreed. Accordingly, APHIS is considering amending the 7 CFR part 340 regulations pertaining to introductions of certain GE organisms to address the advances in biotechnology and the new issues raised by stakeholders. This update to APHIS' biotechnology regulations will increase the efficiency and precision of our regulations. The proposed revisions would align the range of potential risks that may be considered under APHIS' regulations in 7 CFR part 340 with both the plant pest and noxious weed authorities of the PPA, to ensure a high level of environmental protection pursuant to APHIS' PPA authorities to regulate plant pest and noxious weeds, improve regulatory processes so that they are more transparent to stakeholders and the public, and provide regulatory relief to the extent possible so that unnecessary regulatory burdens are eliminated. Changes to the regulations would ensure that the Agency can continue to effectively regulate the products of biotechnology that may pose plant pest or noxious weed risks to U.S. agriculture and the environment.

In our current regulations found at 7 CFR part 340, APHIS defines the term ''genetically engineered organisms'' to mean organisms that have been genetically modified by recombinant DNA techniques.

The following terms are defined by the Plant Protection Act (7 U.S.C. 7701–7772):

Noxious weed: Any plant or plant product that can directly or indirectly injure or cause damage to crops (including nursery stock or plant products), livestock, poultry, or other interests of agriculture, irrigation, navigation, the natural resources of the United States, the public health, or the environment.

Plant pest: Any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product:

A. A protozoan.

B. A nonhuman animal.

C. A parasitic plant.

D. A bacterium.

E. A fungus.

F. A virus or viroid.

G. An infectious agent or other pathogen.

H. Any article similar to or allied with any of the articles specified in the preceding subparagraphs.

Under the provisions of the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), Federal agencies must examine the potential environmental impacts of proposed Federal actions and alternatives. We are planning to prepare a programmatic environmental impact statement (EIS) in connection with the proposed revisions and amendments to APHIS' biotechnology regulations that are being considered. Aspects of the human environment that may be potentially affected by such proposed regulatory revisions and amendments that we have preliminarily identified for evaluation in the EIS will include: Potential impacts on U.S. agriculture and forestry production (*e.g.,* conventional, biotechnology-based, and organic); potential impacts on current and potential future uses of products of biotechnology in agriculture and forestry; agronomic practices employed in biotechnology crop production that may have environmental consequences or impacts (*i.e.,* tillage, crop rotation, and agronomic inputs); potential impacts on aspects of the physical environment that include soil quality, water resources, air quality, and climate change; potential impacts on aspects of the biological environment such as animal and plant communities, weed and insect resistance to herbicides and insecticides (respectively), the potential gene flow and weediness of regulated GE crop plants, and biodiversity; potential impacts on consumer health and agricultural worker safety; animal feed and health; and socioeconomic considerations, to include potential impacts of regulated GE crop plants on the domestic economic environment, international trade, and coexistence among all forms of U.S. agriculture, conventional, biotechnology-based, and organic, in providing market demand for food, feed, fiber, and fuel.

This notice describes the range of proposed reasonable alternatives that are currently under consideration for evaluation in the EIS and the issues that will be evaluated in the EIS, and requests public comment to further define the issues and scope of the EIS' alternatives. We are also requesting public comment to help us identify

other environmental issues that should be examined in the EIS.

The EIS will be prepared in accordance with: (1) NEPA, (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

In considering the envisioned revisions to 7 CFR part 340, APHIS has preliminarily identified possible new definitions to be used in its proposed part 340 biotechnology regulations for consideration and analysis in the EIS:

Biotechnology. Laboratory-based techniques to create or modify a genome that result in a viable organism with intended altered phenotypes. Such techniques include, but are not limited to, deleting specific segments of the genome, adding segments to the genome, directed altering of the genome, creating additional genomes, or direct injection and cell fusion beyond the taxonomic family that overcomes natural physiological reproductive or recombination barriers. This definition does not include and is intended not to include traditional breeding, marker assisted breeding, or chemical or radiation-based mutagenesis.

Product of biotechnology. An organism developed using biotechnology.

Regulated organism. An organism developed using biotechnology that poses plant pest or noxious weed risks as documented in an APHIS risk analysis that APHIS has determined to regulate.

APHIS is considering, and invites public input on, these proposed definitions. Such input should address APHIS' regulatory objectives to safeguard agricultural plants and agriculturally important natural resources from plant pest or noxious weed damage (biological, chemical, or physical) caused by a ''product of biotechnology,'' including its potential, or lack of potential to pose plant pest or noxious weed risks.

These proposed definitions will be used in the four proposed alternatives that are proposed to be examined in the EIS. These proposed alternatives are:

First Alternative: Take no action. Under this ''no action'' alternative, APHIS would make no changes to the existing 7 CFR part 340 regulations for certain GE organisms that pose a potential plant pest risk and APHIS would continue to regulate certain GE organisms as it does today. APHIS would not revise its current regulations to add the definitions outlined above. The No Action alternative represents the baseline against which the proposed revisions to the regulations will be compared.

Second Alternative: Revise the current APHIS regulations concerning the introduction of certain GE organisms to provide for a process to review and regulate certain products of biotechnology to protect plant health; analyze potential plant pest and/or noxious weed risks first; and thereafter regulate only when appropriate and necessary.

Under this alternative, APHIS would revise its current regulations to implement a two-step process that would ensure a thorough review of a product of biotechnology's potential to pose plant health risks (plant pest and/or noxious weed)—*analyze such plant health risks first and only thereafter determine the use of any regulatory action as appropriate and needed.* Such a two-step process will enable the agency to consider and place risk-appropriate regulatory controls on the importation, movement, or ''outdoor'' use of those products that are determined by the agency to pose actual plant pest or noxious weed risks (regulate only when APHIS has determined that certain plant health risks are appropriate and necessary to require some regulatory action to be taken and implemented).

Analyze First: APHIS would use established and delineated criteria to identify certain products of biotechnology for which the Agency would conduct a review process. The Agency's review process would be used to determine whether the product of biotechnology poses an actual documented plant pest or noxious weed risk and should therefore be regulated. The criteria that would ''trigger'' the Agency's review process are those which would indicate the potential for the product of biotechnology to pose documented plant pest or noxious weed risks, and may include:

1. Whether the recipient organism is a biocontrol organism, a microorganism that has been modified for altered plant-microbe interactions, or a plant; and

2. Whether the product of biotechnology's donor or recipient organism, or the vector used in its development meet the definition of a plant pest, is included in the list of plant pest taxa, or is unknown or unclassified.

APHIS is considering, and invites public input, on these two proposed regulatory review criteria and also invites public input on proposing other possible regulatory review criteria for APHIS' consideration.

It is important that the public be aware that the Coordinated Framework has consistently held and proceeded pursuant to the concept and position that the process of genetic modification has not been shown to be inherently dangerous. The Executive Office of the President has, through the Coordinated Framework, underscored the importance of a risk based, scientifically sound, flexible regulatory approach that balances regulatory oversight with the need to avoid impeding biotechnology research and innovation. With that in mind, APHIS is considering and would like public input on potential justifiable exceptions or exemptions that would exclude certain ''products of biotechnology'' from APHIS' regulatory review and oversight because they lack the realistic potential to pose documented plant pest or noxious weed risks. For example, some possible candidates to be exempted from regulation might be:

a. Plant products of biotechnology in which the genetic modification was obtained through a process of biotechnology including nucleotide deletions, single base pair substitutions, or other modifications that could reasonably be expected to be obtained through mutagenic techniques that have commonly been used for plant development since the early 1900s.

b. Insects which are not plant pests transformed using the PiggyBac transposon, but not otherwise containing sequences from plant pests.

Those products of biotechnology which APHIS determines do meet the proposed criteria 1 and 2 listed above and will not be exempted, would undergo a regulatory review. This regulatory review would employ a plant pest and/or noxious weed risk analysis process to determine whether the product of biotechnology poses either a plant pest or noxious weed risk, and therefore would be a regulated organism as defined above.

Regulate When Necessary: Once the review process is completed by the Agency, the importation, interstate movement or ''outdoor'' use of those products of biotechnology that were determined to pose plant pest or noxious weed risks, as documented and confirmed in an APHIS risk analysis, would be subject to APHIS regulatory controls that ensure the protection of plant health. The regulatory control would typically be the issuance of permits with risk-appropriate conditions to mitigate risks.

Under this second alternative, APHIS proposes to eliminate the notification

procedure (currently 7 CFR 340.3), as APHIS anticipates that many GE organisms currently regulated under the notification procedures would not be regulated nor subject to further review under this alternative.

Under this alternative, APHIS also proposes to eliminate the current petition process for non-regulated status (currently 7 CFR 340.6), as APHIS will conduct new risk analyses consistent with the ''analyze first, regulate when necessary'' when new information is made available.

Under this second alternative, APHIS is considering whether or how products of biotechnology that are developed for pharmaceutical or industrial purposes would be regulated under the proposed revised regulations. APHIS appreciates that there are aspects of its regulatory program that are well suited to address these types of products, and would like public input on how public health and safety objectives might be achieved for pharmaceutical or industrial products of biotechnology that would pose plant pest or noxious weed risks.

Third Alternative: Revise the current APHIS regulations concerning the introduction of certain GE organisms to provide for the regulation of ''products of biotechnology'' as either plant pests or noxious weeds using the existing plant pest ''analysis trigger'' or a noxious weed ''analysis trigger'' that might classify plants produced through biotechnology as potential plant pests or noxious weeds.

Under this third alternative, APHIS' proposed regulations would substantially increase oversight and resources over those currently used to regulate GE organisms. APHIS would not exempt certain ''products of biotechnology'' from APHIS regulatory oversight if a ''product of biotechnology'' was developed using a plant pest; or, if it posed a risk as a noxious weed pursuant to the PPA definition of a noxious weed. Introductions of products of biotechnology that posed a plant pest risk or noxious weed risk would require a permit and conditions would be applied for import, interstate movement, or ''outdoor'' use.

Under this third alternative, APHIS' proposed regulatory scheme would include the range of actions and processes that would enable APHIS to become, to the extent permitted by its PPA authorities, an all-encompassing, wide-scale regulatory permitting authority but still fully comply with the Coordinated Framework and support the continued development of products of biotechnology. APHIS would use its plant pest and/or noxious weed risk analyses to inform the establishment of appropriate permit conditions to protect agricultural plants and agriculturally important natural resources. For example, APHIS' proposed regulatory scheme under this alterative would evaluate and consider agricultural and mitigation practices such as crop exclusion zones, risk appropriate isolation distances, or other measures that would address and mitigate ''damage'' as included in the PPA definition of a noxious weed (*e.g.,* direct or indirect damage to crops or other interests of agriculture). APHIS requests and would appreciate public input on these practices or others that might be appropriate for this third alternative.

Under this third alternative, APHIS' proposed regulatory scheme would also eliminate the notification (currently 7 CFR 340.3) and petition procedures (currently 7 CFR 340.6) since this alternative's regulatory scheme would propose that all ''products of biotechnology'' that are plants and are captured by the existing plant pest or noxious weed ''analysis triggers,'' as defined by the PPA, and currently used and applied by APHIS pursuant to the regulations in 7 CFR parts 340 and 360, would require a permit to enable the agency to establish risk appropriate conditions. APHIS would appreciate public input on its proposal, under this alternative, to eliminate notifications and petitions.

Fourth Alternative: Withdraw the current 7 CFR part 340 regulations completely and implement a voluntary, non-regulatory consultative process for certain products of biotechnology whereby APHIS would document plant pest or noxious weed risks, if any, of certain products of biotechnology as defined above.

Under this fourth alternative, developers would be responsible for ensuring that their respective products of biotechnology do not pose risks as a plant pest or noxious weed pursuant to their respective PPA definitions, and that their activities related to the importation, interstate movement, or release into the environment of their respective products of biotechnology are not in violation of any existing statutes or Federal regulations that relate to plant pests or noxious weeds.

Under this fourth alternative, APHIS would not have a dedicated regulatory scheme to specifically regulate any products of biotechnology that may pose plant pest or noxious weed risks and therefore would not require consultation nor prescribe methods or practices related to any products of biotechnology. Any products of biotechnology that pose plant pests or noxious weed risks would be managed by APHIS using its other existing regulations pursuant to the PPA; *e.g.,* 7 CFR parts 330 and 360. Those existing APHIS regulations relating to plant pests or noxious weeds, would be used as applicable to regulate any products of biotechnology, but would regulate them under their respective current regulatory schemes. Thus this alternative would be using a very different scheme than the current 7 CFR part 340 or the regulatory schemes proposed in the second and third EIS alternatives since APHIS would not plan on revising, amending, or requiring any regulatory changes to 7 CFR parts 330 and/or 360 to address plant pest or noxious weed risks specifically related to products of biotechnology. However, APHIS would maintain expertise in regulating the products of biotechnology pursuant to its PPA plant pest and noxious weed risks and create a non-regulatory program providing voluntary, non-regulatory consultative services to provide developers with Federal support and services intended to facilitate importation, interstate movement or ''outdoor'' use of products of biotechnology that do not present PPA plant pest or noxious weed risks. Under this fourth alternative and approach, APHIS would provide, upon request for consultation, for an analysis of PPA plant pest or noxious weed risks as part of it routine and continuing operations, and such analyses might facilitate the commercialization of the products of biotechnology by providing an objective analysis of plant pest or noxious weed risks using APHIS risk analysis processes that document a scientific review of the literature and findings related to plant pest or noxious weed risks. APHIS would appreciate public input on its proposal, under this alternative.

APHIS is requesting comments and information related to the topics and issues presented in this notice so that the scope of the analysis in the draft EIS, including the types and range of reasonable alternatives, is reasonable and appropriate, and proposed revisions to 7 CFR part 340 are well-evaluated. Public input will be helpful in further defining the scope of the issues and reasonable alternatives under consideration. A notice will be published in the **Federal Register** to announce the availability of a draft EIS when it is issued and to invite the public to provide comments on it.

Done in Washington, DC, this 1st day of February 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–02247 Filed 2–4–16; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Submission for OMB Review; Comment Request

February 1, 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 March 7, 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.

Foreign Agricultural Service

Title: Foreign Market Development Cooperator Program (FMD) and Market Access Program (MAP).

OMB Control Number: 0551–0026.

Summary of Collection: The basic authority for the Foreign Market Development Cooperator Program (FMD) is contained in Title VII of the Agricultural Trade Act of 1978, 7 U.S.C. 5721, *et seq.* Program regulations appear at 7 CFR part 1484. Title VII directs the Secretary of Agriculture to ''establish and, in cooperation with eligible trade organization, carry out a foreign market development cooperator program to maintain and develop foreign markets for United States agricultural commodities and products.'' The Market Access Program (MAP) is authorized by section 203 of the Agricultural Trade Act of 1978, as amended. Program regulations appear at 7 CFR part 1485. The primary objective of the Market Access Program (MAP) is to encourage the development, maintenance, and expansion of commercial export markets for U.S. agricultural products through cost-share assistance to eligible trade organizations that implement a foreign market development program. The programs are administered by personnel of the Foreign Agricultural Service (FAS).

Need and Use of the Information: The collected information will be used by FAS to manage, plan, evaluate, and account for government resources. Specifically, data is used to assess the extent to which: Applicant organizations represent U.S. commodity interests; benefits derived from market development effort will translate back to the broadest possible range of beneficiaries; the market development efforts will lead to increases in consumption and imports of U.S. agricultural commodities; the applicant is able and willing to commit personnel and financial resources to assure adequate development, supervision and execution of project activities; and private organizations are able and willing to support the promotional program with aggressive marketing of the commodity in question. Without the collected information the program could not be implemented.

Description of Respondents: Not-for-profit institutions; State, Local, or Tribal Government.

Number of Respondents: 64.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 85,304.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–02208 Filed 2–4–16; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ochoco, Umatilla, Wallowa-Whitman National Forests; Oregon and Washington; Blue Mountains Forest Resiliency Project

AGENCY: Forest Service, USDA.

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

SUMMARY: The Ochoco, Umatilla, and Wallowa-Whitman National Forests, are proposing forest restoration and fuels reduction on portions of approximately 1,270,000 acres of National Forest System lands. The project area consists of selected watersheds amounting to 200,000 acres on the Ochoco, 520,000 acres on the Umatilla, and 550,000 acres on the Wallowa-Whitman National Forests. Proposed thinning and prescribed fire treatments encompass approximately 580,000 acres across the three National Forests. The project area lies within the Blue Mountain ecoregion in northeast Oregon and southeast Washington, encompasses portions of thirteen counties, and includes shared boundaries with private, tribal, state and other federal lands.

Studies of historical forest conditions can be used to help inform natural ranges of variation in forest structure, composition and density, which are assumed to be resilient to disturbance and change. Fire suppression and past timber management practices in dry forests have increased the abundance of closed-canopied forest stands dominated by smaller diameter, young trees than were present historically. Increased canopy closure has also reduced the amount of forest openings and early seral habitat. Fire suppression has also caused expansion of conifers into aspen stands and historically non-forested areas. Denser forests combined with drought conditions in recent years have contributed to a record number of wildfires, and less resilient forest conditions. There is a need to reduce fuels and move forests to a more resilient structure, composition, density, and pattern.

The purpose of the project is to enhance landscape and species resilience to future wildfire by restoring forests to their natural (historical) range

of variation, reduce the risk of wildfire to high value resources both on and adjacent to National Forest System lands, and provide a diversity of economic opportunities and commodities.

The USDA Forest Service will prepare an Environmental Impact Statement to disclose the potential environmental effects of implementing restoration treatments on National Forest System lands within the project area.

DATES: Comments concerning the scope of the analysis must be received by 60 days following the date that this notice appears in the **Federal Register**. The draft environmental impact statement (DEIS) is expected in summer of 2016 and the final environmental impact statement (FEIS) is expected in December 2016. The comment period on the DEIS will close 45 days after the date the EPA publishes the Notice of Availability in the **Federal Register**. An FEIS and draft Record of Decision (ROD) will be published after all comments are reviewed and responded to. Objections to the FEIS and draft ROD must be filed 45 days following publication of the legal notice of the ''opportunity to object''. Only individuals or organizations that submitted specific written or oral comments during a designated opportunity for public participation (scoping or the public comment period for the DEIS) may object (36 CFR 218.5). Notices of objection must meet the requirements outlined in the Code of Federal Regulations. Implementation, including treatment layout and site specific surveys would begin in 2017. One or more separate RODs will be prepared for each of the three National Forests. The life of this project plan is approximately 10 years after a decision is signed.

ADDRESSES: Send written comments to: Blue Mountains Restoration Strategy Team Lead, 72510 Coyote Rd., Pendleton, OR 97801. Comments may also be sent via email to: *r6restorationprojects@fs.fed.us,* or via facsimile to 541–278–3730 c/o Blue Mountains Restoration Strategy.

FOR FURTHER INFORMATION CONTACT: Ayn Shlisky, Blue Mountains Restoration Strategy Team Lead, Umatilla National Forest, 72510 Coyote Rd., Pendleton, OR 97801; phone 541–278–3762. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The USDA Forest Service PNW Region's Eastside Restoration Strategy (ERS) was chartered in January 2013 to accelerate the pace and scale of forest restoration on National Forest System (NFS) lands in eastern Oregon and Washington. The ERS focuses on accelerating forest restoration at a larger scale and faster pace than traditional planning and project implementation processes, The Blue Mountains Forest Resiliency Project (FRP) is part of the ERS, and was chartered by the Forest Supervisors of the Ochoco, Umatilla, and Wallowa-Whitman National Forests to restore the structure, composition, and function of dry forests, and facilitate the effective use, where appropriate, of planned and unplanned landscape scale fire across all forest types on these National Forests. The project area lies within the Blue Mountains ecoregion in northeast Oregon and southeast Washington, and consists of approximately 1,270,000 acres of NFS lands. The overall project planning area consists of selected watersheds amounting to 200,000 acres on the Ochoco, 520,000 acres on the Umatilla, and 550,000 acres on the Wallowa-Whitman National Forests. It includes portions of 13 counties and shared boundaries with private, tribal, state and other federal lands. The project area coincides with ceded lands of three treaty tribes (Confederated Tribes of the Umatilla Indian Reservation, the Nez Perce Tribe and the Confederated Tribes of the Warms Springs Reservation). The Burns-Paiute Tribe, as an Executive Order Tribe, does not have off reservation rights but maintains traditional cultural interests in the Blue Mountain Forest Resiliency Project planning area. This project was intentionally designed to encompass a large scale and narrow scope; test new planning processes; monitor results; learn from project results, and adapt as needed to achieve desired outcomes on the landscape. The project will produce a single Environmental Impact Statement (EIS), which can support decision-making across portions of the three national forests that are not in an Inventoried Roadless Area, designated Wilderness area, Wild and Scenic River, Research Natural Area, or other management area restricted from implementing the proposed activities, or not already covered by similar, existing forest restoration planning efforts.

Purpose and Need for Action

The 2015 fire season set a new record for the number of acres burned in the United States, totaling over 10 million acres. In 2015, the Blue Mountains National Forests of Oregon and Washington reported over 282,000 acres burned in wildfires. Throughout the FRP area, unusually large and severe wildfires have become more common due to decades of fire suppression, past timber management practices, and climate change. Wildfire transmission to the rural-wildland interface, private forestlands and woodlots, campgrounds, guard stations, communication towers, and other high value resources; and the increasing cost of fire suppression are of major concern to local communities and land managers. Studies of historical forest conditions can be used to help inform natural ranges of variation (RV) in forest structure, composition, density, and pattern, which are assumed to be resilient to disturbance and change. Dry upland forests have become denser and expanded into historically non-forested areas, ladder fuels have increased, and the abundance of large and/or fire-tolerant tree species has declined relative to the RV. Dry upland forest types are also showing a deficit of open canopied stands dominated by large, fire-tolerant trees of ponderosa pine, western larch, and Douglas-fir. Some areas show a deficit of large tree dominated, closed-canopied stands. Forests within the project area have also become increasingly vulnerable to uncharacteristic outbreaks of insects and diseases. Plant and animal species adapted to historical forest structures and disturbance regimes are also at risk of loss. The economic livelihood of several communities is threatened by the potential loss of jobs and industries dependent on resilient forest systems and their active restoration.

The current pace of active forest restoration with thinning and prescribed burning in the Blue Mountains is not keeping pace with forest growth. Over 2.3 million acres in the Blue Mountains are in need of active management toward the RV, with over 1.6 million of these acres occurring on NFS lands. Scenario modelling by the Forest Service in April 2013 revealed that at the current rate of project planning and implementation, the RV on NFS lands in the Blue Mountains would not be achieved for decades, if at all. Active forest management depends on thriving local restoration industries, helps maintain jobs and consistency of forest products from national forestlands, and can reduce fire suppression costs. The existence of active local collaborative groups within the project area provides opportunities to more effectively integrate a range of social values and concerns into project plans. To create a

future forest that is more resilient to changing fire regimes and climate, there is a need to take greater action now to restore our landscapes, increase fire's beneficial effects, and reduce the exposure of communities, highly valued resources, and fire sensitive habitats to the unwanted effects of fire and other damaging disturbances.

Existing conditions for dry forests on the Ochoco, Umatilla, and Wallowa-Whitman National Forests differ from the RV in the amounts of small tree versus large tree dominated forests, and open versus closed-canopied forests. The average of RV is about 4% of dry forests for small tree, closed-canopied stands, where trees are mostly less than about 20″ dbh and canopy cover is greater than about 40%. Current conditions of these forests are 15%, 40% and 55% for the Ochoco, Umatilla, and Wallowa-Whitman National Forests, respectively.

The average of RV is about 10% of dry forests for large tree, closed-canopied stands, where trees are mostly greater than about 20″ dbh and canopy cover is greater than about 40%. Current conditions of these forests are 50%, 2%, and 1% for the Ochoco, Umatilla, and Wallowa-Whitman National Forests, respectively.

The average of RV is about 55% of dry forests for large tree, open-canopied stands, where trees are mostly greater than about 20″ dbh and canopy cover is less than about 40%. Current conditions fo these forests are about 10%, 2%, and 3% for the Ochoco, Umatilla, and Wallowa-Whitman National Forests, respectively.

Fire regimes also differ from the RV. The continuity of surface, ladder, and crown fuel is increasing and generally resulting in a change in fire regime from lower severity, higher frequency fire towards higher severity, lower frequency fire. The 50 year average of annual acres burned was about 18,000, 26,000 and 34,000 acres for the Ochoco, Umatilla, and Wallowa-Whitman National Forests, respectively, before the current fire suppression era. The majority of these fires were of low severity, and relatively high frequency. The available current fire suppression era fire history for these forests indicates that on average about 4,000, 5,000, and 13,000 acres burn annually. The size and frequency of high severity fires are generally greater, and the size and frequency of low severity fires are generally lower across Blue Mountains forests than desired. Transmission of high severity fire from NFS lands to other land ownerships is increasing, in some cases resulting in economic and infrastructure losses.

The project purpose and need is represented by differences between existing and desired conditions based on Forest Plan management direction. In most cases, desired conditions are similar to the RV, except where the Forest Plan or the existence of conflicting values specify otherwise. In general, there is a need in the project area to:

Reduce overabundant closed-canopied forest stands in dry forest; maintain existing old forests and increase their abundance over the long term; increase the abundance of fire-tolerant tree species and large tree dominated stands; and restore forest patterns and disturbance regimes that are more reflective of the RV, including reestablishing historic openings and grasslands;

Enhance landscape resilience to future wildfire, and insect and disease outbreaks, and increase public and firefighter safety in the event of a wildfire;

Enhance the diversity and quality of habitat conditions across the planning area to improve overall abundance and distribution of wildlife habitat that is more reflective of the RV;

Restore tribal treaty resources, and high social values associated with traditional uses and culture that are related to the forest restoration need;

Maintain and enhance resources of high social value, and support local economies by providing a diversity of resource management activities, commodity outputs, ecosystem services, and employment opportunities from public lands;

Improve existing road networks to provide access for forest treatments while meeting forest plan standards and guidelines as well as Endangered Species Act consultation guidance;

Build and strengthen relationships among National Forest stakeholders through collaborative processes; and,

Reduce fuel loading in strategic locations to promote safe and effective use of planned and unplanned fire.

The FRP will operate within social, policy, regulatory, and legal constraints, and Forest Plan goals and objectives, except where forest plan amendments are needed and proposed. This proposal was developed under the guidance of the 1989 Ochoco National Forest Land and Resource Management Plan (LRMP); 1990 Umatilla National Forest LRMP; 1990 Wallowa-Whitman National Forest LRMP, and is compatible with the Cohesive Wildfire Strategy.

Proposed Action

The proposed action responds to the purpose and need for the FRP. No treatments are proposed in any area that is within an existing, active project planning area, a recently burned or implemented project area, Wilderness, Research Natural Area, Inventoried Roadless Area, or in an area identified by the respective Forest Supervisor as being of low restoration priority. The proposed action was constructed by comparing current conditions to the RV across all ownerships at the scale of watersheds (5th field hydrologic units of 45,000–200,000 acres each). This ''all lands'' analysis provided the context for determining the treatment need, and the appropriate level of proposed treatment on NFS lands within the project area. The proposed action discloses the general nature of proposed treatments on NFS lands by National Forest, and potential and existing vegetation types using the best available information. More information and maps can be found on the project Web site *http://www.fs.usda.gov/goto/forestresiliency project.* After scoping, analysis of public comments, collaborative engagement, and continued improvement of project data, the proposal will be modified and refined to reflect data of higher resolution consistent with the other planning alternatives analyzed in the DEIS.

All proposed forest treatments would be designed to create forest patterns more reflective of natural disturbance regimes, and facilitate safe and effective fire management to conserve high value resources. Forest treatments may include one or more of the following activities: Thinning/low severity fire—removes small (5–10″ dbh) and medium sized (10–20″ dbh) trees to reduce stand density and canopy cover, and with time and growth, lead to an increase in average stand diameter.

Opening—through mixed severity fire or mechanical treatments, removes a major proportion of medium and large trees (>20″ dbh) to create openings, or canopy gaps of early seral structure and composition.

Other disturbance/growth—thinning to manage for young stands, while increasing tree growth and vigor.

Growth with low severity fire—allows forest succession and growth to occur while maintaining an open forest canopy.

Grassland restoration—thinning and fire treatments to reduce conifer expansion within grasslands, and reestablish historic grassland/forest edges.

Aspen enhancement—thinning and fire treatments to reduce conifer expansion within aspen inclusions, and stimulate aspen regeneration to the historical extent of the aspen clone.

Strategic fuel treatments—includes any of the treatment types above, and other actions that change fuel abundance and arrangement, and decrease resistance to wildfire control at strategic locations to facilitate safe and effective fire management at appropriate spatial scales.

On the Ochoco National Forest, thinning and low severity fire would be applied to dry forests on about 115,000 acres within the project planning area:

20,500 acres of smaller diameter (<20″ dbh), closed-canopied (> about 40% canopy cover) stands to move them toward more open conditions, and encourage growth in average diameter. Opening treatments would also be used to create canopy gaps, where needed;

18,000 acres of smaller diameter, open canopied (< about 40% canopy cover) stands to move them toward more open conditions encourage growth in average diameter, and/or restore desirable fire regimes. Opening treatments would also be used to create canopy gaps, where needed;

55,000 acres of larger diameter (> about 20″ dbh), closed-canopied stands to move them toward more open conditions, and encourage growth in average diameter;

15,000 acres in larger diameter, open stands to restore desirable fire regimes, and encourage growth in average diameter without reducing the abundance of large tree, open canopied stands overall;

4,000 acres for grassland restoration; and

100 acres of aspen inclusions to reduce conifer expansion and stimulate aspen regeneration.

On the Ochoco National Forest, strategic fuel treatments could be applied on up to 5,800 acres of smaller diameter moist and cold forest to achieve desired planned and unplanned fire behavior, facilitate safe and effective fire management, conserve high value resources, and restore fire at landscape scales more reflective of the RV. These treatments would be integrated with upland dry forest treatments to achieve landscape-level objectives.

On the Umatilla National Forest, thinning and low severity fire would be applied to dry forests on about 125,000 acres within the project planning area:

69,500 acres of smaller diameter, closed-canopied stands to move them toward more open conditions and encourage growth in average diameter. Opening treatments would also be used to create canopy gaps, where needed;

36,000 acres of smaller diameter, open stands to move them toward more open conditions and encourage growth in average diameter, and/or restore desirable fire regimes. Opening treatments would also be used to create canopy gaps, where needed;

1,000 acres of larger diameter, closed-canopied stands to move them toward more open conditions, and encourage growth in average diameter;

4,200 acres of larger diameter, open stands to restore desirable fire regimes, and encourage growth in average diameter without reducing the abundance of large tree, open canopied stands overall;

14,000 acres for grassland restoration; and

300 acres of aspen inclusions to reduce conifer expansion and stimulate aspen regeneration.

On the Umatilla National Forest, strategic fuel treatments could be applied on up to about 87,500 acres of smaller diameter moist and cold forest to achieve desired planned and unplanned fire behavior, facilitate safe and effective fire management, conserve high value resources, and restore fire at landscape scales more reflective of the RV. These treatments would be integrated with upland dry forest treatments to achieve landscape-level objectives.

On the Wallowa-Whitman National Forest, thinning and low severity fire would be applied to dry forests on about 190,000 acres within the project planning area:

127,500 acres of smaller diameter, closed-canopied stands to move them toward more open conditions and encourage growth in average diameter. Opening treatments would also be used to create canopy gaps, where needed;

39,500 acres of smaller diameter, open stands to move them toward more open conditions, encourage growth in average diameter, and/or restore desirable fire regimes. Opening treatments would also be used to create canopy gaps, where needed;

1,000 acres of larger diameter, closed-canopied stands to move them toward more open conditions, and encourage growth in average diameter;

7,200 acres in larger diameter, open dry forests to restore desirable fire regimes, and encourage growth in average diameter without reducing the abundance of large tree, open canopied stands overall;

15,000 acres for grassland restoration; and

200 acres of aspen inclusions to reduce conifer expansion and stimulate aspen regeneration.

On the Wallowa-Whitman National Forest, strategic fuel treatments could be applied on up to 90,000 acres of smaller diameter moist and cold forest to achieve desired planned and unplanned fire behavior, facilitate safe and effective fire management, conserve high value resources, and restore fire at landscape scales more reflective of the RV. These treatments would be integrated with upland dry forest treatments to achieve landscape-level objectives.

Forest treatments in any Category of riparian habitat conservation area would be limited to prescribed fire and small diameter thinning (<9″ dbh), and adhere to the Blue Mountains Project Design Criteria, which were developed under programmatic informal consultation between the Wallowa-Whitman, Umatilla (and Malheur) National Forests and the National Marine Fisheries Service (November 2013).

Any treatment in old forest management areas, as designated in the respective forest plan, would be to support development of old forest characteristics and/or achieve forest plan desired conditions.

The proposed action would utilize the existing road system currently in place to facilitate implementation of vegetation and strategic fuel treatment activities. No new road construction is proposed, unless it is to meet standard and guidelines or Endangered Species Act consultation guidance for road location (*e.g.,* to relocate a road currently in a riparian habitat conservation area). Where necessary, currently closed roads may be used to implement treatments, but they would be closed immediately after use. The range of alternatives analyzed in the DEIS will include one or more proposed road systems that, post implementation, would meet Forest Plan standards and guidelines and consultation guidance provided during the development of those plans. Temporary road construction would be based on site suitability, kept to a minimum to minimize detrimental effects such as soil disturbance and potential erosion, designed whenever possible and suitable over existing disturbance footprints (*i.e.,* legacy roads), located to avoid stream crossings, and obliterated upon completion of project implementation.

Additional benefits of implementation of the proposed action include maintenance and enhancement of culturally significant resources, settings, viewsheds, and sensitive plant and animal species habitat, including those

of interest to the Tribes. A monitoring strategy will be developed to support learning and sharing lessons learned through time. Input from interested parties and the most current, applicable science will be used to guide the learning strategy.

Connected actions that would be analyzed as a part of the EIS include hazard tree removal, snag creation, down wood creation, soil remediation (subsoiling, scarification), invasive plant treatment, native seeding of disturbed sites, system road reconstruction, road maintenance, re-closure of roads opened to implement treatments, water source development, material source development, installation of erosion control features, culvert replacement for haul support, activity fuel preparation and treatment, hand line construction, temporary fencing, stump treatment for annosus root rot, and reforestation. A suite of Best Management Practices (BMPs) and Project Design Criteria (PDC) will be integrated into the design of alternatives and the analysis of effects to ensure that relevant natural resources, tribal treaty resources, and social values are managed and protected in a manner consistent with policy, law, and regulation. BMPs and PDCs will also serve to ensure that implementation of the actions described in the ROD are properly executed.

The purpose and need for action is consistent with the Ochoco, Umatilla, and Wallowa-Whitman National Forest Land and Resource Management Plans (LRMP), as amended and applicable. Other key guiding policies include, but are not limited to, the Endangered Species Act, National Forest Management Act, National Cohesive Wildland Fire Management Strategy, and all laws and executive orders and Forest Service policies guiding Tribal consultation.

Go to *http://www.fs.usda.gov/goto/forestresiliencyproject* for more detailed information and maps of the project area and proposed treatments.

Forest Plan Amendments

If necessary to meet the purpose and need of the FRP, the Forest Service may need to amend one or more Forest Plans for activities such as cutting large trees (>21″ in diameter), restoring or conserving old forest characteristics, restoring forest structure in elk habitat, or maintaining current road densities.

Responsible Official

The responsible officials for decisions on the Ochoco, Umatilla, and Wallowa-Whitman National Forests are their respective Forest Supervisors.

Nature of Decision To Be Made

This proposed action is a proposal and not a decision. The Forest Supervisors of the Ochoco, Umatilla, and Wallowa-Whitman National Forests will decide, for their respective Forests, whether to implement the action as proposed, whether to take no action at this time, or whether to implement any alternatives that are analyzed. The Forest Supervisors will also decide whether to amend their respective Land and Resource Management Plan, if necessary to implement the decision.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. Issues that are raised with the proposal may lead to alternative ways to meet the purpose and need of the project. Scoping will also be used to determine site specific concerns that are relevant to forest treatment locations.

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

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

Several public engagement sessions will be held in Blue Mountains communities in March 2016 before completion of the scoping period.It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Dated: February 1, 2016.

Stacey L. Forson,

Forest Supervisor, Ochoco National Forest.

Dated: January 29, 2016.

Genevieve R. Masters,

Forest Supervisor, Umatilla National Forest.

Dated: January 29, 2016.

Tom Montoya,

Forest Supervisor, Wallowa-Whitman National Forest.

[FR Doc. 2016–02269 Filed 2–4–16; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the emergency provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration (ITA).

Title: Interim Procedures for Considering Requests from the Public under the Textile and Apparel Safeguard Provision of the United States–Korea Free Trade Agreement.

OMB Control Number: 0625–0269.

Type of Request: Regular submission.

Burden Hours: 56.

Number of Respondents: 14.

Average Hours per Response: 4 hours for a Textile and Apparel Safeguard Request; and 4 hours for a Comment.

Needs and Uses: Title III, Subtitle C, Section 331 through Section 338 of the United States–Korea Free Trade Agreement Implementation Act (the ''Act'') implements the textile and apparel safeguard provisions, provided for in Article 4.1 of the United States–Korea Free Trade Agreement (the ''Agreement''), which entered into force on March 15, 2012. This safeguard mechanism applies when, as a result of the reduction or elimination of a customs duty under the Agreement, a Korean textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof to a U.S. industry producing a like or directly competitive article. In these circumstances, Article 4.1.1(b) permits the United States to (a) suspend any further reduction in the rate of duty provided for under Annex 2–B of the Agreement in the duty imposed on the article; or (b) increase duties on the imported article from

Korea to a level that does not exceed the lesser of the prevailing U.S. normal trade relations (''NTR'')/most-favored-nation (''MFN'') duty rate for the article or the U.S. NTR/MFN duty rate in effect on the day before the Agreement enters into force.

The Statement of Administrative Action accompanying the Act provides that the Committee for the Implementation of Textile Agreements (CITA) will issue procedures for requesting such safeguard measures, for making its determinations under Section 332(a) of the Act, and for providing relief under Section 332(b) of the Act. CITA was unable to publish these procedures earlier and is requesting an emergency review of the information collection and procedures from the Office of Management and Budget.

CITA must collect information in order to determine whether a domestic textile or apparel industry is being adversely impacted by imports of these products from Korean, thereby allowing CITA to take corrective action to protect the viability of the domestic textile or apparel industry, subject to section 332(b) of the Act.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 or via email at *JJessup@doc.gov.*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Wendy Liberante, OMB Desk Officer, Fax number (202) 395–5167 or via the Internet at *Wendy_L._Liberante@omb.gov.*

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2016–02231 Filed 2–4–16; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the emergency provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration (ITA).

Title: Interim Procedures for Considering Requests under the Commercial Availability Provision of the United States-Korea Free Trade Agreement.

OMB Control Number: 0625–0270.

Type of Request: Emergency submission (new information collection).

Burden Hours: 89.

Number of Respondents: 16.

Average Hours per Response: 8 hours for Request for Commercial Availability Determination; 2 hours for Response to a Request; and 1 hour for Rebuttal.

Needs and Uses: The United States and Korea negotiated the U.S.-Korea Free Trade Agreement (the ''Agreement''), which entered into force on March 15, 2012. Subject to the rules of origin in Annex 4–A of the Agreement, pursuant to the provisions of the Agreement, textile and apparel articles must contain fiber, yarn, and fabric produced in Korea or the United States to receive duty-free tariff treatment. Appendix 4–B–1 of the Agreement will contain a list of specific fiber, yarn, or fabric that either importing Party determined, based on information supplied by interested entities, that the fiber, yarn, or fabric is not available in commercial quantities in a timely manner in its territory, or if no interested entity objects to the request. Textile and apparel articles containing these fibers, yarns, or fabrics would also be entitled to duty-free or preferential duty treatment despite not being produced in Korea or the United States.

The list of commercially unavailable fibers, yarns, and fabrics may be changed pursuant to the commercial availability provision in Chapter 4, Annex 4–B, Paragraphs 1–13 of the Agreement. Under this provision, interested entities from the United States or Korea have the right to request that a specific fiber, yarn, or fabric be added to, or removed from, the list of commercially unavailable fibers, yarns, and fabrics in Appendix 4–B–1.

Section 202(o)(3) of the Act provides that the President may modify the list of fibers, yarns and fabrics in Appendix 4–B–1 by determining whether additional fibers, yarns, or fabrics are not available in commercial quantities in a timely manner in the United States, and that the President will issue procedures governing the submission of requests and providing an opportunity for interested entities to submit comments. The President delegated the responsibility for publishing the procedures and administering commercial availability requests to the Committee for the Implementation of Textile Agreements (CITA), which issues procedures and acts on requests through the U.S. Department of Commerce, Office of Textiles and Apparel (OTEXA). OTEXA was unable to publish these procedures earlier and is requesting an emergency review of the information collection and procedures from the Office of Management and Budget.

CITA must collect information about fiber, yarn or fabric technical specifications and the production capabilities of U.S. textile producers to determine whether certain fibers, yarns, or fabrics are available in commercial quantities in a timely manner in the United States, subject to Section 202(o)(3) of the U.S.-Korea Free Trade Agreement Implementation Act.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Department Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 or via the Internet at *JJessup@doc.gov.*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Wendy Liberante, OMB Desk Officer, Fax number (202) 395–5167 or via the Internet at *Wendy_L._Liberante@omb.eop.gov.*

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2016–02229 Filed 2–4–16; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–560–824]

Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From Indonesia: Final Results of Expedited First Sunset Review of the Countervailing Duty Order

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

SUMMARY: The Department of Commerce (Department) finds that revocation of

the countervailing duty order (CVD) on certain coated paper (certain coated paper) suitable for high-quality print graphics using sheet-fed presses from Indonesia would be likely to lead to a continuation or recurrence of a countervailable subsidy at the levels indicated in the ''Final Results of Sunset Review'' section of this notice.

DATES: *Effective Date:* February 5, 2016.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith, Office VII, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–5255.

Background

On November 17, 2010, the Department of Commerce (the Department) published the *CVD Order* on certain coated paper from Indonesia.[1] On October 1, 2015, the Department initiated this first sunset review of the *CVD Order* pursuant to section 751(c)(2) of the Tariff Act of 1930, as amended, (the Act) and 19 CFR 351.218(c).[2] Verso Corporation, S.D. Warren Company d/b/a Sappi North America, and Appleton Coated LLC, and the United Steel, Paper and Forestry, Rubber, and Manufacturing, Energy, Allied Industrial and Service Workers Union, AFL–CIO, CLC, (collectively, Petitioners), timely filed a notice of intent to participate in the review.[3]

On October 30, 2015, the Department received a substantive response from Petitioners, in accordance with 19 CFR 351.218(d)(3)(i).[4] The Department did not receive a response from the Government of Indonesia or any Indonesian producers or exporters of subject merchandise.

Scope of the Order

The merchandise subject to these orders is coated paper. The merchandise subject to these orders are provided for under subheadings: 4810.14.11, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.6000, 4810.14.70, 4810.19.1100, 4810.19.1900, 4810.19.2010, 4810.19.2090, 4810.22.1000, 4810.22.50, 4810.22.6000, 4810.22.70, 4810.29.1000, 4810.29.5000, 4810.29.6000, 4810.29.70, 4810.32, 4810.39 and 4810.92 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these orders is dispositive.[5]

Analysis of the Comments Received

All issues in this review are addressed in the Issues and Decision Memorandum, including the likelihood of continuation or recurrence of a countervailable subsidy, the net countervailable subsidy rate likely to prevail if the CVD order were revoked, and the nature of the subsidies. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, room B8024 of the main U.S. Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Final Results of Sunset Review

Pursuant to sections 752(b)(1) and (3) of the Act, we determine that revocation of the CVD order on certain coated paper from Indonesia would be likely to lead to continuation or recurrence of a net countervailable subsidy at the rates listed below:

Manufacturers/Exporters	Net countervailable subsidy rate (percent)
PT Pabrik Kertas Tjiwi, Tbk/PT Pindo Deli Pulp and Paper Mills/PT Indah Kiat Pulp and Paper, Tbk., collectively known as the Asia Pulp and Paper Company/Sinar Mas Group (APP/SMG)	17.94
All-Others	17.94

[1] *See Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia: Countervailing Duty Order,* 75 FR 70206 (November 17, 2010) (*CVD Order*).

[2] *See Initiation of Five-Year ''Sunset'' Reviews,* 80 FR 59134 (October 1, 2015).

[3] *See* Letter to the Department, ''First Five-Year (''Sunset'') Review of Countervailing Duty Order on Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia: Domestic Industry's Notice of Intent to Participate In Sunset Review,'' (October 15, 2015) (Notice of Intent to Participate).

[4] *See* Letter to the Department, ''Five-Year (''Sunset'') Review Of Countervailing Duty Order On Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia: Domestic Industry's Substantive Response,'' (October 30, 2015) (Substantive Response).

[5] *See* ''Scope of the Order'' section, Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Review of the Countervailing Duty Order on Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia (Issues and Decision Memorandum).

Notification to Interested Parties

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

The Department is issuing and publishing these final results and this notice in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: January 29, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–02287 Filed 2–4–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–863, A–475–832, A–570–026, A–580–878, A–583–856]

Antidumping Duty Investigations of Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Notice of Correction to Preliminary Antidumping Determinations

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

FOR FURTHER INFORMATION CONTACT: Andrew Medley or Shanah Lee, Office III, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4987 and (202) 482–6386, respectively.

SUPPLEMENTARY INFORMATION: On January 4, 2016, the Department of Commerce (''Department'') published the preliminary determinations of sales for the antidumping investigations of corrosion-resistant steel products (''corrosion-resistant steel'') from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan.[1] The *Preliminary Determinations* and Scope Comments Decision Memorandum contained inadvertent errors and omissions with respect to the ''Scope of the Investigation'' language. Specifically, in addition to typographical errors, the ''Scope of the Investigation'' in Appendix I to the *Preliminary Determinations* and Scope Comments Decision Memorandum inadvertently removed a reference to aluminum content, listed an incorrect Harmonized Tariff Schedule of the United States (''HTSUS'') number (7215.20.1500), and omitted two HTSUS numbers (7215.90.5000 and 7217.20.1500). The correct scope of the investigations is included in the attached Appendix.[2]

This correction to the *Preliminary Determinations* is issued and published in accordance with section 733(f) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: February 1, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Investigations

The products covered by this investigation are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.,* in successively superimposed layers, spirally oscillating, *etc.*). The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (''IF'')) steels and high strength low alloy (''HSLA'') steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

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[1] *See Certain Corrosion-Resistant Steel Products From India: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 81 FR 63 (January 4, 2016); *Certain Corrosion-Resistant Steel Products From Italy: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 81 FR 69 (January 4, 2016); *Certain Corrosion-Resistant Steel Products from Taiwan: Negative Preliminary Determination of Sales at Less Than Fair Value,* 81 FR 72 (January 4, 2016); *Certain Corrosion-Resistant Steel Products From the People's Republic of China: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 81 FR 75 (January 4, 2016); and *Certain Corrosion-Resistant Steel Products From the Republic of Korea: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 81 FR 78 (January 4, 2016) (collectively, ''*Preliminary Determinations*''). *See also* the Department's memorandum accompanying the *Preliminary Determinations,* ''Certain Corrosion-Resistant Steel Products From the People's Republic of China, India, Italy, the Republic of Korea, and Taiwan: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated December 21, 2015 (''Scope Comments Decision Memorandum'').

[2] Following the preliminary determinations in the companion countervailing duty investigations of corrosion-resistant steel from the People's Republic of China, India, Italy, the Republic of Korea, and Taiwan, the Department placed the Scope Comments Decision Memorandum on the records of those investigations making the same changes to the scope of those investigations. Because the Scope Comments Decision Memorandum contained inadvertent errors and omissions with respect to the ''Scope of the Investigation'' language there, the Department intends to announce this corrected scope language in a memorandum to the file to be placed on the record in each of those countervailing duty investigations.

Furthermore, this scope also includes Advanced High Strength Steels (''AHSS'') and Ultra High Strength Steels (''UHSS''), both of which are considered high tensile strength and high elongation steels.

Subject merchandise also includes corrosion-resistant steel that has been further processed in a third country, including but not limited to annealing, tempering painting, varnishing, trimming, cutting, punching and/or slitting or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope corrosion resistant steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin free steel''), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;
- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%-60%-20% ratio.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

[FR Doc. 2016–02288 Filed 2–4–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–351–504]

Heavy Iron Construction Castings from Brazil: Final Results of Expedited Fourth Sunset Review of the Countervailing Duty Order

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

SUMMARY: The Department of Commerce (the Department) finds that revocation of the countervailing duty order (CVD) order on heavy iron construction castings (heavy iron castings) from Brazil would be likely to lead to continuation or recurrence of a countervailable subsidy at the levels indicated in the ''Final Results of Review'' section of this notice.

DATES: *Effective Date:* February 5, 2016.

FOR FURTHER INFORMATION CONTACT: Patricia Tran, Office III, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1503.

SUPPLEMENTARY INFORMATION:

Background

On October 1, 2015, the Department initiated a sunset review of the CVD order on castings from Brazil pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[1] The Department received a notice of intent to participate in the review on behalf of D&L Foundry, EJ USA, Inc. (previously known as East Jordan Iron Works, Inc.), Neenah Foundry Company, and U.S. Foundry & Manufacturing Corp. (collectively, the domestic industry) within the deadline specified in 19 CFR 351.218(d)(1)(i).[2] Each of these companies claimed interested party status under section 771(9)(C) of the Act, as a domestic producer of the domestic like product.

The Department received adequate substantive responses collectively from the domestic industry within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[3] The Department did not receive a substantive response from any government or respondent interested party to the proceeding. Because the Department received no response from the respondent interested parties, the Department conducted an expedited review of this CVD order, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2).

Scope of the Order

The merchandise subject to the CVD order is castings from Brazil. The product is currently classified under the Harmonized Tariff Schedule of the United States (''HTSUS'') item number 7325.10.00. Although the HTSUS number is provided for convenience and customs purposes, the written product description remains dispositive. For a full description of the scope, *see* Issues and Decision Memorandum, which is hereby adopted by this notice (Issues and Decision Memorandum).[4]

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum. The issues discussed in the Issues and Decision Memorandum address the likelihood of continuation or recurrence of a countervailable subsidy, the net countervailable subsidy likely to prevail if the order were revoked, and the nature of the subsidy.

Final Results of Review

Pursuant to section 752(b)(1) and (3) of the Act, we determine that revocation of the CVD order on heavy iron castings from Brazil would be likely to lead to continuation or recurrence of a countervailable subsidy at the rate listed below:

[1] *See Initiation of Five-Year (Sunset) Review,* 80 FR 190 (October 1, 2015).

[2] *See* Letter to Secretary of Commerce, ''Sunset Reviews of Antidumping Duty Orders on Certain Iron Construction Castings From Brazil, Canada, and China; and Countervailing Duty Order on Heavy Iron Construction Castings From Brazil,'' (October 16, 2015).

[3] *See* Letter to Secretary of Commerce, ''Iron Construction Castings From Brazil; Five-Year (''Sunset'') Review of Countervailing Duty Order Response,'' (November 2, 2015).

[4] *See* Department Memorandum, ''Issues and Decision Memorandum for the Final Results of Expedited Fourth Sunset Review of the Countervailing Duty Order on Heavy Iron Construction Castings from Brazil,'' dated concurrently with this final notice.

Exporter/manufacturer	Net subsidy rate
Country-wide rate	1.06 percent *ad valorem*

Notification Regarding Administrative Protective Order

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

The Department is issuing and publishing these final results and notice in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: January 28, 2016.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–02286 Filed 2–4–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE422

Council Coordination Committee Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: NMFS will host a meeting of the Council Coordination Committee (CCC), consisting of the Regional Fishery Management Council chairs, vice chairs, and executive directors on February 24–25, 2016. The intent of this meeting is to discuss issues of relevance to the Councils, including budget allocations for FY2016 and budget planning for FY2017 and beyond; an overview of the Saltonstall-Kennedy FY15–16 grants process; the FY2016 legislative outlook; updates on electronic monitoring, NMFS bycatch strategy and catch share program review guidance, the NMFS climate science strategy, ecosystem based fisheries management, stock assessment prioritization; and Council workgroup updates, including Citizen Science Workshop and other topics related to implementation of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act.

DATES: The meeting will begin at 8:30 a.m. on Wednesday, February 24, 2016, recess at 5 p.m. or when business is complete; and reconvene at 9 a.m. on Thursday, February 25, 2016, and adjourn by 3:30 p.m. or when business is complete.

ADDRESSES: The meeting will be held at the Holiday Inn Capitol Hill, 550 C Street SW., Washington, DC 20024, telephone 202–479–4000, fax 202–288–4627.

FOR FURTHER INFORMATION CONTACT: Brian Fredieu: telephone 301–427–8505 or email at *Brian.Fredieu@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act established the CCC by amending section 302 (16 U.S.C. 1852) of the MSA. The committee consists of the chairs, vice chairs, and executive directors of each of the eight Regional Fishery Management Councils authorized by the MSA or other Council members or staff. NMFS will host this meeting and provide reports to the CCC for its information and discussion. All sessions are open to the public.

Proposed Agenda

Wednesday, February 24, 2016

8:30 a.m.—Morning session begins

- Welcome/Introductions
- NMFS Update
- Management and Budget update: FY2016—Status, Council funding; FY2017—Update Budget Outlook; Records Management
- Overview of S/K Grant Process
- Legislative Outlook
- Electronic Monitoring Update
- Observer Program and Electronic Monitoring Funding Update
- Bycatch Strategy Update
- Update on Review of Council Conflict of Interest Regulations

5 p.m.—Adjourn for the day

Thursday, February 25, 2016

9 a.m.—Morning Session Begins

- Catch Share Program Review Guidance
- NMFS Science Update: Climate Science Strategy, EBFM, and Stock Assessment Prioritization
- American Fisheries Society Presentation: Aquatic Resource Recommendations for the Next Administration
- South Atlantic Fishery Management Council Citizen Science Workshop
- Council Workgroup Updates

3:30 p.m.—Adjourn for the day

The order in which the agenda items are addressed may change. The CCC will meet as late as necessary to complete scheduled business.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Brian Fredieu at 301–427–8505 at least five working days prior to the meeting.

Dated: February 2, 2016.

Alan Risenhoover,

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

[FR Doc. 2016–02239 Filed 2–4–16; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products from the Procurement List previously furnished by such agencies.

DATES: Effective Date: 3/6/2016.

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:

Additions

On 6/12/2015 (80 FR 33485–33489), 12/18/2015 (80 FR 79031–79032), and 1/8/2016 (81 FR 916–917), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and impact of the additions on the current or most recent contractors, the Committee has determined that the products listed

below are 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 organizations that will furnish the products to the Government.

2. The action will result in authorizing small entities to furnish the products 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 proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products are added to the Procurement List:

Products:

NSN(s)—Product Name(s):

5340–00–NIB–0152—Door Closer, Architectural Commercial Grade
5340–00–NIB–0134—Lockset, Cylindrical, Passage/Closet Function, Philadelphia-style Lever
5340–00–NIB–0239—Lockset, Cylindrical, Exit Function, Philadelphia-style Lever
5340–00–NIB–0240—Lockset, Cylindrical, Exit Function, Boston-style Lever
5340–00–NIB–0254—Lockset, Cylindrical, Passage/Closet Function, Boston-style Lever
5340–00–NIB–0136—Lockset, Cylindrical, Privacy Function, Philadelphia-style Lever
5340–00–NIB–0255—Lockset, Cylindrical, Privacy Function, Boston-style Lever
5340–00–NIB–0154—Door Closer, Architectural Commercial Grade with Hold Open Function 5340–00–NIB–0132—Lockset, Cylindrical, Storeroom Function, Philadelphia-style Lever, Small Format Interchangeable Core
5340–00–NIB–0133—Lockset, Cylindrical, Office/Entrance Function, Philadelphia-style Lever, Small Format Interchangeable Core
5340–00–NIB–0250—Lockset, Cylindrical, Entrance Function, Boston-style Lever, Small Format Interchangeable Core
5340–00–NIB–0252—Lockset, Cylindrical, Storeroom Function, Boston-style Lever, Small Format Interchangeable Core
5340–00–NIB–0256—Lockset, Cylindrical, Entry Function, Philadelphia-style Lever, Small Format Interchangeable Core
5340–00–NIB–0257—Lockset, Cylindrical, Entry Function, Boston-style Lever, Small Format Interchangeable Core
5340–00–NIB–0251—Lockset, Cylindrical, Entrance Function, Philadelphia-style Lever, Large Format Interchangeable Core
5340–00–NIB–0253—Lockset, Cylindrical, Storeroom Function, Philadelphia-style Lever, Large Format Interchangeable Core
5340–00–NIB–0258—Lockset, Cylindrical, Entrance Function, Philadelphia-style Lever, Large Format Interchangeable Core
5340–00–NIB–0293—Door Closer, Architectural Commercial Grade with Door Saver Arm, Aluminum
5340–00–NIB–0294—Door Closer, Architectural Commercial Grade with Door Saver Arm, Cast Iron
5340–00–NIB–0247—Lockset, Cylindrical, Dormitory/Corridor Function, Philadelphia-style Lever, Small Format Interchangeable Core
5340–00–NIB–0248—Lockset, Cylindrical, Dormitory/Corridor Function, Boston-style Lever, Small Format Interchangeable Core
5340–00–NIB–0249—Lockset, Cylindrical, Dormitory/Corridor Function, Philadelphia-style Lever, Large Format Interchangeable Core
5340–00–NIB–0135—Lockset, Cylindrical, Vestibule/Classroom Function, Philadelphia-style Lever, Small Format Interchangeable Core
5340–00–NIB–0237—Lockset, Cylindrical, Storeroom Function, Boston-style Lever, Small Format Interchangeable Core
5340–00–NIB–0241—Lockset, Cylindrical, Institutional Function, Philadelphia-style Lever, Small Format Interchangeable Core
5340–00–NIB–0242—Lockset, Cylindrical, Institutional Function, Boston-style Lever, Small Format Interchangeable Core
5340–00–NIB–0244—Lockset, Cylindrical, Communication Function, Philadelphia-style Lever, Large Format Interchangeable Core
5340–00–NIB–0245—Lockset, Cylindrical, Communication Function, Boston-style Lever, Small Format Interchangeable Core
5340–00–NIB–0259—Lockset, Cylindrical, Vestibule/Classroom/Security function, Philadelphia-style Lever, Small Format Interchangeable Core
5340–00–NIB–0236—Lockset, Cylindrical, Store Room Function, Philadelphia-style Lever, Small Format Interchangeable Core
5340–00–NIB–0238—Lockset, Cylindrical, Storeroom Function, Philadelphia-style Lever, Large Format Interchangeable Core
5340–00–NIB–0243—Lockset, Cylindrical, Institutional Function, Philadelphia-style Lever, Large Format Interchangeable Core
5340–00–NIB–0246—Lockset, Cylindrical, Communication Function, Philadelphia style lever, Large Format Interchangeable Core
5340–00–NIB–0260—Lockset, Cylindrical, Vestibule/Classroom/Security function, Boston-style Lever, Large Format Interchangeable Core
5340–00–NIB–0153—Door Closer, Heavy Duty Institutional Grade
5340–00–NIB–0299—Door Closer, Heavy Duty Institutional Grade, Delayed Action
5340–00–NIB–0139—Lockset, Mortise, Passage Function, Escutcheon Trim, Philadelphia-style Lever
5340–00–NIB–0282—Lockset, Mortise, Passage Function, Escutcheon Trim, Ball Knob
5340–00–NIB–0283—Lockset, Mortise, Passage Function, Escutcheon Trim, Dallas-style Lever
5340–00–NIB–0295—Door Closer, Architectural Commercial Grade with Spring Cushion Stop
5340–00–NIB–0141—Lockset, Mortise, Privacy Function, Escutcheon Trim, Philadelphia-style Lever
5340–00–NIB–0291—Lockset, Mortise, Privacy Function, Escutcheon Trim, Ball Knob
5340–00–NIB–0292—Lockset, Mortise, Privacy Function, Escutcheon Trim, Dallas-style Lever
5340–00–NIB–0261—Lockset, Cylindrical, Classroom Security LED Function, Philadelphia-style Lever, Small Format Interchangeable Core
5340–00–NIB–0262—Lockset, Cylindrical, Classroom Security LED function, Boston-style Lever, Small Format Interchangeable Core
5340–00–NIB–0298—Door Closer, Heavy Duty Institutional Grade with Spring Cushion Stop
5340–00–NIB–0155—Door Closer, Heavy Duty Institutional Grade with Hold Open Function
5340–00–NIB–0296—Door Closer, Heavy Duty Institutional Grade with Door Saver Arm
5340–00–NIB–0297—Door Closer, Heavy Duty Institutional Grade with Door Saver, Hold Open Arm

5340–00–NIB–0137—Lockset, Mortise, Storeroom Function, Escutcheon Trim, Philadelphia-style Lever
5340–00–NIB–0138—Lockset, Mortise, Office Function, Escutcheon Trim, Philadelphia-style Lever
5340–00–NIB–0263—Lockset, Mortise, Classroom Holdback Function, Escutcheon Trim, Philadelphia-style Lever
5340–00–NIB–0264—Lockset, Mortise, Holdback Function, Escutcheon Trim, Ball Knob
5340–00–NIB–0265—Lockset, Mortise, Classroom Holdback Function, Escutcheon Trim, Dallas-style Lever
5340–00–NIB–0278—Lockset, Mortise, Storeroom Function, Escutcheon Trim, Ball Knob
5340–00–NIB–0279—Lockset, Mortise, Storeroom Function, Escutcheon Trim, Dallas-style Lever
5340–00–NIB–0280—Lockset, Mortise, Office Function, Ball Knob
5340–00–NIB–0281—Lockset, Mortise, Office Function, Escutcheon Trim, Dallas-style Lever
5340–00–NIB–0140—Mortise Lockset, Corridor Function, Escutcheon Trim, Philadelphia-style Lever
5340–00–NIB–0266—Lockset, Mortise, Front Door/Corridor Function, Escutcheon Trim, Philadelphia-style Lever
5340–00–NIB–0267—Lockset, Mortise, Front Door/Corridor Function, Escutcheon Trim, Ball Knob
5340–00–NIB–0268—Lockset, Mortise, Front Door/Corridor Function, Escutcheon trim, Dallas-style Lever
5340–00–NIB–0275—Lockset, Mortise, Entrance/Storeroom Function, Escutcheon trim, Philadelphia-style Lever
5340–00–NIB–0276—Lockset, Mortise, Entrance/Storeroom Function, Escutcheon Trim, Ball Knob
5340–00–NIB–0277—Lockset, Mortise, Entrance/Storeroom Function, Escutcheon Trim, Dallas-style Lever
5340–00–NIB–0284—Lockset, Mortise, Corridor Function, Escutcheon Trim, Ball Knob, Dallas-style Lever
5340–00–NIB–0285—Lockset, Mortise, Corridor Function, Escutcheon Trim
5340–00–NIB–0286—Lockset, Mortise, Entrance function, Escutcheon Trim, Philadelphia-style Lever
5340–00–NIB–0287—Lockset, Mortise, Entrance function, Escutcheon Trim, Ball Knob
5340–00–NIB–0288—Lockset, Mortise, Entrance Function, Escutcheon Trim, Dallas-style Lever
5340–00–NIB–0289—Lockset, Mortise, Dormitory/Exit Function, Escutcheon Trim, Ball Knob
5340–00–NIB–0290—Lockset, Mortise, Dormitory/Exit Function, Escutcheon Trim, Dallas-style Lever
5340–00–NIB–0301—Lockset, Mortise, Dormitory/Exit Function, Escutcheon Trim, Philadelphia-style Lever
5340–00–NIB–0300—Door Closer, Heavy Duty Institutional Grade with Door Arm Saver, Delayed Action
5340–00–NIB–0269—Lockset, Mortise, Store Door Function, Escutcheon Trim, Philadelphia-style Lever
5340–00–NIB–0270—Lockset, Mortise, Store Door Function, Escutcheon Trim, Ball Knob
5340–00–NIB–0271—Lockset, Mortise, Store Door Function, Escutcheon Trim, Dallas-style Lever
5340–00–NIB–0272—Lockset, Mortise, Dormitory Function, Escutcheon Trim, Philadelphia-style Lever
5340–00–NIB–0273—Lockset, Mortise, Dormitory Function, Escutcheon Trim, Ball Knob
5340–00–NIB–0274—Lockset, Mortise, Dormitory Function, Escutcheon Trim, Dallas-style Lever
5340–00–NIB–0142—Electronic Push Button Lockset, Philadelphia-style Lever, Small Format Interchangeable Core
5340–00–NIB–0143—Electronic Push Button Lockset, Philadelphia-style Lever, Large Format Interchangeable Core
5340–00–NIB–0144—Exit Device, Rim, Panic Listed, 3' Door
5340–00–NIB–0148—Exit Device, Rim, Panic Listed, 4' Door
5340–00–NIB–0145—Exit Device, Rim, Fire Listed, 3' Door
5340–00–NIB–0149—Exit Device, Rim, Fire Listed, 4' Door
5340–00–NIB–0146—Exit Device, Surface Vertical Rod, Panic Listed, 3' Door
5340–00–NIB–0147—Exit Device, Surface Vertical Rod, Fire Listed
5340–01–NIB–0150—Exit Device, Surface Vertical Rod, Panic Listed, 4' Door
5340–01–NIB–0151—Exit Device, Surface Vertical Rod, Fire Listed, 4' Door
Mandatory Purchase For: Total Government Requirement
Mandatory Source(s) of Supply: VisionCorps, Lancaster, PA
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA
Distribution: B-List
Product Name(s)—NSN(s): Pencil, Mechanical, Push Action
7520–01–NIB–2331—Black, Fine Point (0.5 mm)
7520–01–NIB–2332—Black, Medium Point (0.7 mm)
Mandatory Source(s) of Supply: San Antonio Lighthouse for the Blind, San Antonio, TX
Mandatory Purchase For: Total Government Requirement
Contracting Activity: General Services Administration, New York, NY
Distribution: A-List
NSN(s)—Product Name(s): MR 381—Gift Box, Sweet Treat, Christmas
Mandatory Source(s) of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
Mandatory Purchase For: Military commissaries and exchanges in accordance with the Code of Federal Regulations, Chapter 51, 51–6.4.
Contracting Activity: Defense Commissary Agency
Distribution: C-List

Deletions

On 12/31/2015 (80 FR 81810–81811), 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 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 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 deleted from the Procurement List.

End of Certification

Accordingly, the following products are deleted from the Procurement List:

NSN(s)—Product Name(s): 7530–01–047–3738—Paper, Writing
Mandatory Source(s) of Supply: Louisiana Association for the Blind, Shreveport, LA
Contracting Activity: General Services Administration, New York, NY
NSN(s)—Product Name(s): 7520–00–240–5498—Clipboard, Arch
Mandatory Source(s) of Supply: Industries of

the Blind, Inc., Greensboro, NC
Contracting Activity: General Services Administration, New York, NY
NSN(s)—Product Name(s): 7210–01–035–3342—Pillow, Bed
Mandatory Source(s) of Supply: Ed Lindsey Industries for the Blind, Inc., Nashville, TN
Contracting Activity: General Services Administration, Fort Worth, TX
NSN(s)—Product Name(s): 6545–00–NSH–2000—Module, Medical System, FRSS
Mandatory Source(s) of Supply: Louise W. Eggleston Center, Inc., Norfolk, VA
Contracting Activity: Dept of the Navy, Commander, Quantico, VA
NSN(s)—Product Name(s): 7920–00–NIB–0373—Shovel, Ergo Snow
Mandatory Source(s) of Supply: Industries for the Blind, Inc., West Allis, WI
Contracting Activity(ies): General Services Administration, Fort Worth, TX, Department of Veterans Affairs, NAC, Hines, IL
NSN(s)—Product Name(s): 7210–00–082–2081—Cover, Mattress
Mandatory Source(s) of Supply: Lions Services, Inc., Charlotte, NC
Contracting Activity: General Services Administration, Fort Worth, TX
NSN(s)—Product Name(s): 7210–00–935–6619—Cover, Mattress, Natural, 36″ × 82″
Mandatory Source(s) of Supply: Lions Services, Inc., Charlotte, NC
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA
NSN(s)—Product Name(s): 7920–00–926–5492—Mophead, Wet
Mandatory Source(s) of Supply: Lighthouse for the Blind and Visually Impaired, San Francisco, CA, Mississippi Industries for the Blind, Jackson, MS
Contracting Activity: General Services Administration, Fort Worth, TX
NSN(s)—Product Name(s): 7920–00–240–2559—Sponge, Cellulose
Mandatory Source(s) of Supply: Mississippi Industries for the Blind, Jackson, MS
Contracting Activity: General Services Administration, Fort Worth, TX
NSN(s)—Product Name(s): 7920–00–NIB–0301—Handle, Wood
Mandatory Source(s) of Supply: LC Industries, Inc., Durham, NC
Contracting Activity: General Services Administration, Fort Worth, TX
Product Name(s)—NSN(s): Flatware, Plastic, Totally Degradable
7340–01–486–1858
7340–01–486–1859
7340–01–486–2767
7340–01–486–3657
Mandatory Source(s) of Supply: LC Industries, Inc., Durham, NC
Contracting Activity: General Services Administration, Fort Worth, TX
Product Name(s)—NSN(s): Pen, Essential LVX Translucent and refills
7510–01–454–1172
7510–01–454–1175
Mandatory Source(s) of Supply: Industries for the Blind, Inc., West Allis, WI
Contracting Activity: General Services Administration, New York, NY
NSN(s)—Product Name(s): 6840–00–NIB–0044—Prof Lysol Brand II Aerosol Disinfectant Spray
Mandatory Source(s) of Supply: LC Industries, Inc., Durham, NC
Contracting Activity: General Services Administration, New York, NY
NSN(s)—Product Name(s): 6840–01–383–0739—Disinfectant, Detergent—CPAL Item
7930–01–398–0947—Glass Cleaner—CPAL Item
7930–01–398–0948—Glass Cleaner—CPAL Item
7930–01–398–0949—Detergent, General Purpose—CPAL Item
7930–01–463–5064—Floor Care Products
Mandatory Source(s) of Supply: Lighthouse for the Blind of Houston, Houston, TX
Contracting Activity: General Services Administration, Fort Worth, TX
Product Name(s)—NSN(s): Bedspread
7210–00–728–0177
7210–00–728–0178
7210–00–728–0179
7210–00–728–0190—Cream, 63″ x 103″
7210–00–728–0191—Dark Green, 63″ x 103″
Mandatory Source(s) of Supply: Alabama Industries for the Blind, Talladega, AL
Contracting Activity: General Services Administration, Fort Worth, TX
Product Name(s)—NSN(s): Cover, Mattress
7210–00–205–3082—Pre-Shrunk, White, 85″ x 40″ x 6–1/8″
7210–00–205–3083—Bleached, White, 36″ x 81″ x 6–1/8″
7210–00–230–1041—Bleached, Pre-Shrunk, White, Twin, 77–1/2″ x 31″
7210–00–291–8419—White, 36″ x 77″ x 6–1/8″
7210–00–883–8492—White, 43–1/2″ x 82–1/2″
Mandatory Source(s) of Supply: Lions Services, Inc., Charlotte, NC, LC Industries, Inc., Durham, NC, The Arkansas Lighthouse for the Blind, Little Rock, AR
Contracting Activity: General Services Administration, Fort Worth, TX

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2016–02274 Filed 2–4–16; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Deletions from the Procurement List.

SUMMARY: The Committee is proposing to delete services from the Procurement List that will be provided by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received On Or Before: 3/6/2016.

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 Or To Submit Comments Contact: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following services are proposed for deletion from the Procurement List:

Services:

Service Type: Parts Sorting Service
Service is Mandatory for: Oklahoma City Air Logistics Center, Bldg 3, Suite 20, Tinker AFB, OK
Mandatory Source(s) of Supply: NewView Oklahoma, Inc., Oklahoma City, OK
Contracting Activity: Dept of the Air Force, FA7014 AFDW PK, Andrews AFB, MD
Service Type: Packaging Service
Service is Mandatory for: Hurlburt Field Air Force Base, 304 Terry Avenue, Hurlburt Field, FL
Mandatory Source(s) of Supply: Lakeview Center, Inc., Pensacola, FL
Contracting Activity: Dept of the Air Force, FA4417 1 SOCONS LGC, Hurlburt Field, FL
Service Type: Preparation of Oil Sample Kits Service
Service is Mandatory for: Pensacola Naval Air Station, Pensacola, FL
Mandatory Source(s) of Supply: Lakeview Center, Inc., Pensacola, FL
Contracting Activity: Dept of the Navy, Naval Air Warfare Center Air Div, Patuxent River, MD

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2016–02273 Filed 2–4–16; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes

the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before March 7, 2016.

ADDRESSES: Comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (OIRA) in OMB, within 30 days of the notice's publication, by email at *OIRAsubmissions@omb.eop.gov.* Please identify the comments by OMB Control Nos. 3038–0068, 3038–0083, and 3038–0088. Please provide the Commodity Futures Trading Commission (''CFTC'' or ''Commission'') with a copy of all submitted comments at the address listed below. Please refer to OMB Reference Nos. 3038–0068, 3038–0083, and 3038–0088, found on *http://reginfo.gov.* Comments may also be mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Commodity Futures Trading Commission, 725 17th Street NW., Washington, DC 20503, and to the Commission through its Web site at *http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.

Comments may also be mailed to: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581 or by Hand Delivery/Courier at the same address.

A copy of the supporting statements for the collection of information discussed above may be obtained by visiting *http://RegInfo.gov.* All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Gregory Scopino, Special Counsel, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, (202) 418–5175, email: *gscopino@cftc.gov,* and refer to OMB Control Nos. 3038–0068, 3038–0083, and 3038–0088.

SUPPLEMENTARY INFORMATION:

Title: Confirmation, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants (OMB Control Nos. 3038–0068, 3038–0083, and 3038–0088). This is a request for an extension of a currently approved information collection.

Abstract: On September 11, 2012 the Commission adopted Commission regulations 23.500–23.505 (Confirmation, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants) [1] under sections 4s(f), (g) and (i) [2] of the Commodity Exchange Act (''CEA''). Commission regulations 23.500–23.505 require, among other things, that swap dealers (''SD'') [3] and major swap participants (''MSP'') [4] develop and retain written swap trading relationship documentation. The regulations also establish requirements for SDs and MSPs regarding swap confirmation, portfolio reconciliation, and portfolio compression. Under the regulations, swap dealers and major swap participants are obligated to maintain records of the policies and procedures required by the rules.[5] Confirmation, portfolio reconciliation, and portfolio compression are important post-trade processing mechanisms for reducing risk and improving operational efficiency. The information collection obligations imposed by the regulations are necessary to ensure that each swap dealer and major swap participant maintains the required records of their business activities and an audit trail sufficient to conduct comprehensive and accurate trade reconstruction. The information collections contained in the regulations are essential to ensuring that swap dealers and major swap participants document their swaps, reconcile their swap portfolios to resolve discrepancies and disputes, and wholly or partially terminate some or all of their outstanding swaps through regular portfolio compression exercises. The collections of information are mandatory. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The Commission did not receive any comments on the 60-day **Federal Register** notice, 80 FR 73731, dated November 25, 2015.

Burden Statement: The Commission is revising its estimate of the burden for this collection to reflect, among other things, the current number of provisionally registered SDs and MSPs.[6] The respondent burden for this collection is estimated to be as follows:

- OMB Control No. 3038–0068 (Confirmation, Portfolio Reconciliation, and Portfolio Compression Requirements for Swap Dealers and Major Swap Participants).

Number of Registrants: 105.

Estimated Average Burden Hours per Registrant: 1,282.5.

Estimated Aggregate Burden Hours: 134,662.5.

Frequency of Recordkeeping: As applicable.

- OMB Control No. 3038–0083 (Orderly Liquidation Termination Provision in Swap Trading Relationship Documentation for Swap Dealers and Major Swap Participants).

Number of Registrants: 105.

Estimated Average Burden Hours per Registrant: 270.

Estimated Aggregate Burden Hours: 28,350.

Frequency of Recordkeeping: As applicable.

- OMB Control No. 3038–0088 (Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants).

Number of Registrants: 105.

Estimated Average Burden Hours per Registrant: 6,284.

Estimated Aggregate Burden Hours: 659,820.[7]

Frequency of Recordkeeping: As applicable.

There are no capital costs or operating and maintenance costs associated with this collection.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: February 1, 2016.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2016–02217 Filed 2–4–16; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 23.500–23.505.

[2] 7 U.S.C. 6s(f), (g) & (i).

[3] For the definition of SD, *see* section 1a(49) of the CEA and Commission regulation 1.3(ggg). 7 U.S.C. 1a(49) and 17 CFR 1.3(ggg).

[4] For the definitions of MSP, *see* section 1a(33) of the CEA and Commission regulation 1.3(hhh). 7 U.S.C. 1a(33) and 17 CFR 1.3(hhh).

[5] SDs and MSPs are required to maintain all records of policies and procedures in accordance with Commission regulation 1.31, including policies, procedures and models used for eligible master netting agreements and custody agreements that prohibit custodian of margin from re-hypothecating, repledging, reusing, or otherwise transferring the funds held by the custodian.

[6] The 60-day notice indicated that there were 106 Swap Dealers and Major Swap Participants. There are 105 Swap Dealers and Major Swap Participants currently registered with the Commission.

[7] The 60-day notice contained an arithmetic error, providing for 135,945 estimated aggregate burden hours, instead of the correct total of 659,820, which is based on the 6,284 burden hours per registrant reflected in the 60-day notice for OMB Control No. 3038–0088.

DEPARTMENT OF DEFENSE

Department of the Army

Record of Decision for the Schofield Generating Station Project Final Environmental Impact Statement, United States Army Garrison—Hawaii

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the availability of the Record of Decision (ROD) to lease land and grant easements on Schofield Barracks and Wheeler Army Airfield to Hawaiian Electric Company (Hawaiian Electric) for the construction, ownership, operation, and maintenance of a 50-megawatt (MW) capacity, biofuel-capable generating station, referred to as the Schofield Generating Station, and associated power poles, high-tension power lines, and related equipment and facilities. The action was the preferred alternative identified in the final Environmental Impact Statement (EIS) for proposed Schofield Generating Station Project (SGSP). The ROD identifies the potential environmental and socioeconomic impacts associated with the SGSP, none of which were determined to be significant adverse effects.

The selected action will provide improved energy security to the Army and citizens of Oahu, support renewable energy goals, and improve future electrical generation capabilities on Oahu by providing a new secure, firm, dispatchable, flexible, and renewable energy generation to the grid on Oahu, Hawaii. Implementation of the preferred alternative will not result in significant impacts. The Army and Hawaiian Electric will implement numerous best management practices to avoid or minimize adverse environmental effects.

ADDRESSES: The ROD can be downloaded at *http://www.garrison.hawaii.army.mil/schofieldplant.* Written requests to obtain a copy of the ROD may be sent to Department of the Army, Directorate of Public Works, U.S. Army Garrison—Hawaii, ATTN: IMHW–PWE (L. Graham), 947 Wright Avenue, Wheeler Army Airfield, Schofield Barracks, HI 96857–5013 or email them to *usaghi.comrel@gmail.com.*

FOR FURTHER INFORMATION CONTACT: Please contact Ms. Lisa Graham, NEPA Coordinator, U.S. Army Garrison—Hawaii. Ms. Graham can be reached by phone at (808) 656–3075, or by email at *usaghi.comrel@gmail.com.*

SUPPLEMENTARY INFORMATION: The EIS examined the potential environmental and socioeconomic impacts from implementing the proposed action, which is for the Army to lease of 8.13 acres of land and grant a 2.5-acre interconnection easement to Hawaiian Electric Company (Hawaiian Electric) on Schofield Barracks and Wheeler Army Airfield for the construction, ownership, operation, and maintenance of a 50-megawatt (MW) capacity, biofuel-capable generating station, referred to as the Schofield Generating Station, and associated power poles, high-tension power lines, and related equipment and facilities (together, the Schofield Generating Station Project [SGSP]).

The selected action best meets the Army's needs to provide improved energy security to the U.S. Army Garrison—Hawaii at Schofield Barracks, Wheeler Army Airfield, and Field Station Kunia and to provide new secure, firm, flexible, and renewable energy generation to the grid on Oahu, Hawaii. The selected action will also assist the Army in supporting renewable energy-related laws and Executive Orders and meeting its renewable energy goals; assist Hawaiian Electric in meeting the Hawaii Renewable Portfolio Standard goals; and improve future electrical generation on Oahu.

The electricity produced by the SGSP will ordinarily supply power to all Hawaiian Electric customers through the island-wide electrical grid. During outages that meet the criteria specified in the Operating Agreement between the Army and Hawaiian Electric, SGSP output would first be provided to Army facilities at Schofield Barracks, Wheeler Army Airfield, and Field Station Kunia up to their peak demand of 32 MW, to meet their missions, and would additionally support the grid up to the station's full capacity. If there were a full island outage, the generating station could be used to restart other generating stations on the island.

The ROD incorporates analysis contained in the final EIS for the proposed SGSP, which considered all comments provided during formal comment and review periods. The ROD also considered all comments provided during the 30-day waiting period that was initiated when the Notice of Availability for the final EIS was published in the **Federal Register** (80 FR 68863) on November 6, 2015.

The Army took this material into account in making its decision, but determined that it did not constitute significant new information relevant to environmental concerns that would require supplementation of the final EIS. Comments received and the Army evaluation of those comments are summarized in the ROD.

The final EIS evaluated the impacts on land use; airspace use; visual resources; air quality, including climate and greenhouse gasses; noise; traffic and transportation; water resources; geology and soils; biological resources; cultural resources; hazardous and toxic substances; socioeconomics, including environmental justice; and utilities and infrastructure.

Implementation of this decision is expected to result in less than significant adverse impacts for all resources. Best management practices and design measures that would avoid or minimize adverse effects will be implemented for these resources: visual, air quality, noise, traffic and transportation, water, geology and soils, biological resources, cultural resources, and hazardous and toxic substances.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2016–02041 Filed 2–4–16; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2014–0020]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by March 7, 2016.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Disposition of Remains—Reimbursable Basis and Request for Payment of Funeral and/or Interment Expense; DD Forms 2065 and 1375; OMB Control Number 0704–0030.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Number of Respondents: 2,450.

Responses per Respondent: 1.

Annual Responses: 2,450.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 1,224.

Needs and Uses: DD Form 2065 records disposition instructions and costs for preparation and final disposition of remains. DD Form 1375 provides next-of-kin an instrument to

apply for reimbursement of funeral/interment expenses. This information is used to adjudicate claims for reimbursement of these expenses.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

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

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: February 2, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–02272 Filed 2–4–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Intent To Grant an Exclusive License; Nguran Corporation

AGENCY: National Security Agency, DoD.

ACTION: Notice.

SUMMARY: The National Security Agency hereby gives notice of its intent to grant Nguran Corporation a revocable, non-assignable, exclusive, license to practice the following Government-Owned invention as described and claimed in United States Patent Application No.14/120,606 entitled: ''Satisfiability Filter and Query Tool and Method of Building a Satisfiability Filter and Query Tool,'' filed on June 9, 2014 and any related non-provisional patent applications and all Letters Patent issuing thereon, and any continuation, continuation-in-part or division of said non-provisional patent application and any reissue or extension of said Letters Patent.

DATES: Anyone wishing to object to the grant of this license has until February 22, 2016 to file written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

ADDRESSES: Written objections are to be filed with the National Security Agency Technology Transfer Program, 9800 Savage Road, Suite 6843, Fort George G. Meade, MD 20755–6843.

FOR FURTHER INFORMATION CONTACT: Linda L. Burger, Director, Technology Transfer Program, 9800 Savage Road, Suite 6843, Fort George G. Meade, MD 20755–6843, telephone (443) 634–3518.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The patent rights in this invention have been assigned to the United States Government as represented by the National Security Agency.

Dated: February 2, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–02238 Filed 2–4–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2016–OS–0007]

Manual for Courts-Martial; Proposed Amendments

AGENCY: Joint Service Committee on Military Justice (JSC), DoD.

ACTION: Annual Review of the Manual for Courts-Martial, United States.

SUMMARY: Pursuant to Executive Order 12473—Manual for Courts-Martial, United States, 1984, and Department of Defense Directive 5500.17, Role and Responsibility of the Joint Service Committee (JSC) on Military Justice, the JSC is conducting its annual review of the Manual for Courts-Martial (MCM), United States.

The committee invites members of the public to suggest changes to the MCM. Please provide supporting rationale for any proposed changes.

DATES: Proposed changes must be received no later than April 5, 2016.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.*

Follow the instructions for submitting comments.

• *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

Instructions: All submissions received must include the agency name 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: Captain Harlye S.M. Carlton, USMC, Executive Secretary, JSC, at (703) 693–9299 or via email at *harlye.carlton@usmc.mil.* The JSC public Web site is located at *http://jsc.defense.gov.*

Dated: February 2, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–02290 Filed 2–4–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 15–64]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Sarah A. Ragan or Heather N. Harwell, DSCA/LMO, (703) 604–1546/(703) 607–5339.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 15–64 with attached Policy Justification and Sensitivity of Technology.

Dated: February 2, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

JAN 06 2016

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 15-64, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to the Government of Iraq for defense articles and services estimated to cost $800 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified Document Provided Under Separate Cover)

Transmittal No. 15–64

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Iraq

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$750 million
Other	$ 50 million
Total	$800 million

(iii) *Description and Quantity or Quantities of Articles and Services under Consideration for Purchase: Major Defense Equipment (MDE):*

Five thousand (5,000) AGM-l14K/N/R Hellfire missiles

Ten (10) 114K M36E9 Captive Air Training Missiles

Non-MDE included with this request are Hellfire missile conversion; blast fragmentation sleeves and installation kits; containers; transportation; spare

and repair parts; support equipment; personnel training and training equipment; publications and technical documentation; U .S. Government-provided and contractor-provided technical, engineering, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* U.S. Army (UBW)

(v) *Prior Related Cases, if any:*

IQ–B–UBF, Basic/LOA Value: $40.6M/ LOA Implementation Date: 27 FEB 14
IQ–B–UBF, A1/LOA Value: $57.8M/ LOA Implementation Date: 16 JUN 14
IQ–B–UBQ, Basic/LOA Value: $68.3M/ LOA Implementation Date: 29 SEP 14
IQ–B–UCI, Basic/LOA Value: $49.3M/ LOA Implementation Date: 24 DEC 14
IQ–B–UCX, Basic/LOA Value: $62.6M/ LOA Implementation Date: 11 JUN 15
IQ–B–UHC, Basic/LOA Value: $45.7M/ LOA Implementation Date: 10 AUG 15
IQ–B–UHK, Basic/LOA Value: $56.5M/ LOA Implementation Date: 05 OCT 15
IQ–B–UBL, A1/LOA Value: $53.4M/ LOA Implementation Date: 26 JUN 14

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex.

(viii) *Date Report Delivered to Congress:* 06 January 2016

POLICY JUSTIFICATION

The Government of Iraq—Hellfire Missiles and Captive Air Training Missiles

The Government of Iraq has requested a possible sale of five thousand (5,000) AGM–114K/N/R Hellfire missiles; Ten (10) 114K M36E9 Captive Air Training Missiles; associated equipment; and defense services. The estimated major defense equipment (MDE) value is $750 million. The total estimated value is $800 million.

The proposed sale will contribute to the foreign policy and national security goals of the United States by helping to improve a critical capability of the Iraq Security Forces in defeating the Islamic State of Iraq and the Levant (ISIL).

Iraq will use the Hellfire missiles to improve the Iraq Security Forces' capability to support ongoing combat operations. Iraq will also use this capability in future contingency operations. Iraq, which already has Hellfire missiles, will face no difficulty absorbing these additional missiles into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Lockheed Martin Corporation in Bethesda, Maryland. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require any additional U.S. Government or contractor representatives in Iraq.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 15–64

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1), of the Arms Export Control Act, as amended

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

The Hellfire Missile is primarily an air-to-surface missile with a multi-mission, multitarget, precision-strike capability. The Hellfire can be launched from multiple air platforms and is the primary precision weapon for the United States.

The Captive Air Training Missile (CATM) is a training missile (Non-NATO) that consists of a functional guidance section coupled to an inert missile bus. The missile has an operational semi-active laser seeker that can search for and lock-on to laser-designated targets for pilot training, but it does not have a warhead or propulsion section and cannot be launched.

The highest level of classified information that could be disclosed by a proposed sale or by testing of the end item is SECRET. Information required for maintenance or training is CONFIDENTIAL. Vulnerability data, countermeasures, vulnerability/susceptibility analyses, and threat definitions are classified SECRET or CONFIDENTIAL. Release of detailed information to include discussions, reports and studies of system capabilities, vulnerabilities and limitations that lead to conclusions on specific tactics or other counter countermeasures (CCM) is not authorized for disclosure.

If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

A determination has been made that the Government of Iraq can provide substantially the same degree of protection as the U.S. Government for the information proposed for release.

[FR Doc. 2016–02258 Filed 2–4–16; 8:45 am]

BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 15–52]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Sarah A. Ragan or Heather N. Harwell, DSCA/LMO, (703) 604–1546/(703) 607–5339.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 15–52 with attached Policy Justification and Sensitivity of Technology.

Dated: February 2, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

JAN 15 2016

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 15-52, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Iraq for defense articles and services estimated to cost $1.95 billion. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

for J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified Document Provided Under Separate Cover)

Transmittal No. 15–52

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Iraq (GoI)

(ii) *Total Estimated Value:*

Major Defense Equipment*	$ .550 billion
Other	$1.400 billion
Total	$1.950 billion

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* provides additional weapons, munitions, equipment, and logistics support for F–16 aircraft.

Major Defense Equipment (MDE) includes:

Twenty (20) each Joint Helmet Mounted Cueing System (JHMCS)

Twenty-four (24) each AIM–9M Sidewinder missile

One hundred and fifty (150) each AGM–65D/G/H/K Maverick missile

Fourteen thousand one hundred and twenty (14,120) each 500-lb General Purpose (GP) bomb body/warhead for use either as unguided or guided bombs. Depending on asset availability during case execution, total quantity of 14,120 each 500-lb warheads will comprise a mix of MK–82 500-lb warheads and/or BLU–111 500-lb warheads from stock and/or new contract procurement.

Two thousand four hundred (2,400) each 2,000-lb GP bomb body/warheads for use either as unguided or guided bombs. Depending on asset availability during case execution, total quantity of 2,400 each 2,000-lb warheads will comprise a mix of MK–84 2,000-lb warheads and/or BLU–117

2,000-lb warheads from stock and/or new contract procurement.

Eight thousand (8,000) each Laser Guided Bomb (LGB) Paveway II tail kits. Will be combined with 500-lb warheads in the above entry for MK–82 and/or BLU–111 to build a GBU–12 guided bomb.

Two hundred and fifty (250) each LGB Paveway II tail kits. Will be combined with 2,000-lb warheads in the above entry for MK–82 and/or BLU–117 to build a GBU–10 guided bomb.

One hundred and fifty (150) each LGB Paveway III tail kits. Will be combined with 2,000-lb warheads in the above entry for MK–82 and/or BLU–117 to build a GBU–24 guided bomb.

Eight thousand, five hundred (8,500) each FMU–152 fuzes. Will be used in conjunction with the LGB tail kits and warheads in the above entries to build GBU All Up Rounds (AUR's). Includes provisioning for spare FMU–152 fuze units (MDE).

Four (4) each WGU–43CD2/B Guidance Control Units

One (1) each M61 Vulcan Rotary 20mm cannon

Six (6) each MK–82 inert bomb

Four (4) each MK–84 inert bomb

Also included are items of significant military equipment (SME), spare and repair parts, publications, technical documents, weapons components, support equipment, personnel training, training equipment, Aviation Training, Contract Engineering Services, U.S. Government and contractor logistics, engineering, and technical support services, as well as other related elements of logistics and program support. Additional services provided are Aviation Contract Logistics Services including maintenance, supply, component repair/return, tools and manpower. This notification also includes Base Operations Support Services including construction, outfitting, supply, security, weapons, ammunition, vehicles, utilities, power generation, food, water, morale/recreation services, aircraft support and total manpower.

(iv) *Military Department:* U.S. Air Force (YAA)

(v) *Prior Related Cases, if any:*

FMS case SAG-$4.2 billion-13 Dec 2010

FMS case SAH-$2.3 billion-12 Dec 2011

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Annex attached.

(viii) *Date Report Delivered to Congress:* 15 January 2016

* As defined in Section 47(6) of the Arms Export Control Act

POLICY JUSTIFICATION

Iraq—F–16 Weapons, Munitions, Equipment, and Logistics Support

The Government of Iraq requested a possible sale of additional weapons, munitions, equipment, and logistics support for its F–16 aircraft.

Major Defense Equipment (MDE) includes:

Twenty (20) each Joint Helmet Mounted Cueing System (JHMCS)

Twenty-four (24) each AIM–9M Sidewinder missile

One hundred and fifty (150) each AGM–65D/G/H/K Maverick missile

Fourteen thousand one hundred and twenty (14,120) each 500-lb General Purpose (GP) bomb body/warhead for use either as unguided or guided bombs. Depending on asset availability during case execution, total quantity of 14,120 each 500-lb warheads will comprise a mix of MK–82 500-lb warheads and/or BLU–111 500-lb warheads from stock and/or new contract procurement.

Two thousand four hundred (2,400) each 2,000-lb GP bomb body/warheads for use either as unguided or guided bombs. Depending on asset availability during case execution, total quantity of 2,400 each 2,000-lb warheads will comprise a mix of MK–84 2,000-lb warheads and/or BLU–117 2,000-lb warheads from stock and/or new contract procurement.

Eight thousand (8,000) each Laser Guided Bomb (LGB) Paveway II tail kits. Will be combined with 500-lb warheads in the above entry for MK–82 and/or BLU–111 to build GBU–12 guided bombs.

Two hundred and fifty (250) each LGB Paveway II tail kits. Will be combined with 2,000-lb warheads in the above entry for MK–82 and/or BLU–117 to build GBU–10 guided bombs.

One hundred and fifty (150) each LGB Paveway III tail kits. Will be combined with 2,000-lb warheads in the above entry for MK–82 and/or BLU–117 to build GBU–24 guided bombs.

Eight thousand, five hundred (8,500) each FMU–152 fuzes. Will be used in conjunction with the LGB tail kits and warheads in the above entries to build GBU All Up Rounds (AUR's). Includes provisioning for spare FMU–152 fuze units (MDE).

Four (4) each WGU–43CD2/B Guidance Control Units

One (1) each M61 Vulcan Rotary 20mm cannon

Six (6) each MK–82 inert bomb

Four (4) each MK–84 inert bomb

Also included are items of significant military equipment (SME), spare and repair parts, publications, technical documents, weapons components, support equipment, personnel training, training equipment, Aviation Training, Contract Engineering Services, U.S. Government and contractor logistics, engineering, and technical support services, as well as other related elements of logistics and program support. Additional services provided are Aviation Contract Logistics Services including maintenance, supply, component repair/return, tools and manpower. This notification also includes Base Operations Support Services including construction, outfitting, supply, security, weapons, ammunition, vehicles, utilities, power generation, food, water, morale/recreation services, aircraft support and total manpower. The total estimated value of MDE is $ .550 billion. The total overall estimated value is $1.950 billion.

This proposed sale contributes to the foreign policy and national security of the United States by helping to improve the security of a strategic partner. This proposed sale directly supports Iraq and serves the interests of the people of Iraq and the United States.

Iraq previously purchased thirty-six (36) F–16 aircraft. Iraq requires these additional weapons, munitions, and technical services to maintain the operational capabilities of its aircraft. This proposed sale enables Iraq to fully maintain and employ its aircraft and sustain pilot training to effectively protect Iraq from current and future threats.

The proposed sale of these additional weapons, munitions, equipment, and support does not alter the basic military balance in the region.

The principal vendors are:

Lockheed Martin Aeronautics Company
Fort Worth, Texas

Lockheed Martin Simulation, Training and Support
Fort Worth, Texas

Raytheon Company
Lexington, Massachusetts

The Marvin Group
Inglewood, California

United Technologies Aerospace Systems
Chelmsford, Massachusetts

Lockheed Martin Mission Systems and Training
Fort Worth, Texas

Royal Jordanian Air Academy
Amman, Jordan

Pratt and Whitney
East Hartford, Connecticut

Michael Baker International
Alexandria, VA

There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale requires approximately four hundred (400) U.S. Government and contractor personnel to reside in Iraq through calendar year 2020 as part of this sale to establish maintenance support, on-the-job maintenance training, and maintenance advice.

There is no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 15–52

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. This sale sustains sensitive technology previously sold to Iraq. The F–16C/D Block 50/52 weapon system is UNCLASSIFIED, except as noted below. The aircraft uses the F–16 airframe and features advanced avionics and systems. It contains the Pratt and Whitney F–100–PW–229 or the General Electric F–110–GE–129 engine, AN/APG–68V(9) radar, digital flight control system, internal and external electronic warfare equipment, Advanced Identification Friend or Foe (IFF) (without Mode IV), operational flight program, and software computer programs.

2. The AIM–9M–8/9 Sidewinder is a supersonic, heat-seeking, air-to-air missile carried by fighter aircraft. The hardware, software, and maintenance are classified CONFIDENTIAL. Pilot training, technical data, and documentation necessary for performance and operating information are classified SECRET.

3. The Paveway II/III (GBU–10/12/24) weapon is classified CONFIDENTIAL. Information revealing target designation tactics and associated aircraft maneuvers, the probability of destroying specific/peculiar targets, vulnerabilities regarding countermeasures and the electromagnetic environment is classified SECRET.

4. The AGM–65D/G/H/K Maverick air-to-ground missile is SECRET. The SECRET aspects of the Maverick system are tactics, information revealing its vulnerability to countermeasures, and counter-countermeasures. Manuals and maintenance have portions that are classified CONFIDENTIAL. Performance and operating logic of the countermeasures circuits are SECRET.

5. The Joint Helmet Mounted Cueing System (JHMCS) is a modified HGU–55/P helmet that incorporates a visor-projected Heads-Up Display to cue weapons and aircraft sensors to air and ground targets. The hardware is UNCLASSIFIED. The technical data and documents are classified up to SECRET.

6. The PGU–28 20mm High Explosive Incendiary ammunition is a low-drag round designed to reduce in-flight drag and deceleration. It is a semi-armor piercing high explosive incendiary round. The PGU–27 A/B 20mm ammunition is the target practice version of the PGU–28. Both the PGU–27 and the PGU–28 are UNCLASSIFIED.

7. The M61 20mm Vulcan Rotary Cannon is a six-barreled automatic cannon chambered in 20x102mm. This weapon is fixed mounted on fighter aircraft and is used for damaging and destroying aerial and ground targets. The cannon and the associated ammunition are UNCLASSIFIED.

8. The MK–82 and MK84 are 500-lb and 2000-lb general purpose bombs respectively. These blast and fragmentation bombs are designed to attack soft and intermediately protected targets. The weapons are UNCLASSIFIED.

9. The BLU–111 is a 500-lb bomb and the BLU–117 is a 2,000- lb bomb. Both bombs are similar to the MK–84 and are filled with the Insensitive Munitions explosive to resist exploding in fuel related fires. They are used by the U.S. Navy. The weapons are UNCLASSIFIED.

10. MJU–7 Flares are a magnesium-based Infrared (IR) countermeasure used for decoying air-to-air and surface-to-air missiles. The MJU–7 hardware is UNCLASSIFIED. Countermeasure effectiveness information is classified up to SECRET.

11. RR–170 Chaff is a countermeasure used to decoy radars and radar-guided missiles. The hardware is UNCLASSIFIED. Countermeasure effectiveness information is classified up to SECRET.

12. Software, hardware, and other data/information, which is classified or sensitive, is reviewed prior to release to protect system vulnerabilities, design data, and performance parameters. Some end-item hardware, software, and other data identified above are classified at the CONFIDENTIAL and SECRET level. Potential compromise of these systems is controlled through management of the basic software programs of highly sensitive systems and software-controlled weapon systems on a case-by-case basis.

13. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

14. This sale is necessary to further the U.S. foreign policy and national security objectives outlined in the Policy Justification. Moreover, the benefits derived from this sale, as outlined in the Policy Justification, outweigh the potential damage that could result if the sensitive technology were revealed to unauthorized persons.

15. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Iraq.

[FR Doc. 2016–02264 Filed 2–4–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 15–65]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Sarah A. Ragan or Heather N. Harwell, DSCA/LMO, (703) 604–1546/(703) 607–5339.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 15–65 with attached Policy Justification and Sensitivity of Technology.

Dated: February 2, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

JAN 06 2016

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 15-65, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to the Government of Oman for defense articles and services estimated to cost $51 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 15–65

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(l) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Oman

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$51 million
Other	$ 0 million
Total	$51 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Four hundred (400) Tube-launched Optically-tracked wire guided (TOW) 2B Aero, Radio Frequency (RF) Missiles (BGM–71F–3–RF)

Seven (7) TOW 2B Aero, RF Missile (BGM–71F–3–RF) Fly-to-Buy Missiles

(iv) *Military Department:* U.S. Army (UKP)

(v) *Prior Related Cases, if any:* FMS Case UKC–$16.8B–05 Mar 15

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex.

(viii) *Date Report Delivered to Congress:* 06 January 2016

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Government of Oman-TOW 2B Missiles

The Government of Oman has requested a possible sale of:

Major Defense Equipment (MDE):

Four hundred (400) Tube-launched Optically-tracked wire guided (TOW)

2B Aero, Radio Frequency (RF) Missiles (BGM–71F–3–RF)
Seven (7) TOW 2B Aero, RF Missile (BGM–71F–3–RF) Fly-to-Buy Missiles

The estimated value of MDE is $51 million. The total estimated cost of this effort is $51 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been, and continues to be, an important force for political stability and economic progress in the Middle East.

The proposed sale of the TOW 2B Missiles and technical support will advance Oman's efforts to develop an integrated ground defense capability. Oman will use this capability to strengthen its homeland defense and enhance interoperability with the U.S. and other allies. Oman will have no difficulty absorbing these missiles into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Raytheon Missile Systems, Tucson, Arizona.

There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the U.S. Government or contractor representatives to travel to Oman for multiple periods for equipment de-processing/fielding, system checkout and new equipment training. There will be no more than three (3) contractor personnel in Oman at any one time and all efforts will take less than fourteen (14) weeks in total.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 15–65

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

Annex

Item No. vii

(vii) *Sensitivity of Technology*:

1. The Radio Frequency (RF) Tube-launched Optically-tracked Wire guided (TOW) 2B Aero Missile (BGM–71F–3–RF) is a fly-over, shoot-down version with the actual missile flight path offset above the gunner's aim point. The TOW 2B flies over the target and uses a laser profilometer and magnetic sensor to detect and fire two downward-directed, explosively-formed penetrator warheads into the target. The TOW 2B has a range of 200 to 3750m. A Radio Frequency (RF) Data link, replaced the traditional TOW wire guidance link in all new production variants of the TOW beginning in FY 07. No RF TOW AERO technical data will be released during program development without prior approval from the Office of the Deputy Assistant Secretary of the Army for Defense Exports and Cooperation. The hardware for the TOW 2B is UNCLASSIFIED. Software for performance data, lethality penetration and sensors are classified SECRET.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that the recipient country can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

4. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Oman.

[FR Doc. 2016–02261 Filed 2–4–16; 8:45 am]

BILLING CODE 5001–06–C

DEPARTMENT OF EDUCATION

[CFDA Number: 84.358A.]

Application Deadline for Fiscal Year 2016; Small, Rural School Achievement Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: Under the Small, Rural School Achievement (SRSA) program, the U.S. Department of Education (Department) awards grants on a formula basis to eligible local educational agencies (LEAs) to address the unique needs of rural school districts. In this notice, we establish the deadline for submission of fiscal year (FY) 2016 SRSA grant applications.

An eligible LEA that has not previously submitted an application for SRSA funds in any prior year must submit an application electronically by the deadline in this notice.

DATES: *Application Deadline:* May 2, 2016, 4:30:00 p.m., Washington, DC time.

FOR FURTHER INFORMATION CONTACT: David Cantrell, U.S. Department of Education, 400 Maryland Avenue SW., room 3E303, Washington, DC 20202. Telephone: (202) 453–5990 or by email: *reap@ed.gov.*

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

SUPPLEMENTARY INFORMATION:

Under what statutory authority will FY 2016 SRSA awards be made?

The FY 2016 SRSA awards will be made under the statutory authority in title VI, part B, subpart 1 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (Pub. L. 107–110). Recently, the SRSA program was reauthorized under title V, part B, subpart 1 of the ESEA, as amended by the Every Student Succeeds Act (ESSA) (Pub. L. 114–95). However, under the Consolidated Appropriations Act, 2016 (Pub. L. 114–113), changes to the SRSA program under ESSA will not take effect until the 2017–18 school year.

Which LEAs are eligible for an award under the SRSA program?

For FY 2016, an LEA (including a public charter school that is considered an LEA under State law) is eligible for an award under the SRSA program if—

(a) The total number of students in average daily attendance at all of the schools served by the LEA is fewer than 600, or each county in which a school served by the LEA is located has a total population density of fewer than 10 persons per square mile; and

(b)(1) All of the schools served by the LEA are designated with a school locale code of 7 or 8 by the Department's National Center for Education Statistics (NCES); or

(2) The Secretary has determined, based on a demonstration by the LEA and concurrence of the State educational agency, that the LEA is located in an area defined as rural by a governmental agency of the State.

Note: For FY 2016, the school locale codes are the locale codes determined on the basis of the NCES school code methodology in place on the date of enactment of section 6211(b) of the ESEA, as amended by the No Child Left Behind Act of 2001.

Which eligible LEAs must submit an application to receive an FY 2016 SRSA grant award?

Under the regulations in 34 CFR 75.104(a), the Secretary makes a grant only to an eligible party that submits an

application. However, given the limited purpose served by the application under the SRSA program, the Secretary considers the application requirement to be met if an LEA submitted an SRSA application for any prior year. Unless an LEA advises the Secretary by the application deadline that it is withdrawing its application, the Secretary deems any previously submitted application to remain in effect for FY 2016. Accordingly, an eligible LEA must submit an FY 2016 application only if that LEA has not submitted an application for SRSA funds in any prior year.

We intend to provide, by April 1, 2016, a list of LEAs eligible for FY 2016 funds on the Department's Web site at *http://www2.ed.gov/programs/reapsrsa/eligibility.html.* This list will indicate which eligible LEAs have already met the application requirement, and which eligible LEAs must submit an application to receive an FY 2016 SRSA grant award. All eligible LEAs that need to submit an application will be highlighted in yellow on the SRSA eligibility spreadsheets.

Electronic Submission of Applications

An eligible LEA that is required to submit an application to receive FY 2016 SRSA funds must submit an electronic application by May 2, 2016, 4:30:00 p.m., Washington, DC time. Any application received from an eligible LEA after this deadline will be funded only to the extent that funds are available after the Department awards grants to other eligible LEAs under the program.

Submission of an electronic application involves the use of the Department's G5 System. Prospective applicants can access the electronic application for the SRSA Program at: *www.g5.gov.* When applicants access this site, they will receive specific instructions regarding the information to include in the SRSA application.

Accessible Format

Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document

The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: Sections 6211–6213 of the ESEA, as amended by the No Child Left Behind Act of 2001.

Dated: February 2, 2016.

Ann Whalen,

Senior Advisor to the Secretary Delegated the Duties of Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2016–02292 Filed 2–4–16; 8:45 am]

BILLING CODE 4000–01–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: EC16–66–000.
Applicants: EAM Nelson Holding, LLC, Entergy Nuclear Fitzpatrick, LLC, Entergy Nuclear Generation Company, Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, Entergy Nuclear Palisades, LLC, Entergy Nuclear Power Marketing, LLC, Entergy Power, LLC, EWO Marketing, LLC, Llano Estacado Wind, LLC, Northern Iowa Windpower, LLC, RS Cogen, LLC.
Description: Joint Application for Authorization of EAM Nelson Holding, LLC, et al.
Filed Date: 1/29/16.
Accession Number: 20160129–5527.
Comments Due: 5 p.m. ET 2/19/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3199–003.
Applicants: MDU Resources Group, Inc.
Description: Notice of Change in Status of MDU Resources Inc.
Filed Date: 1/29/16.
Accession Number: 20160129–5533.
Comments Due: 5 p.m. ET 2/19/16.

Docket Numbers: ER16–830–000.
Applicants: California Independent System Operator Corporation.
Description: § 205(d) Rate Filing: 20160129 Amendment 3 to Riverside MSSA to be effective 5/1/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5369.
Comments Due: 5 p.m. ET 2/19/16.

Docket Numbers: ER16–831–000.
Applicants: Cottonwood Solar, LLC.
Description: Compliance filing: Compliance Filing—Change in Seller Category Status to be effective 3/29/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5375.
Comments Due: 5 p.m. ET 2/19/16.

Docket Numbers: ER16–832–000.
Applicants: RE Camelot LLC.
Description: Compliance filing: Compliance Filing—Change in Seller Category Status to be effective 3/29/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5396.
Comments Due: 5 p.m. ET 2/19/16.

Docket Numbers: ER16–833–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2016–01–29 PRA 30 day Compliance Filing to be effective 1/30/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5418.
Comments Due: 5 p.m. ET 2/19/16.

Docket Numbers: ER16–834–000.
Applicants: RE Columbia Two LLC.
Description: Compliance filing: Compliance Filing—Change in Seller Category Status to be effective 3/29/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5450.
Comments Due: 5 p.m. ET 2/19/16.

Docket Numbers: ER16–835–000.
Applicants: New York Independent System Operator, Inc.
Description: § 205(d) Rate Filing: NYPA revisions re: NTAC formula rate schedule to be effective 4/1/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5451.
Comments Due: 5 p.m. ET 2/19/16.

Docket Numbers: ER16–836–000.
Applicants: New England Power Pool Participants Committee.
Description: § 205(d) Rate Filing: February 2016 Membership Filing to be effective 1/1/2016.
Filed Date: 1/29/16.
Accession Number: 20160129–5458.
Comments Due: 5 p.m. ET 2/19/16.

Docket Numbers: ER16–837–000.
Applicants: Imperial Valley Solar Company (IVSC) 2, LLC.
Description: Compliance filing: Compliance Filing—Change in Seller Category Status to be effective 3/29/2016.

Filed Date: 1/29/16.

Accession Number: 20160129–5474.

Comments Due: 5 p.m. ET 2/19/16.

Docket Numbers: ER16–838–000.

Applicants: Maricopa West Solar PV, LLC.

Description: Compliance filing: Compliance Filing—Change in Seller Category Status to be effective 3/29/2016.

Filed Date: 1/29/16.

Accession Number: 20160129–5482.

Comments Due: 5 p.m. ET 2/19/16.

Docket Numbers: ER16–839–000.

Applicants: Otter Tail Power Company.

Description: Notice of Termination of Rate Schedule No. 165 of Otter Tail Power Company.

Filed Date: 1/29/16.

Accession Number: 20160129–5526.

Comments Due: 5 p.m. ET 2/19/16.

Docket Numbers: ER16–840–000.

Applicants: Emera Maine.

Description: Notice of Termination by Emera Maine of Long-Term Transmission Service Agreements with Covanta Maine LLC.

Filed Date: 1/29/16.

Accession Number: 20160129–5549.

Comments Due: 5 p.m. ET 2/19/16.

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: February 1, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–02256 Filed 2–4–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP09–6–001; CP09–7–001; Docket No. CP13–507–000]

LNG Development Company, LLC; Oregon Pipeline Company, LLC; Northwest Pipeline LLC; Notice of Revised Schedule for Environmental Review of the Oregon LNG Terminal and Pipeline Project and Washington Expansion Project

This notice identifies the Federal Energy Regulatory Commission staff's revised schedule for the completion of the environmental impact statement (EIS) for LNG Development Company, LLC's and Oregon Pipeline Company, LLC's Oregon LNG Terminal and Pipeline Project and Northwest Pipeline LLC's Washington Expansion Project. The first notice of schedule, issued on April 17, 2015, identified February 12, 2016 as the final EIS issuance date. However, additional information is required to respond to comments on the draft EIS. As a result, staff has requested supplemental information from the applicants and revised the schedule for issuance of the final EIS.

Schedule for Environmental Review

Issuance of Notice of Availability of the final EIS.	June 3, 2016.
90-day Federal Authorization Decision Deadline.	September 1, 2016.

If a schedule change becomes necessary, an additional notice will be provided so that the relevant agencies are kept informed of the projects' progress.

Additional Information

In order to receive notification of the issuance of the EIS and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription (*http://www.ferc.gov/docs-filing/esubscription.asp*). Additional information about the projects may be accessed through the FERC's Web site at *www.ferc.gov* Click on the eLibrary link, click on ''General Search'' and enter the docket number(s), excluding the last three digits in the Docket Number field (*i.e.,* CP09–6, CP09–7, or CP13–507).

Dated: February 1, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–02254 Filed 2–4–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2077–039]

TransCanada Hydro Northeast, Inc.; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of fish passage plan.

b. *Project No.:* 2077.

c. *Date Filed:* December 31, 2015.

d. *Applicant:* TransCanada Hydro Northeast, Inc.

e. *Name of Project:* Fifteen Mile Falls Project.

f. *Location:* Connecticut River, near the town of Littleton in Grafton County, New Hampshire, and Caledonia County, Vermont.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. John L. Ragonese, License Manager, TransCanada, US Northeast Hydro Region, 4 Park Street, Suite 402, Concord, NH 04347 (603) 225–5528.

i. *FERC Contact:* Mr. Joseph Enrico, (212) 273–5917, *joseph.enrico@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. All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. 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. Please include the project number (P–2077–039) on any comments, motions, or recommendations filed.

k. *Description of Request:* The applicant requests that the Commission suspend the requirement or permanently amend the license to eliminate the requirement to provide downstream fish passage under Article 410 at the Fifteen Mile Falls Project. Due to suspension of the Atlantic

salmon restoration program in the Connecticut River basin by the U.S. Fish and Wildlife Service in 2012, the applicant believes that continued operation of the existing inclined-plane fish sampler and collection tank at the Moore development should be discontinued. In addition, the requirement to operate the fish collection trap for transporting Atlantic salmon smolts should likewise be discontinued.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field (P–2077) to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208- 3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the application. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: February 1, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–02255 Filed 2–4–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP16–397–000,
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 01/20/16 Negotiated Rates—Mercuria Energy Gas Trading LLC (HUB) 7540–89 to be effective 1/19/2016.
Filed Date: 1/20/16.
Accession Number: 20160120–5069.
Comments Due: 5 p.m. ET 2/1/16.

Docket Numbers: RP16–398–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 01/20/16 Negotiated Rates—Sequent Energy Management (HUB) 3075–89 to be effective 1/19/2016.
Filed Date: 1/20/16.
Accession Number: 20160120–5070.
Comments Due: 5 p.m. ET 2/1/16.

Docket Numbers: RP16–399–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Service Priority Update to be effective 2/20/2016.
Filed Date: 1/20/16.
Accession Number: 20160120–5144.
Comments Due: 5 p.m. ET 2/1/16.

Docket Numbers: RP16–400–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) Rate Filing: Rate Case Settlement Amendment Filing 8 to be effective 12/1/2015.
Filed Date: 1/21/16.
Accession Number: 20160121–5065.
Comments Due: 5 p.m. ET 2/2/16.

Docket Numbers: RP16–401–000.
Applicants: High Point Gas Transmission, LLC.
Description: Compliance filing Compliance of Cost and Revenue Study.
Filed Date: 1/22/16.
Accession Number: 20160122–5044.
Comments Due: 5 p.m. ET 2/3/16.

Docket Numbers: RP16–402–000.
Applicants: Empire Pipeline, Inc.
Description: § 4(d) Rate Filing: Update to ISS Rate Schedule (Empire) to be effective 1/1/2016.
Filed Date: 1/22/16.
Accession Number: 20160122–5065.
Comments Due: 5 p.m. ET 2/3/16.

Docket Numbers: RP16–403–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—Feb 2016. Chevron TEAM2014 Releases to be effective 2/1/2016.
Filed Date: 1/27/16.
Accession Number: 20160127–5000.
Comments Due: 5 p.m. ET 2/8/16.

Docket Numbers: RP16–404–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates for Feb 2016. Colonial Releases to be effective 2/1/2016.
Filed Date: 1/27/16.
Accession Number: 20160127–5016.
Comments Due: 5 p.m. ET 2/8/16.

Docket Numbers: RP16–405–000.
Applicants: Transcontinental Gas Pipe Line Company,
Description: § 4(d) Rate Filing: Negotiated Rates—Cherokee AGL—Replacement Shippers—Feb 2016 to be effective 2/1/2016.
Filed Date: 1/27/16.
Accession Number: 20160127–5070.
Comments Due: 5 p.m. ET 2/8/16.

Docket Numbers: RP16–406–000.
Applicants: Big Sandy Pipeline, LLC.
Description: Compliance filing Big Sandy Fuel Filing effective 3–1–2016.
Filed Date: 1/27/16.
Accession Number: 20160127–5080.
Comments Due: 5 p.m. ET 2/8/16.

Docket Numbers: RP16–407–000.
Applicants: Transcontinental Gas Pipe Line Company,
Description: § 4(d) Rate Filing: Maiden Delivery Lateral 3 Yr Update Filing to be effective 3/1/2016.
Filed Date: 1/27/16.
Accession Number: 20160127–5108.
Comments Due: 5 p.m. ET 2/8/16.

Docket Numbers: RP16–408–000.
Applicants: Kinder Morgan Illinois Pipeline LLC.
Description: Penalty Revenue Crediting Report of Kinder Morgan Illinois Pipeline LLC.
Filed Date: 1/27/16.
Accession Number: 20160127–5180.
Comments Due: 5 p.m. ET 2/8/16.

Docket Numbers: RP16–409–000.
Applicants: Panhandle Eastern Pipe Line Company, LP.
Description: Compliance filing NAESB Version 3.0 Compliance to be effective 4/1/2016.
Filed Date: 1/27/16.
Accession Number: 20160127–5209.
Comments Due: 5 p.m. ET 2/8/16.

Docket Numbers: RP16–410–000.
Applicants: Trunkline Gas Company, LLC.
Description: Compliance filing NAESB Version 3.0 Compliance to be effective 4/1/2016.
Filed Date: 1/27/16.
Accession Number: 20160127–5212.
Comments Due: 5 p.m. ET 2/8/16.

Docket Numbers: RP16–411–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 01/27/16 Negotiated Rates—Mercuria Energy Gas Trading LLC (HUB) 7540–89 to be effective 1/23/2016.
Filed Date: 1/27/16.
Accession Number: 20160127–5223.
Comments Due: 5 p.m. ET 2/8/16.

Docket Numbers: RP16–412–000.
Applicants: Golden Triangle Storage, Inc.
Description: Compliance filing Proposed Revisions to FERC Gas Tariff to Comply With Order No. 587–W to be effective 4/1/2016.
Filed Date: 1/27/16.
Accession Number: 20160127–5230.
Comments Due: 5 p.m. ET 2/8/16.

Docket Numbers: RP16–413–000.
Applicants: Granite State Gas Transmission, Inc.
Description: Compliance filing Compliance to Commission Order 587–W to be effective 4/1/2016.
Filed Date: 1/27/16.
Accession Number: 20160127–5299.
Comments Due: 5 p.m. ET 2/8/16.
Docket Numbers: RP16–414–000.
Applicants: Midwestern Gas Transmission Company.
Description: § 4(d) Rate Filing: Non-Conforming and Negotiated Rate Agreements—Northern Illinois Gas Company to be effective 2/1/2016.
Filed Date: 1/27/16.
Accession Number: 20160127–5394.
Comments Due: 5 p.m. ET 2/8/16.

Docket Numbers: RP16–415–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: Compliance filing NAESB Version 3.0 Compliance to be effective 4/1/2016.
Filed Date: 1/27/16.
Accession Number: 20160127–5411.
Comments Due: 5 p.m. ET 2/8/16.

Docket Numbers: RP16–416–000.
Applicants: Kinetica Energy Express, LLC.
Description: Compliance filing Compliance Filing for Order Nos. 587–W and 809 to be effective 4/1/2016.
Filed Date: 1/27/16.
Accession Number: 20160127–5442.
Comments Due: 5 p.m. ET 2/8/16.

Docket Numbers: RP16–417–000.
Applicants: Questar Overthrust Pipeline Company.
Description: § 4(d) Rate Filing: ? 13.1 Version 4.0.0 to be effective 3/1/2016.
Filed Date: 1/28/16.
Accession Number: 20160128–5041.
Comments Due: 5 p.m. ET 2/9/16.

Docket Numbers: RP16–418–000.
Applicants: Southern LNG Company, L.L.C.
Description: § 4(d) Rate Filing: Dredging Surcharge Cost Adjustment—2016 to be effective 3/1/2016.
Filed Date: 1/28/16.
Accession Number: 20160128–5043.
Comments Due: 5 p.m. ET 2/9/16.

Docket Numbers: RP16–419–000.
Applicants: Great Lakes Gas Transmission Limited Par.
Description: Semi-Annual Transporter's Use Report of Great Lakes Gas Transmission Limited Partnership.
Filed Date: 1/28/16.
Accession Number: 20160128–5092.
Comments Due: 5 p.m. ET 2/9/16.

Docket Numbers: RP16–420–000.
Applicants: Kinder Morgan Louisiana Pipeline Company.
Description: Penalty Revenue Crediting Report of Kinder Morgan Louisiana Pipeline Company LLC.
Filed Date: 1/28/16.
Accession Number: 20160128–5158.
Comments Due: 5 p.m. ET 2/9/16.

Docket Numbers: RP16–421–000.
Applicants: MoGas Pipeline LLC.
Description: § 4(d) Rate Filing: MoGas NRA Filing to be effective 2/1/2016.
Filed Date: 1/28/16.
Accession Number: 20160128–5215.
Comments Due: 5 p.m. ET 2/9/16.

Docket Numbers: RP16–422–000.
Applicants: Monroe Gas Storage Company, LLC.
Description: Compliance filing MGS—Order 809—Compliance Filing—Scheduling Timeline to be effective 4/1/2016.
Filed Date: 1/28/16.
Accession Number: 20160128–5224.
Comments Due: 5 p.m. ET 2/9/16.

Docket Numbers: RP16–423–000.
Applicants: Perryville Gas Storage LLC.
Description: Compliance filing PER—Order 809—Compliance Filing—Scheduling Timeline to be effective 4/1/2016.
Filed Date: 1/28/16.
Accession Number: 20160128–5233.
Comments Due: 5 p.m. ET 2/9/16.

Docket Numbers: RP16–424–000.
Applicants: Cadeville Gas Storage LLC.
Description: Compliance filing CAD—Order 809—Compliance Filing—Scheduling Timeline to be effective 4/1/2016.
Filed Date: 1/28/16.
Accession Number: 20160128–5236.
Comments Due: 5 p.m. ET 2/9/16.

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.

Filings in Existing Proceedings

Docket Numbers: RP15–101–006.
Applicants: Florida Gas Transmission Company, LLC.
Description: Compliance filing RP15–101 Settlement Compliance Filing to be effective 2/1/2016.
Filed Date: 1/20/16.
Accession Number: 20160120–5134.
Comments Due: 5 p.m. ET 2/1/16.

Docket Numbers: RP16–233–002.
Applicants: SG Resources Mississippi, L.L.C.
Description: Compliance filing SG Resources Mississippi, L.L.C.—Revised Compliance Filing to be effective 12/31/2015.
Filed Date: 1/21/16.
Accession Number: 20160121–5069.
Comments Due: 5 p.m. ET 2/2/16.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by

clicking on the links or querying the docket number.

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: February 1, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–02253 Filed 2–4–16; 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 exempt wholesale generator filings:

Docket Numbers: EG16–42–000.
Applicants: Enterprise Solar, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Enterprise Solar, LLC.
Filed Date: 2/1/16.
Accession Number: 20160201–5412.
Comments Due: 5 p.m. ET 2/22/16.

Docket Numbers: EG16–43–000.
Applicants: Escalante Solar I, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Escalante Solar I, LLC.
Filed Date: 2/1/16.
Accession Number: 20160201–5413.
Comments Due: 5 p.m. ET 2/22/16.

Docket Numbers: EG16–44–000.
Applicants: Escalante Solar II, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Escalante Solar II, LLC.
Filed Date: 2/1/16.
Accession Number: 20160201–5419.
Comments Due: 5 p.m. ET 2/22/16.

Docket Numbers: EG16–45–000.
Applicants: Escalante Solar III, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Escalante Solar III, LLC.
Filed Date: 2/1/16.
Accession Number: 20160201–5420.
Comments Due: 5 p.m. ET 2/22/16.

Docket Numbers: EG16–46–000.
Applicants: Granite Mountain Solar East, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Granite Mountain Solar East, LLC.
Filed Date: 2/1/16.
Accession Number: 20160201–5422.
Comments Due: 5 p.m. ET 2/22/16.

Docket Numbers: EG16–47–000.
Applicants: Granite Mountain Solar West, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Granite Mountain Solar West, LLC.
Filed Date: 2/1/16.
Accession Number: 20160201–5425.
Comments Due: 5 p.m. ET 2/22/16.

Docket Numbers: EG16–48–000.
Applicants: Iron Springs Solar, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Iron Springs Solar, LLC.
Filed Date: 2/1/16.
Accession Number: 20160201–5428.
Comments Due: 5 p.m. ET 2/22/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–2302–004.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2016–02–01_SSR 2016 Compliance Filing to be effective 9/24/2012.
Filed Date: 2/1/16.
Accession Number: 20160201–5365.
Comments Due: 5 p.m. ET 2/22/16.

Docket Numbers: ER16–292–000.
Applicants: Northern Virginia Electric Cooperative, Inc.
Description: Northern Virginia Electric Cooperative, Inc. submits tariff filing per 35.19a(b): Refund Report to be effective N/A.
Filed Date: 2/1/16.
Accession Number: 20160201–5462.
Comments Due: 5 p.m. ET 2/22/16.

Docket Numbers: ER16–634–000.
Applicants: AltaGas Pomona Energy Inc.
Description: Supplement to December 24, 2015 AltaGas Pomona Energy Inc. tariff filing.
Filed Date: 1/29/16.
Accession Number: 20160129–5044.
Comments Due: 5 p.m. ET 2/19/16.

Docket Numbers: ER16–841–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2016–02–01_SA 1559 ITC Midwest-FPL Energy GIA (G113) to be effective 2/2/2016.
Filed Date: 2/1/16.
Accession Number: 20160201–5272.
Comments Due: 5 p.m. ET 2/22/16.

Docket Numbers: ER16–842–000.
Applicants: Kay Wind, LLC.
Description: § 205(d) Rate Filing: Kay Wind Tariff Amendment Filing to be effective 2/2/2016.
Filed Date: 2/1/16.
Accession Number: 20160201–5414.
Comments Due: 5 p.m. ET 2/22/16.

Docket Numbers: ER16–843–000.
Applicants: Kentucky Utilities Company.
Description: § 205(d) Rate Filing: Conformed KU Muni Contracts Rate Case Settlements to be effective 2/2/2016.
Filed Date: 2/1/16.
Accession Number: 20160201–5458.
Comments Due: 5 p.m. ET 2/22/16.

Docket Numbers: ER16–844–000.
Applicants: Midcontinent Independent System Operator, Inc., Consumers Energy Company.
Description: § 205(d) Rate Filing: 2016–02–01_Rate Schedule 11 Michigan Joint Zone RAA to be effective 4/1/2016.
Filed Date: 2/1/16.
Accession Number: 20160201–5466.
Comments Due: 5 p.m. ET 2/22/16.

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: February 1, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–02252 Filed 2–4–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14740–000]

Energy Resources USA, Inc.; Notice of Competing Preliminary Permit Application Accepted for Filing and Soliciting Comments and Motions To Intervene

On November 27, 2015, Energy Resources USA, Inc. (Energy Resources)

filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Coffeeville Lock and Dam Hydroelectric Project (Coffeeville Project or project) to be located at the U.S. Army Corps of Engineers' Coffeeville Lock and Dam on the Tombigbee River in Clark County, Alabama. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

Energy Resources' permit application is filed in competition with Lock+™ Hydro Friends Fund II, proposed Coffeeville Lock and Dam Hydroelectric Project No. 14673–000, which was publicly noticed November 24, 2015. The deadline for filing competing applications was January 25, 2016. Energy Resources competing permit application was timely filed.

The proposed project would consist of the following: (1) A 500-foot-long, 200-foot-wide intake channel; (2) a 131-foot-long, 197-foot-wide powerhouse containing three generating units with a total capacity of 33 megawatts; (3) a 400-foot-long, 20-foot-wide tailrace; (4) a 6.9/69 kilo-Volt (kV) substation; (5) a 34-mile-long addition to the existing access road; and (6) a 3-mile-long, 69 kV transmission line. The proposed project would have an estimated average annual generation of 186,000 megawatt-hours, and operate as directed by the Corps.

Applicant Contact: Mr. Ander Gonzalez, Energy Resources USA Inc., 2655 Le Jeune Road, Suite 804, Coral Gables, Florida 33134; Phone: (954) 248–8425; Email: *agonzalez@energyresources.es.*

FERC Contact: Christiane Casey; phone: (202) 502–8577.

Deadline for filing comments and motions to intervene: 60 days from the issuance of this notice.

The Commission strongly encourages electronic filing. Please file comments and motions to intervene 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–14740–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14740) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: February 1, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–02257 Filed 2–4–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Colusa-Sutter 500-Kilovolt Transmission Line Project, Colusa and Sutter Counties, California (DOE/EIS–0514)

AGENCY: Western Area Power Administration, Department of Energy

ACTION: Extension of scoping period.

SUMMARY: On December 18, 2015, Western Area Power Administration (Western), an agency of the Department of Energy (DOE), announced the Notice of Intent to prepare an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the proposed 500-kilovolt (kV) transmission line to be located within Colusa and Sutter Counties, California. This proposed Project is known as the Colusa-Sutter (CoSu) 500-kV Transmission Line Project. In that previous notice, Western described the schedule for scoping meetings and advised the public that comments on the scope of the EIS/EIR were due by February 16, 2016. By this notice, Western extends the due date for comments on the scope of the EIS/EIR to April 18, 2016.

DATES: The date to provide comments on the scope of the EIS/EIR is extended to April 18, 2016.

ADDRESSES: Written comments on the proposed scope of the Draft EIS/EIR for this proposed Project may be mailed or emailed to Mr. Andrew M. Montaño, National Environmental Policy Act (NEPA) Document Manager, Western Area Power Administration, Headquarters, P.O. Box 281213, Lakewood, CO 80228–8213, or by email: *montano@wapa.gov.*

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, please contact Andrew M. Montaño, at (720) 962–7253 or at the address listed above in the **ADDRESSES** section.

For general information on DOE's NEPA review procedures or status of a NEPA review, contact Ms. Carol M. Borgstrom, Director of NEPA Policy and Compliance, GC–54, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; telephone (202) 586–4600 or (800) 472–2756; or email: *askNEPA@hq.doe.gov.*

For general information on the SMUD CEQA review procedures or status of the CEQA review, please contact Ms. Emily Bacchini, Environmental Management Specialist, Sacramento Municipal Utility District, 6201 S. Street, Mailstop H201, Sacramento, CA 95852–1830; telephone (916) 732–6334; email: *Emily.Bacchini@smud.org.*

SUPPLEMENTARY INFORMATION: On December 18, 2015, Western announced the Notice of Intent to prepare an EIS for the CoSu 500-kV Transmission Line Project (80 FR 79037). The EIS/EIR will examine the potential environmental effects of the CoSu transmission line. Western will prepare the EIS/EIR with the Sacramento Municipal Utility District, as the lead state agency. In the previous notice, Western described the schedule for scoping meetings for the EIS/EIR, and advised the public that comments regarding the scope of the EIS/EIR were due by February 16, 2016. Western has received requests allowing for more time to comment. By this notice, Western extends the due date for comments on the scope of the EIS/EIR to April 18, 2016.

Dated: January 28, 2016.

Mark A. Gabriel,

Administrator.

[FR Doc. 2016–02242 Filed 2–4–16; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0749; FRL–9941–41]

Pesticide Product Registration; Receipt of Applications for New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is

hereby providing notice of receipt and opportunity to comment on this application.

DATES: Comments must be received on or before March 7, 2016.

ADDRESSES: Submit your comments, identified by docket identification (ID) number of interest as shown in the body of this document, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

• *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

FOR FURTHER INFORMATION CONTACT: 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. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Registration Applications

EPA has received an application to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on this application. Notice of receipt of this application does not imply a decision by the Agency on these applications.

EPA Registration numbers: 74054–1, 66222–47. *Docket ID number:* EPA–HQ–OPP–2014–0749. *Applicant:* IR–4, IR–4 Project Headquarters, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201, W. Princeton, NJ 08540. *Active ingredient:* Clofentezine. *Product type:* Acaricide. *Proposed use:* On avocado, papaya, pome fruit 11–10, cherry subgroup 12–12A, peach subgroup 12–12B, small fruit vine climbing (except fuzzy kiwi) subgroup 13–F. *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: January 20, 2016.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2016–02309 Filed 2–4–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9025–4]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www2.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements (EISs).

Filed 01/25/2016 Through 01/29/2016.

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: *http://cdxnodengn.epa.gov/cdx-nepa-public/action/eis/search.*

EIS No. 20160022, Draft, USFS, OR, Magone Project, Comment Period Ends: 03/21/2016, Contact: Sasha Fertig 541–575–3061

EIS No. 20160023, Draft, FHWA, UT, I–80 and State Street Interchange, Comment Period Ends: 03/21/2016, Contact: Bryan Dillon 801–955–3517

EIS No. 20160024, Draft, USA, AZ, Proposed Tailings Storage Facility, Ray Mine, Comment Period Ends: 03/21/2 2016, Contact: Michael Langley 602–230–6953

EIS No. 20160025, Final, USFS, MT, North and West Big Hole Allotment Management Plans, Review Period Ends: 03/07/2016, Contact: Jessica Dhaemers 406–689–3243

EIS No. 20160026, Draft, USFS, CO, Arapahoe Basin Ski Area Projects, Comment Period Ends: 03/21/2016, Contact: Matthew Ehrman 970–945–3212

EIS No. 20160027, Final, USFS, MT, Blackfoot Travel Plan (Non-Winter), Review Period Ends: 03/07/2016, Contact: Erin Fryer 406–495–3863

Dated: February 2, 2016.

Dawn Roberts,

Management Analyst, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2016–02270 Filed 2–4–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9941–99–Region 4]

Availability of FY 14 Grantee Performance Evaluation Reports for the Eight States of EPA Region 4 and 17 Local Agencies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability; Clean Air Act Section 105 grantee performance evaluation reports.

SUMMARY: EPA's grant regulations (40 CFR 35.115) require the Agency to

evaluate the performance of agencies which receive grants. EPA's regulations for regional consistency (40 CFR 56.7) require that the Agency notify the public of the availability of the reports of such evaluations. EPA performed end-of-year evaluations of eight state air pollution control programs (Alabama Department of Environmental Management; Florida Department of Environmental Protection; Georgia Department of Natural Resources; Commonwealth of Kentucky Energy and Environment Cabinet; Mississippi Department of Environmental Quality; North Carolina Department of Environment and Natural Resources; South Carolina Department of Health and Environmental Control; and Tennessee Department of Environment and Conservation) and 17 local programs (City of Huntsville Division of Natural Resources, AL; Jefferson County Department of Health, AL; Broward County Environmental Protection and Growth Management Department, FL; City of Jacksonville Environmental Quality Division, FL; Hillsborough County Environmental Protection Commission, FL; Miami-Dade County Air Quality Management Division, FL; Orange County Environmental Protection Division, FL; Palm Beach County Health Department, FL; Pinellas County Parks and Conservation Resources, FL; Louisville Metro Air Pollution Control District, KY; Forsyth County Environmental Affairs Department, NC; Mecklenburg County Land Use and Environmental Services Agency, NC; Western North Carolina Regional Air Quality Agency, NC; Chattanooga-Hamilton County Air Pollution Control Bureau, TN; Shelby County Health Department, TN; Knox County Department of Air Quality Management, TN; and Metropolitan Government of Nashville and Davidson County Public Health Department, TN). The 25 evaluations were conducted to assess the agencies' Fiscal Year 2011 performance under the grants awarded by EPA under authority of section 105 of the Clean Air Act. EPA Region 4 has prepared reports for each agency identified above and these reports are now available for public inspection.

ADDRESSES: The reports may be examined at the EPA's Region 4 office, 61 Forsyth Street SW., Atlanta, Georgia 30303, in the Air, Pesticides and Toxics Management Division. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Gwendolyn Graf (404) 562- 9289 for information concerning the states and local agencies of Alabama; Tennessee and the state agency of South Carolina; Angela Isom (404) 562–9092 for the state and local agencies of Florida; Mary Echols (404) 562–9053 for the state agency of Georgia; and Shantel Shelmon (404) 562–9817 for the state and local agencies of North Carolina and Kentucky and the state agency of Mississippi. They may be contacted at the Region 4 address mentioned in the previous section of this notice.

Dated: November 2, 2015.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2016–02313 Filed 2–4–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9941–98–Region 4]

Availability of FY 13 Grantee Performance Evaluation Reports for the Eight States of EPA Region 4 and 17 Local Agencies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability; Clean Air Act Section 105 grantee performance evaluation reports.

SUMMARY: EPA's grant regulations (40 CFR 35.115) require the Agency to evaluate the performance of agencies which receive grants. EPA's regulations for regional consistency (40 CFR 56.7) require that the Agency notify the public of the availability of the reports of such evaluations. EPA performed end-of-year evaluations of eight state air pollution control programs (Alabama Department of Environmental Management; Florida Department of Environmental Protection; Georgia Department of Natural Resources; Commonwealth of Kentucky Energy and Environment Cabinet; Mississippi Department of Environmental Quality; North Carolina Department of Environment and Natural Resources; South Carolina Department of Health and Environmental Control; and Tennessee Department of Environment and Conservation) and 17 local programs (City of Huntsville Division of Natural Resources, AL; Jefferson County Department of Health, AL; Broward County Environmental Protection and Growth Management Department, FL; City of Jacksonville Environmental Quality Division, FL; Hillsborough County Environmental Protection Commission, FL; Miami-Dade County Air Quality Management Division, FL; Orange County Environmental Protection Division, FL; Palm Beach County Health Department, FL; Pinellas County Parks and Conservation Resources, FL; Louisville Metro Air Pollution Control District, KY; Forsyth County Environmental Affairs Department, NC; Mecklenburg County Land Use and Environmental Services Agency, NC; Western North Carolina Regional Air Quality Agency, NC; Chattanooga-Hamilton County Air Pollution Control Bureau, TN; Shelby County Health Department, TN; Knox County Department of Air Quality Management, TN; and Metropolitan Government of Nashville and Davidson County Public Health Department, TN). The 25 evaluations were conducted to assess the agencies' Fiscal Year 2011 performance under the grants awarded by EPA under authority of section 105 of the Clean Air Act. EPA Region 4 has prepared reports for each agency identified above and these reports are now available for public inspection.

ADDRESSES: The reports may be examined at the EPA's Region 4 office, 61 Forsyth Street SW., Atlanta, Georgia 30303, in the Air, Pesticides and Toxics Management Division. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Gwendolyn Graf (404) 562–9289 for information concerning the states and local agencies of Alabama; Tennessee and the state agency of South Carolina; Angela Isom (404) 562–9092 for the state and local agencies of Florida; Mary Echols (404) 562–9053 for the state agency of Georgia; and Shantel Shelmon (404) 562–9817 for the state and local agencies of North Carolina and Kentucky and the state agency of Mississippi. They may be contacted at the Region 4 address mentioned in the previous section of this notice.

Identification of document: Notice of availability of FY 2013 grantee performance evaluation reports as required by the Clean Air Act Section 105.

Dated: November 2, 2015.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2016–02311 Filed 2–4–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Consent Agenda Items From Sunshine Act Meeting

January 28, 2016.

The following items have been deleted from the list of Consent Agenda items scheduled for consideration at the Thursday, January 28, 2016, Open Meeting and previously listed in the Commission's Notice of January 21, 2016. Items 5 through 7 have been adopted by the Commission.

1. *General Counsel: Title:* Mitchell F. Brecher Request for Inspection of Records (FOIA Control No. 2014–338).

Summary: The Commission will consider a Memorandum Opinion and Order concerning the Application for Review filed by Mitchell F. Brecher regarding the denial of his request for inspection of records under the Freedom of Information Act.

2. *General Counsel Title:* SMS/800 Inc. Request for Inspection of Records (FOIA Control No. 2015–044).

Summary: The Commission will consider a Memorandum Opinion and Order concerning the Application for Review filed by SMS/800 Inc. regarding the release of records pertaining to SMS/800 Inc. in response to a request for inspection of records under the Freedom of Information Act filed by Mark Lewyn.

3. *General Counsel: Title:* Rachel A. Avan Request for Inspection of Records (FOIA Control No. 2014–572).

Summary: The Commission will consider a Memorandum Opinion and Order concerning the Application for Review filed by Rachel A. Avan regarding the denial of her request for inspection of records under the Freedom of Information Act.

4. *General Counsel: Title:* Russell Carollo Request for Inspection of Records (FOIA Control No. 2015–553).

Summary: The Commission will consider a Memorandum Opinion and Order concerning the Application for Review filed by Russell Carollo regarding the partial denial of his request for inspection of records under the Freedom of Information Act.

5. *Media: Title:* Application of The KBOO Foundation for a New NCE (FM) Station in Chehalis, Washington.

Summary: The Commission will consider a Memorandum Opinion and Order concerning an Application for Review filed by CVEF challenging the grant of an application and waiver requests filed by KBOO Foundation for a new NCE FM station.

6. *Media: Title:* Application for Renewal of License and Request for Extension of Special Temporary Authorization for Class A Television Station WEBR–CD in Manhattan, New York.

Summary: The Commission will consider a Memorandum Opinion and Order concerning an Application for Review filed by Jose Luis Rodriguez seeking review of the grant of a license renewal and STA of WEBR–CD, Manhattan, New York.

7. *Consumer & Governmental Affairs: Title:* San Fernando Cathedral of San Antonio, Texas, (SFC), Application for Review (CG Docket No. 06–181).

Summary: The Commission will consider a Memorandum Opinion and Order addressing an Application for Review filed by SFC seeking review of the Bureau's dismissal of SFC's petition for exemption from the Commission's closed captioning requirements.

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC Live Web page at *www.fcc.gov/live.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services, call (703) 993–3100 or go to *www.capitolconnection.gmu.edu.*

Federal Communication Commission.

Gloria J. Miles,

Federal Register Liaison Officer. Office of the Secretary.

[FR Doc. 2016–02329 Filed 2–3–16; 11:15 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 4556 Meritor Savings Bank; Philadelphia, Pennsylvania

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 4556 Meritor Savings Bank, Philadelphia, Pennsylvania (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Meritor Savings Bank (Receivership Estate). The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective February 01, 2016 the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: February 2, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–02234 Filed 2–4–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10483 Mountain National Bank, Sevierville, Tennessee

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10483 Mountain National Bank, Sevierville, Tennessee (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Mountain National Bank (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective February 1, 2016, the Receivership Estate has been terminated, the Receiver discharged,

and the Receivership Estate has ceased to exist as a legal entity.

Dated: February 1, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–02153 Filed 2–4–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

[3064–NEW]

Agency Information Collection Activities: Submission for OMB Review; Comment Request Re FDIC Small Business Lending Survey

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and Request for Comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, invites the general public and other Federal agencies to comment on the survey collection instruments for a proposed new collection of information, a Small Business Lending Survey of banks that is proposed to be fielded in June 2016. On October 7, 2015, the FDIC published a notice in the **Federal Register** requesting comment for 60 days on the proposed information collection (80 FR 60678). Two comments were received, and are discussed below. The FDIC hereby gives notice of its plan to submit to OMB a request to approve this new information collection, and again invites comment.

DATES: Comments must be submitted on or before March 7, 2016.

ADDRESSES: Interested parties are invited to submit written comments by any of the following methods. All comments should reference ''FDIC Small Business Lending Survey'':

- *http://www.FDIC.gov/regulations/laws/federal/.*
- *Email: comments@fdic.gov.* Include the name of the collection in the subject line of the message.
- *Mail:* Gary Kuiper (202.898.3877), Counsel, MB–3016, or Manuel Cabeza (202.898.3767), Counsel, MB–3105, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Interested members of the public may obtain a copy of the survey and related instructions by clicking on the link for the *FDIC Small Business Lending Survey* on the following Web page: *http://www.fdic.gov/regulations/laws/federal/.* Interested members of the public may also obtain additional information about the collection, including a paper copy of the proposed collection and related instructions, without charge, by contacting Gary Kuiper or Manuel Cabeza at the address or phone number identified above.

SUPPLEMENTARY INFORMATION: The FDIC proposes to establish the following collection of information:

Title: FDIC Small Business Lending Survey

OMB Number: New collection.

Frequency of Response: Once.

Affected Public: FDIC-insured depository institutions.

Estimated Number of Respondents:

1,500 respondents with assets less than $1 billion.

500 respondents with assets of $1 billion or greater.

Average time per response:

3 hours per respondent with assets less than $1 billion.

6 hours per respondent with assets of $1 billion or greater.

Estimated Total Annual Burden:

3 hours × 1,500 respondents = 4,500 hours

6 hours × 500 respondents = 3,000 hours.

Total: 7,500 hours.

General Description of Collection

Small businesses are an important component of the U.S. economy. According to the Small Business Administration, small firms accounted for almost half of private-sector employment and 63 percent of net new jobs between mid-1993 and 2013.[i] Many small businesses have little or no direct access to capital markets and are thus reliant on bank financing. For banks, small business lending is an important way that they help meet their communities' needs, especially for the many banks that primarily focus on commercial rather than consumer lending.

Due to the importance of small businesses to the U.S. economy and the importance of bank lending to small businesses, the proposed FDIC Small Business Lending Survey, which surveys banks, will provide important data to complement existing sources of data on small business lending. The proposed survey data will not duplicate existing sources of data and will provide additional insight into many aspects of small business lending.

The FDIC Small Business Lending Survey, proposed to begin data collection in June 2016, is designed to yield heretofore unavailable nationally representative estimates on the volume and details of small business loans extended by FDIC-insured banks. In addition, the survey will provide new information on banks' perceived competition and market area for small business lending. The survey will yield nationally representative estimates of small business lending by banks of several different asset size categories and with different levels of urban or rural presence.

In addition to the questions on small business lending, the new survey will include some questions related to consumer transaction accounts that are directly responsive to the mandate in Section 7 of the Federal Deposit Insurance Reform Conforming Amendments Act of 2005 (''Reform Act'') (Pub. L. 109–173), which calls for the FDIC to conduct ongoing surveys ''on efforts by insured depository institutions to bring those individuals and families who have rarely, if ever, held a checking account, a savings account or other type of transaction or check cashing account at an insured depository institution (hereafter in this section referred to as the 'unbanked') into the conventional finance system.'' Section 7 of the Reform Act further instructs the FDIC to consider several factors in its conduct of the surveys, including: ''What cultural, language and identification issues as well as transaction costs appear to most prevent 'unbanked' individuals from establishing conventional accounts.''

The consumer account-focused questions are designed to provide a factual basis for examining identification issues and transaction costs related to establishing mainstream transaction accounts at banks. These consumer account-focused questions have been added to the Small Business Lending Survey in lieu of fielding a separate second survey to respond to the Congressional mandate. The reason for the consolidation of these efforts is to reduce the burden on banks and increase the participation rate relative to fielding two separate surveys.

Comment Discussion

On October 7, 2015 (80 FR 60678), the FDIC issued a request for comment on a proposed new collection of information, a Small Business Lending Survey of banks that is proposed to be

[i] *https://www.sba.gov/sites/default/files/FAQ_March_2014_0.pdf,* accessed Sep 15, 2015.

fielded in June 2016. The FDIC received two comments related to this survey effort.

One commenter suggested that the FDIC separate the proposed survey into two separate surveys, one on small business lending and one on consumer bank accounts, in order to encourage participation, reduce the burden on respondents and ensure the accuracy of information collected regarding consumer bank accounts. To ensure accurate responses and minimize the effort necessary to gather information needed for responses, the FDIC conducted three rounds of cognitive testing of the survey questions across the U.S. in 10 states with 40 banks of different sizes and that serve different types of market areas. The cognitive testing was conducted to ensure that the survey questions are clearly worded and understood by bank personnel, and primarily draw on expert knowledge or data available in existing internal reports. To ensure that the appropriate bank personnel respond to the survey questions for which they have subject-matter expertise, the FDIC has also organized the questions into distinct sections that can be accessed independently and answered by different bank personnel. In addition, the section containing the consumer bank account questions has been renamed ''Information about Consumer Bank Accounts'' to more clearly indicate its focus. Fielding two separate surveys at about the same time may decrease participation for both surveys, and may increase the challenge of communicating with banks about the surveys, resulting in increased confusion.

One commenter recommended that the FDIC accurately explain the goal of the consumer bank account questions. The FDIC has revised the introduction to the ''Information about Consumer Bank Accounts'' section that explains the purpose of the consumer bank account questions. Additionally, the FDIC will transmit the survey to respondent banks with a cover letter, which will include an overview of the survey and a discussion of the motivation for each section.

One commenter queried whether the question regarding ''network branded general purpose reloadable prepaid cards'' is intended to identify the universe of alternatives to full-service checking accounts offered by insured depository institutions, and, more specifically, expressed concern regarding the lack of definition of ''network branded general purpose reloadable prepaid cards.'' The FDIC intends this question to inquire about a specific type of card-based product offered by some insured depository institutions, not the universe of alternatives to full-service checking accounts. This question has been edited to refer specifically to ''a Visa or MasterCard branded general purpose reloadable (GPR) prepaid card that your bank markets directly to consumers in your market area.'' This revision is responsive to feedback that the FDIC received from the three rounds of cognitive testing with banks of different sizes and that serve different types of markets.

One commenter recommended that two questions about bank applicant screening processes, specifically inquiring whether prior account closure due to account mismanagement or applicant fraud on a prior account would make an applicant ineligible to open a basic, entry-level consumer checking account, be changed from accepting only ''yes'' and ''no'' responses to also including a third potential response of ''it depends.'' This commenter also suggested the addition of a follow-up question asking whether the bank offers an alternative account to those ineligible for the standard checking account. The FDIC has removed from the survey the question regarding applicant fraud on a prior account. The question regarding account mismanagement has been revised to include a third response, that applicants in this situation would be ''eligible to open a second-chance account or an account with more limited features.'' The additional answer was developed in response to feedback from cognitive testing and is responsive to the suggestion offered here by the commenter.

One commenter cautioned that the FDIC should be mindful of the complexity and range of reasons why unbanked and under banked consumers do not fully engage with the banking system. This commenter expressed concern that the proposed consumer account questions in the survey focus on the costs of bank accounts and prior account mismanagement as impediments to opening bank accounts when studies suggest that the primary reasons for consumers not having an account are not having enough money or not wanting or needing an account. This commenter also cautioned that regulations may impede banks' ability to offer consumer products that might encourage greater participation within the banking system.

The FDIC is interested in the full range of reasons why some consumers are unbanked. To that end, the FDIC has asked, in each biennial Survey of Unbanked and Underbanked Households, for all the reasons that households are unbanked. The consumer banking section of this survey is intended, in large part, to provide a factual context for interpreting some of the results of other FDIC research efforts into consumer engagement with financial services and institutions. The consumer bank account questions in this survey represent one prong in a multi-pronged approach to understanding how unbanked and lower-income consumers make decisions about using financial services, how banks engage with those consumers through the development of products and services and outreach programs, and contextual factors that influence the choices of both consumers and banks.

One commenter expressed concern regarding the level of effort required of banks, especially community banks, to respond to the survey. The FDIC has made a concerted effort to streamline the survey and reduce the burden associated with providing responses. This effort included three rounds of cognitive testing of the survey questions with banks of different sizes and that serve different types of market areas to ensure that the survey will capture useful information while minimizing response burden. In response to feedback from the cognitive testing, the FDIC has significantly reduced the number of questions in the survey, retaining only questions that rely on expert knowledge and do not require the gathering of data, or questions that require data that can be provided from core data systems or from existing internal reports. Additionally, the FDIC has also reduced the number of question that will be answered by banks with less than $1 billion in assets. In addition, the FDIC has revised the survey to include screener questions that will also reduce the number of questions for banks with $1 billion or more in assets whose systems do not collect specific information. The revised survey is now significantly shorter for banks of all sizes.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use

of automated collection techniques or other forms of information technology.

The FDIC will consider all comments to determine the extent to which the survey instruments should be modified prior to submission to OMB for review and approval. After the comment period closes, comments will be summarized and included in the FDIC's request to OMB for approval of the collection. All comments will become a matter of public record.

Dated at Washington, DC, this 2nd day of February, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–02237 Filed 2–4–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10303 Progress Bank of Florida; Tampa, Florida

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10303 Progress Bank of Florida, Tampa, Florida (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Progress Bank of Florida (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective February 1, 2016, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: February 2, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–02235 Filed 2–4–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

International Ocean Transportation Supply Chain Engagement; Order

Pursuant to the Shipping Act of 1984, 46 U.S.C. 40101 *et seq.* (Shipping Act), the Federal Maritime Commission (FMC or Commission) regulates the U.S. international ocean transportation system that supports the transportation of goods by water. The purposes of the Shipping Act include the requirements to ''provide an efficient and economic transportation system in the ocean commerce of the United States that is, insofar as possible, in harmony with, and responsive to, international shipping practices,'' and also ''to promote the growth and development of United States exports through competitive and efficient ocean transportation and by placing a greater reliance on the marketplace.''

In carrying out its broad responsibilities under the Shipping Act with respect to ocean common carriers, U.S. ports, marine terminal operators, ocean transportation intermediaries and the American exporters and importers they serve, the Commission has developed an understanding of and an expertise in evaluating the U.S. international supply chain. As the premier competition agency with oversight responsibilities for the United States foreign ocean transportation system, the Commission has extensive experience with global maritime and marine terminal innovation and efficiency issues.

Maintaining the effectiveness and reliability of America's global supply chain is critically important to the Nation's continued economic vitality. Approximately $980 billion of containerized ocean commerce moves through U.S. ports annually. Unfortunately, congestion and related bottlenecks at ports and other points in the Nation's supply chain have become a serious risk to the growth of the U.S. economy, job growth, and to our Nation's competitive position in the world. Past congestion at major U.S. ports has highlighted the impact of congestion on the U.S. economy. As a result, the U.S. economy suffered billions of dollars in losses to the supply chain.

In addition, congestion problems contributed to hundreds of millions of dollars in losses for U.S. agricultural exporters including poultry and meat farmers. Perishable fruit and vegetable exporters suffered when their cargo was not loaded onto ships and sent overseas within specific time frames.

Although the congestion crisis has receded, unresolved supply chain problems that could produce new challenges remain.

In response to those events, and the desire of affected parties to find ways to prevent or mitigate similar future occurrences, the Commission hosted four regional port forums during the fall of 2014, in San Pedro, CA (West Coast Port Forum), Baltimore, MD (Mid-Atlantic and Northeast Port Forum), Charleston, SC (South Atlantic Port Forum) and New Orleans, LA (Gulf Coast Port Forum). The forums brought together port officials, ocean carriers, trucking and warehousing service providers, beneficial cargo owners, marine terminal operators, stevedoring companies, ocean transportation intermediaries, and port labor to discuss and offer ideas to address port congestion. The comments and suggestions offered at those forums were summarized and developed in an FMC report entitled ''*U.S. Port Congestion & Related International Supply Chain Issues: Causes, Consequences and Challenges*'' that was released in July 2015.

The report identified six major themes from the port forums: Investment and planning; chassis availability and related issues; port drayage and truck turn times; extended gate hours, PierPASS, and congestion pricing; vessel and terminal operations; and supply chain planning, collaboration, and communication. Some of these topics involve longer-term issues such as investment and planning. Others focus on short and medium-term concerns. All of them, however, are at the heart of current efforts by various groups to develop the flexible, resilient and reliable systems necessary for ensuring well-functioning international supply chains.

The Commission has also advanced port and marine terminal efforts to improve supply chain efficiency by expediting the implementation of port and terminal amendments aimed at enhancing the efficient flow of cargo. For example, several port and marine terminal operator agreements on file with the Commission that cover the Pacific Coast ports, commit the parties to exploring measures for achieving improvements with regard to congestion, efficiency, fluidity, and other operational conditions.*

Given the economic importance of reliable port and terminal operations to the effectiveness of the United States international supply chain, and the Commission's mandate to ensure an efficient and economic transportation system for its ocean commerce, the Commission has a clear and compelling

* The Los Angeles and Long Beach Port Infrastructure and Environmental Programs Cooperative Working Agreement (FMC No. 201219), West Coast MTO Agreement (FMC No. 201143), Pacific Ports Operational Improvements Agreement (FMC No. 201227), Ocean Carrier Equipment Management Association (FMC No. 202–011284), and Los Angeles/Long Beach Port Terminal Operator Administrative and Implementation Agreement (FMC No. 201178).

responsibility to actively assist efforts to improve the effectiveness of the global supply chain.

Therefore it is ordered, That, pursuant to 46 U.S.C. 41302, 40302, 41101 to 41109, 41301 to 41309, and 40104, and 46 CFR 502.281 *et seq.,* Commissioner Rebecca F. Dye engage supply chain stakeholders in public or non-public discussions to identify commercial solutions to certain unresolved supply chain issues that interfere with the smooth operation of the U.S. international supply chain, focusing on the San Pedro Bay ports at Los Angeles and Long Beach.

It is further ordered, That, the Commissioner form a supply chain innovation team, composed of leaders from all commercial sectors of the U.S. international supply chain, to develop commercial solutions to port congestion and related supply chain challenges.

It is further ordered, That, the Commissioner provide a preliminary report and periodic updates to the Commission on the results of efforts undertaken by this Order.

It is further ordered, That, the Commissioner have full authority under 46 CFR 502.281 to 502.291, to perform such duties as may be necessary in accordance with U.S. law and Commission regulations. The Commissioner will be assisted by staff members as may be assigned by the Chairman.

It is further ordered, That, this Proceeding be discontinued upon the acceptance of a final report and possible recommendations by the Commissioner, unless otherwise ordered by the Commission; and

It is finally ordered, That, notice of this Order be published in the **Federal Register**.

By The Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2016–02189 Filed 2–4–16; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 29, 2016.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *MB Financial, Inc., Chicago, Illinois;* to merge with American Chartered Bancorp, Inc., and thereby indirectly acquire American Chartered Bank, both of Schaumburg, Illinois.

B. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *First Security Bancorp, Searcy, Arkansas,* to acquire an additional one percent for a total of 10.91% of the voting shares of CrossFirst Holdings, LLC, Leawood, Kansas, and thereby increase its interest in CrossFirst Bank, Leawood, Kansas.

Board of Governors of the Federal Reserve System, February 1, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–02204 Filed 2–4–16; 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 23, 2016.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Carole S. Hoover Revocable Trust and Carole S. Hoover, as trustee of the Carole S. Hoover Revocable Trust, both of Eudora, Kansas,* to retain control of Eudora Bancshares, Inc., parent of Kaw Valley State Bank, both of Eudora, Kansas.

Board of Governors of the Federal Reserve System, February 2, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–02291 Filed 2–4–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 29, 2016.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. MainSource Financial Group, Inc., Greensburg, Indiana; to merge with Cheviot Financial Corporation, Cincinnati, Ohio, and indirectly acquire control of Cheviot Savings Bank, Cheviot, Ohio, and thereby operate a savings association pursuant to section 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, February 1, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–02203 Filed 2–4–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board or Federal Reserve) its approval authority under the Paperwork Reduction Act (PRA) to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before April 5, 2016.

ADDRESSES: You may submit comments, identified by *IHC Reporting Requirements,* by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW.) Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Proposal to approve under OMB delegated authority the revision, without extension, of the following reports:

1. *Report title:* Consolidated Financial Statements for Holding Companies, Parent Company Only Financial Statements for Large Holding Companies, Parent Company Only Financial Statements for Small Holding Companies, Financial Statements for Employee Stock Ownership Plan Holding Companies.[1]

Agency form number: FR Y–9C, FR Y–9LP.

OMB control number: 7100–0128.

Frequency: Quarterly, annually.

Reporters: Bank holding companies (BHCs), savings and loan holding companies (SLHCs), securities holding companies (SHCs), and U.S. intermediate holding companies (IHCs), (collectively, ''holding companies'').

Estimated annual reporting hours: FR Y–9C (non-Advanced Approaches HCs or other respondents): 131,777 hours; FR Y–9C (Advanced Approaches HCs or other respondents): 2,500 hours; FR Y–9LP: 17,262 hours.

Estimated average hours per response: FR Y–9C (non-Advanced Approaches HCs or other respondents): 50.84 hours; FR Y–9C (Advanced Approaches HCs or other respondents): 52.09 hours; FR Y–9LP: 5.25 hours.

Number of respondents: FR Y–9C (non-Advanced Approaches HCs or

[1] The family of FR Y–9 reporting forms also contains the Parent Company Only Financial Statements for Small Holding Companies (FR Y–9SP), the Financial Statements for Employee Stock Ownership Plan Holding Companies (FR Y–9ES), and the Supplement to the Consolidated Financial Statements for Holding Companies (FR Y–9CS) which are not being revised.

other respondents): 648; FR Y–9C (Advanced Approaches HCs or other respondents): 12; FR Y–9LP: 822.

General description of report: This information collection is mandatory pursuant to section 5(c) of the BHC Act (12 U.S.C. 1844(c)), section 10 of Home Owners' Loan Act (HOLA) (12 U.S.C. 1467a(b)), 12 U.S.C. 1850a(c)(1), section 165 of the Dodd-Frank Act (12 U.S.C. 5365), and section 252.153(b)(2) of Regulation YY (12 CFR 252.153(b)(2)). Confidential treatment is not routinely given to the financial data in this report. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form, pursuant to sections (b)(4), (b)(6), or (b)(8) of the Freedom of Information Act (FOIA) (5 U.S.C. 522(b)(4), (b)(6), and (b)(8)).

Abstract: Pursuant to the Bank Holding Company Act of 1956, as amended, and HOLA, the Federal Reserve requires HCs to provide standardized financial statements to fulfill the Federal Reserve's statutory obligation to supervise these organizations. HCs file the FR Y–9C and FR Y–9LP quarterly, the FR Y–9SP semiannually, and the FR Y–9ES annually.

2. *Report title:* Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies and the Abbreviated Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies.

Agency form number: FR Y–11, FR Y–11S.

OMB control number: 7100–0244.

Frequency: Quarterly and annually.

Reporters: Holding companies.

Estimated annual reporting hours: FR Y–11 (quarterly): 19,502; FR Y–11 (annual): 2,258; FR Y–11S: 473.

Estimated average hours per response: FR Y–11 (quarterly): 6.8; FR Y–11 (annual): 6.8; FR Y–11S: 1.

Number of respondents: FR Y–11 (quarterly): 717; FR Y–11 (annual): 332; FR Y–11S: 473.

General description of report: This information collection is mandatory pursuant to section 5(c) of the BHC Act (12 U.S.C. 1844(c)), section 10 of Home Owners' Loan Act (HOLA) (12 U.S.C. 1467a(b)), 12 U.S.C. 1850a(c)(1), section 165 of the Dodd-Frank Act (12 U.S.C. 5365), and section 252.153(b)(2) of Regulation YY (12 CFR 252.153(b)(2)). Overall, the Federal Reserve does not consider these data to be confidential. However, a respondent may request confidential treatment pursuant to sections (b)(4), (b)(6), and (b)(8) of the Freedom of Information Act (5 U.S.C. 552(b)(4), (b)(6), (b)(8)). The applicability of these exemptions would need to be determined on a case-by-case basis.

Abstract: The FR Y–11 reporting forms collect financial information for individual non-functionally regulated U.S. nonbank subsidiaries of domestic holding companies (*i.e.,* bank holding companies, savings and loan holding companies, and securities holding companies). Holding companies file the FR Y–11 on a quarterly or annual basis or the FR Y–11S annually predominantly based on asset size thresholds, and for the FR Y–11S, based on an additional threshold related to the percentage of consolidated assets of the top-tier organization. The FR Y–11 data are used with other holding company data to assess the condition of holding companies that are heavily engaged in nonbanking activities and to monitor the volume, nature, and condition of their nonbanking operations.

3. *Report title:* Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations and the Abbreviated Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations.

Agency form number: FR 2314 and FR 2314S.

OMB control number: 7100–0073.

Frequency: Quarterly and semiannually.

Reporters: U.S. state member banks, holding companies, Edge or agreement corporations, and U.S. intermediate holding companies (IHCs).

Estimated annual reporting hours: FR 2314 (quarterly): 18,427; FR 2314 (annual): 2,640; FR 2314S: 480.

Estimated average hours per response: FR 2314 (quarterly): 6.6; FR 2314 (annual): 6.6; FR 2314S: 1.

Number of respondents: FR 2314 (quarterly): 698; FR 2314 (annual): 400; FR 2314S: 480.

General description of report: This information collection is mandatory pursuant to 12 U.S.C. 324, 602, 625, 1844(c), 1467a(b), section 165 of the Dodd-Frank Act (12 U.S.C. 5365), and section 252.153(b)(2) of Regulation YY (12 CFR 252.153(b)(2)). Overall, the Federal Reserve does not consider these data to be confidential. However, a respondent may request confidential treatment pursuant to sections (b)(4), (b)(6), and (b)(8) of the Freedom of Information Act (5 U.S.C. 552(b)(4), (b)(6), (b)(8)). The applicability of these exemptions would need to be determined on a case-by-case basis.

Abstract: The FR 2314 reporting forms collect financial information for non-functionally regulated direct or indirect foreign subsidiaries of U.S. state member banks (SMBs), Edge and agreement corporations, and holding companies (*i.e.,* bank holding companies, savings and loan holding companies, and securities holding companies). Parent organizations (SMBs, Edge and agreement corporations, or holding companies) file the FR 2314 on a quarterly or annual basis or the FR 2314S annually based predominantly on asset size thresholds, and for the FR 2314S, based on an additional threshold related to the percentage of consolidated assets of the top-tier organization. The FR 2314 data are used to identify current and potential problems at the foreign subsidiaries of U.S. parent companies, to monitor the activities of U.S. banking organizations [2] in specific countries, and to develop a better understanding of activities within the industry, in general, and of individual institutions, in particular.

4. *Report title:* Consolidated Bank Holding Company Report of Equity Investments in Nonfinancial Companies, and the Annual Report of Merchant Banking Investments Held for an Extended Period.

Agency form number: FR Y–12 and FR Y–12A.

OMB control number: 7100–0300.

Frequency: Quarterly, semi-annually, and annually.

Reporters: Bank holding companies (BHCs), financial holding companies (FHCs), U.S. intermediate holding companies (IHCs), and savings and loan holding companies (SLHCs).

Estimated annual reporting hours: FR Y–12 Initial: 1,716 hours, FR Y–12 Ongoing: 2,508 hours, FR Y–12A Initial: 182 hours, FR Y–12A Ongoing: 224 hours.

Estimated average hours per response: FR Y–12 Initial: 33 hours, FR Y–12 Ongoing: 16.5 hours, FR Y–12A Initial: 14 hours, FR Y–12A Ongoing: 7 hours.

Number of respondents: FR Y–12 Initial: 13, FR Y–12 Ongoing: 41 FR Y–12A Initial: 13, FR Y–12A Ongoing: 32.

General description of report: This collection of information is mandatory pursuant to section 5(c) of the BHC Act (12 U.S.C. 1844(c)), section 10 of HOLA (12 U.S.C. 1467a(b)), section 165 of the Dodd-Frank Act (12 U.S.C. 5365), and section 252.153(b)(2) of Regulation YY (12 CFR 252.153(b)(2)). The FR Y–12 data are not considered confidential, however, a BHC or SLHC may request confidential treatment pursuant to Sections (b)(4) of the Freedom of Information Act (FOIA) (5 U.S.C.

[2] For purposes of this notice, banking organizations include bank holding companies, savings and loan holding companies, and state member banks that are subject to the market risk rule.

552(b)(4)). The FR Y–12A data are considered confidential pursuant to sections (b)(4) and (b)(8) of the Freedom of Information Act (5 U.S.C. 552(b)(4) and (b)(8)).

Abstract: The FR Y–12 collects information from certain domestic BHCs and SLHCs on their equity investments in nonfinancial companies on four schedules: Type of Investments, Type of Security, Type of Entity within the Banking Organization, and Nonfinancial Investment Transactions during Reporting Period. The FR Y–12A collects data from financial holding companies (FHCs) which hold merchant banking investments that are approaching the end of the holding period permissible under Regulation Y. These data serve as an important risk-monitoring device for FHCs active in this business line by allowing supervisory staff to monitor an FHC's activity between review dates. They also serve as an early warning mechanism to identify FHCs whose activities in this area are growing rapidly and therefore warrant special supervisory attention.

5. *Report title:* Capital Assessments and Stress Testing information collection.

Agency form number: FR Y–14A/Q/M.

OMB control number: 7100–0341.

Frequency: Annually, semi-annually, quarterly, and monthly.

Reporters: Any top-tier bank holding company (BHC), and U.S. intermediate holding companies (IHC), (other than an FBO), that has $50 billion or more in total consolidated assets, as determined based on: (i) The average of the BHC's or IHC's total consolidated assets in the four most recent quarters as reported quarterly on the BHC's or IHC's Consolidated Financial Statements for Bank Holding Companies (FR Y–9C) (OMB No. 7100–0128); or (ii) the average of the BHC's or IHC's total consolidated assets in the most recent consecutive quarters as reported quarterly on the BHC's or IHC's FR Y–9Cs, if the BHC or IHC has not filed an FR Y–9C for each of the most recent four quarters. Reporting is required as of the first day of the quarter immediately following the quarter in which it meets this asset threshold, unless otherwise directed by the Federal Reserve.

Estimated annual reporting hours: FR Y–14A: Summary, 94,576 hours; Macro scenario, 2,852 hours; Operational Risk, 552 hours; Regulatory capital transitions; 1,058 hours, Regulatory capital instruments, 920 hours. FR Y–14Q: Securities, 2,208 hours; Retail, 2,944 hours, Pre-provision net revenue (PPNR), 130,824 hours; Corporate loans, 12,144 hours; CRE, 11,868; Trading, 169,488 hours; Regulatory capital transitions, 4,232 hours; Regulatory capital instruments, 7,360 hours; Operational risk, 9,200 hours; Mortgage Servicing Rights (MSR) Valuation, 2,400 hours; Supplemental, 736 hours; and Retail Fair Value Option/Held for Sale (Retail FVO/HFS), 2,240 hours; CCR, 40,656 hours; and Balances, 2,944 hours. FR Y–14M: 1st lien mortgage, 250,920 hours; Home equity, 244,800 hours; and Credit card, 189,720 hours. FR Y–14 On-going automation revisions, 15,840 hours. FR Y–14 implementation, 93,600 hours.

Estimated average hours per response: FR Y–14A: Summary, 1,028 hours; Macro scenario, 31 hours; Operational Risk, 12 hours; Regulatory capital transitions, 23 hours; Regulatory capital instruments, 20 hours. FR Y–14Q: Securities, 12 hours; Retail, 16 hours; PPNR, 711 hours; Corporate loans, 69 hours; CRE, 69 hours; Trading, 1,926 hours; Regulatory capital transitions, 23 hours; Regulatory capital instruments, 40 hours; Operational risk, 50 hours; MSR Valuation, 24 hours; Supplemental, 4 hours; and Retail FVO/HFS, 16 hours; CCR, 508 hours; and Balances, 16 hours. FR Y–14M: 1st lien mortgage, 510 hours; Home equity, 510 hours; and Credit card, 510 hours. FR Y–14 On-Going automation revisions, 480 hours. FR Y–14 Implementation, 7,200 hours.

Number of respondents: 46.

General description of report: This collection of information is mandatory pursuant to section 5(c) of the BHC Act (12 U.S.C. 1844(c)), section 165 of the Dodd-Frank Act (12 U.S.C. 5365), and section 252.153(b)(2) of Regulation YY (12 CFR 252.153(b)(2)).

As these data are collected as part of the supervisory process, they are subject to confidential treatment under exemption 8 of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(8)). In addition, commercial and financial information contained in these information collections may be exempt from disclosure under exemption 4 of FOIA (5 U.S.C. 552(b)(4)), if disclosure would likely have the effect of (1) impairing the government's ability to obtain the necessary information in the future, or (2) causing substantial harm to the competitive position of the respondent. Such exemptions would be made on a case-by-case basis.

Abstract: The data collected through the FR Y–14A/Q/M schedules provide the Federal Reserve with the additional information and perspective needed to help ensure that large BHCs have strong, firm-wide risk measurement and management processes supporting their internal assessments of capital adequacy and that their capital resources are sufficient given their business focus, activities, and resulting risk exposures. The annual Comprehensive Capital Analysis and Review (CCAR) exercise is also complemented by other Federal Reserve supervisory efforts aimed at enhancing the continued viability of large BHCs, including continuous monitoring of BHCs' planning and management of liquidity and funding resources and regular assessments of credit, market and operational risks, and associated risk management practices. Information gathered in this data collection is also used in the supervision and regulation of these financial institutions. In order to fully evaluate the data submissions, the Federal Reserve may conduct follow up discussions with or request responses to follow up questions from respondents, as needed.

The Capital Assessments and Stress Testing information collection consists of the FR Y–14A, Q, and M reports. The semi-annual FR Y–14A collects information on the stress tests conducted by BHCs, including quantitative projections of balance sheet, income, losses, and capital across a range of macroeconomic scenarios, and qualitative information on methodologies used to develop internal projections of capital across scenarios.[3] The quarterly FR Y–14Q and the monthly FR Y–14M are used to support supervisory stress test models and for continuous monitoring efforts. The quarterly FR Y–14Q collects granular data on BHCs' various asset classes, including loans, securities and trading assets, and PPNR for the reporting period. The monthly FR Y–14M comprises three retail loan- and portfolio-level collections, and one detailed address matching collection to supplement two of the portfolio and loan-level collections.

6. *Report title:* Banking Organization System Risk Report.

Agency form number: FR Y–15.

OMB control number: 7100–0352.

Frequency: Quarterly.

Reporters: U.S. intermediate holding companies (IHCs) and BHCs with total consolidated assets of $50 billion or more, and any U.S.-based organizations identified as global systemically important banks (GSIBs) that do not otherwise meet the consolidated assets threshold for BHCs.

Estimated annual reporting hours: Initial: 4,000 hours; Ongoing: 60,952 hours.

[3] BHCs that must re-submit their capital plan generally also must provide a revised FR Y–14A in connection with their resubmission.

Estimated average hours per response: Initial: 1,000 hours; Ongoing 401 hours.

Number of respondents: 38.

General description of report: This collection of information is mandatory pursuant to section 5(c) of the BHC Act (12 U.S.C. 1844(c)), section 10 of HOLA (12 U.S.C. 1467a(b), sections 8(a) and 13(a) of the International Banking Act (IBA) (12 U.S.C. 3106 and 3108(a)), sections 163 and 165 of the Dodd-Frank Act (12 U.S.C. 5363, 5365), section 604 of the Dodd-Frank Act, which amended section 5(c) of the BHC Act (12 U.S.C. 1844(c)), and section 252.153(b)(2) of Regulation YY (12 CFR 252.153(b)(2)). Except for those items subject to a delayed release, the individual data items collected on the FR Y–15 will be made available to the public for report dates beginning December 31, 2013. Though confidential treatment will not be routinely given to the financial data collected on the FR Y–15, respondents may request such treatment for any information that they believe is subject to an exemption from disclosure pursuant to sections (b)(4), (b)(6), or (b)(8) of FOIA (5 U.S.C. 522(b)(4), (b)(6), and (b)(8)).

Abstract: The FR Y–15 annual report collects systemic risk data from U.S. BHCs with total consolidated assets of $50 billion or more, and any U.S.-based organizations identified as GSIBs that do not otherwise meet the consolidated assets threshold for BHCs. The Federal Reserve uses the FR Y–15 data primarily to monitor, on an ongoing basis, the systemic risk profile of the institutions that are subject to enhanced prudential standards under section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (DFA).

7. *Report title:* Recordkeeping and Reporting Requirements Associated with Regulation Y (Capital Plans)

Agency form number: Reg Y–13.

OMB control number: 7100–0342.

Frequency: Annually.

Reporters: BHCs and IHCs.

Estimated annual reporting hours: Annual capital planning recordkeeping (225.8(e)(1)(i)), 774,800 hours; annual capital planning reporting (225.8(e)(1)(ii)), 5,200 hours; annual capital planning recordkeeping (225.8(e)(1)(iii)), 6,500 hours; data collections reporting ((225.8(e)(3)(i)–(vi)), 65,325 hours; data collections reporting (225.8(e)(4)), 2,300 hours; review of capital plans by the Federal Reserve reporting (225.8(f)(3)(i)), 240 hours; prior approval request requirements reporting (225.8(g)(1), (3), & (4)), 3,900 hours; prior approval request requirements exceptions (225.8(g)(3)(iii)(A)), 240 hours; prior approval request requirements reports (225.8(g)(6)), 240 hours.

Estimated average hours per response: Annual capital planning recordkeeping (225.8(e)(1)(i)), 11,920 hours; annual capital planning reporting (225.8(e)(1)(ii)), 80 hours; annual capital planning recordkeeping (225.8(e)(1)(iii)), 100 hours; data collections reporting ((225.8(e)(3)(i)–(vi)), 1,005 hours; data collections reporting (225.8(e)(4)), 100 hours; review of capital plans by the Federal Reserve reporting (225.8(f)(3)(i)), 16 hours; prior approval request requirements reporting (225.8(g)(1), (3), & (4)), 100 hours; prior approval request requirements exceptions (225.8(g)(3)(iii)(A)), 16 hours; prior approval request requirements reports (225.8(g)(6)), 16 hours.

Number of respondents: 65.

General description of report: This information collection is mandatory pursuant to sections 616(a) of the Dodd Frank Act, which amended section 5(b) of the BHC Act (12 U.S.C. 1844(b)), section 165 of the Dodd-Frank Act (12 U.S.C. 5365), section 5(c) of the BHC Act (12 U.S.C. 1844(c)), and section 252.153(b)(2) of Regulation YY (12 CFR 252.153(b)(2)). The capital plan information submitted by the covered BHC will consist of confidential and proprietary modeling information and highly sensitive business plans, such as acquisition plans submitted to the Federal Reserve for approval. Therefore, it appears the information will be subject to withholding under exemption 4 of the Freedom of Information Act (5 U.S.C. 552(b)(4)).

Abstract: Regulation Y (12 CFR part 225) requires large bank holding companies (BHCs) to submit capital plans to the Federal Reserve on an annual basis and to require such BHCs to request prior approval from the Federal Reserve under certain circumstances before making a capital distribution.[4]

8. *Report title:* Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations, the Abbreviated Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations, and the Capital and Asset Report for Foreign Banking Organizations.

Agency form number: FR Y–6; FR Y–7; FR Y–10; FR Y–10E.

OMB control number: 7100–0297.

Frequency: FR Y–6: Annual; FR Y–7: Annual; FR Y–10: Event-generated; FR Y–10E: Event-generated.

Reporters: Bank holding companies (BHCs), U.S. intermediate holding companies (IHCs), and savings and loan holding companies (SLHCs) (collectively, holding companies), securities holding companies, foreign banking organizations (FBOs), state member banks unaffiliated with a BHC, Edge Act and agreement corporations, and nationally chartered banks that are not controlled by a BHC (with regard to their foreign investments only).

Estimated annual reporting hours: FR Y–6 initial: 130 hours; FR Y–6 ongoing: 26,549 hours; FR Y–7: 972 hours; FR Y–10 initial: 530 hours; FR Y–10 ongoing: 39,735 hours; FR Y–10E: 2,649 hours.

Estimated average hours per response: FR Y–6 initial: 10 hours; FR Y–6 ongoing: 5.5 hours; FR Y–7: 4 hours; FR Y–10 initial: 1 hour; FR Y–10 ongoing: 2.5 hours; FR Y–10E: 0.5 hours.

Number of respondents: FR Y–6 initial: 13; FR Y–6 ongoing: 4,827; FR Y–7: 243; FR Y–10 initial: 530; FR Y–10 ongoing: 5,298; FR Y–10E: 5,298.

General description of report: These information collections are mandatory as follows:

FR Y–6: Section 5(c) of the BHC Act (12 U.S.C. 1844(c)); sections 8(a) and 13(a) of the IBA (12 U.S.C. 3106 and 3108(a)); sections 11(a)(1), 25, and 25A of the Federal Reserve Act (FRA) (12 U.S.C. 248(a), 602, and 611a); and sections 113, 312, 618, and 809 of the Dodd-Frank Act (12 U.S.C. 5361, 5412, 1850a(c)(1), and 5468(b)(1)), section 165 of the Dodd-Frank Act (12 U.S.C. 5365), and section 252.153(b)(2) of Regulation YY (12 CFR 252.153(b)(2)).

FR Y–7: Sections 8(a) and 13(a) of the IBA (12 U.S.C. 3106(a) and 3108(a)) and sections 113, 312, 618, and 809 of the Dodd-Frank Act (12 U.S.C. 5361, 5412, 1850a(c)(1), and 5468(b)(1), respectively).

FR Y–10 and FR Y–10E: Sections 4(k) and 5(c)(1)(A) of the BHC Act (12 U.S.C. 1843(k), 1844(c)(1)(A)), section 8(a) of the IBA (12 U.S.C. 3106(a)), sections 11(a)(1), 25(7), and 25A of the Federal Reserve Act (12 U.S.C. 248(a)(1), 321, 601, 602, 611a, 615, and 625), and sections 113, 312, 618, and 809 of the Dodd-Frank Act (12 U.S.C. 5361, 5412, 1850a(c)(1), and 5468(b)(1), respectively).

The data collected in the FR Y–6, FR Y–7, FR Y–10, and FR Y–10E are not considered confidential. With regard to information that a banking organization may deem confidential, the institution may request confidential treatment of such information under one or more of the exemptions in the Freedom of Information Act (FOIA) (5 U.S.C. 552). The most likely case for confidential treatment will be based on FOIA exemption 4, which permits an agency to exempt from disclosure ''trade secrets

[4] Public Law 111–203, 124 Stat. 1376 (2010).

and commercial or financial information obtained from a person and privileged and confidential,'' (5 U.S.C. 552(b)(4)). To the extent an institution can establish the potential for substantial competitive harm, such information would be protected from disclosure under the standards set forth in *National Parks & Conservation Association* v. *Morton,* 498 F.2d 765 (D.C. Cir. 1974). Exemption 6 of FOIA might also apply with regard to the respondents' submission of non-public personal information of owners, shareholders, directors, officers and employees of respondents. Exemption 6 covers ''personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy,'' (5 U.S.C. 552(b)(6)). All requests for confidential treatment would need to be reviewed on a case-by-case basis and in response to a specific request for disclosure.

Abstract: The FR Y–6 is an annual information collection submitted by top-tier holding companies and non-qualifying FBOs. It collects financial data, an organization chart, verification of domestic branch data, and information about shareholders. The Federal Reserve uses the data to monitor holding company operations and determine holding company compliance with the provisions of the BHC Act, Regulation Y (12 CFR 225), the Home Owners' Loan Act (HOLA), and Regulation LL (12 CFR 238).

The FR Y–7 is an annual information collection submitted by qualifying FBOs to update their financial and organizational information with the Federal Reserve. The FR Y–7 collects financial, organizational, and managerial information. The Federal Reserve uses information to assess an FBO's ability to be a continuing source of strength to its U.S. operations, and to determine compliance with U.S. laws and regulations.

The FR Y–10 is an event-generated information collection submitted by FBOs; top-tier holding companies; security holding companies as authorized under Section 618 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (12 U.S.C. 1850a(c)(1)); state member banks unaffiliated with a BHC; Edge Act and agreement corporations that are not controlled by a member bank, a domestic BHC, or a FBO; and nationally chartered banks that are not controlled by a BHC (with regard to their foreign investments only) to capture changes in their regulated investments and activities. The Federal Reserve uses the data to monitor structure information on subsidiaries and regulated investments of these entities engaged in banking and nonbanking activities. The FR Y–10E is a free-form supplement that may be used to collect additional structural information deemed to be critical and needed in an expedited manner.

9. *Report title:* Risk Based Capital Standards: Advanced Capital Adequacy Framework.

Agency form number: FR 4200.

OMB control number: 7100–0313.

Frequency: On occasion.

Reporters: National banks, state member banks, Federal savings associations, U.S. intermediate holding companies (IHCs), and top-tier bank holding companies and savings and loan holding companies domiciled in the United States not subject to the Federal Reserve's Small Bank Holding Company Policy Statement (12 CFR part 225, appendix C)), except certain savings and loan holding companies that are substantially engaged in insurance underwriting or commercial activities.

Estimated annual reporting hours: Minimum capital ratios ongoing recordkeeping: 22,896 hours; standardized approach ongoing recordkeeping: 28,620 hours; standardized approach one-time recordkeeping: 174,582 hours; standardized approach ongoing disclosure: 3,281 hours; standardized approach one-time disclosure: 5,656 hours; advanced approach ongoing recordkeeping: 2,482 hours; advanced approach one-time recordkeeping: 7,140 hours; advanced approach ongoing disclosure: 595 hours; advanced approach one-time disclosure: 4,760 hours; disclosure table 13: 500 hours.

Estimated average hours per response: Minimum capital ratios ongoing recordkeeping: 16 hours; standardized approach ongoing recordkeeping: 20 hours; standardized approach one-time recordkeeping: 122 hours; standardized approach ongoing disclosure: 131.25 hours; standardized approach one-time disclosure: 226.25 hours; advanced approach ongoing recordkeeping: 146 hours; advanced approach one-time recordkeeping: 420 hours; advanced approach ongoing disclosure: 35 hours; advanced approach one-time disclosure: 280 hours; disclosure table 13: 5 hours.

Number of respondents: 1,431.

General description of report: This information collection is mandatory pursuant to section 38(o) of the Federal Deposit Insurance Act, (12 U.S.C. 1831o(c)), section 908 of the International Lending Supervision Act of 1983 (12 U.S.C. 3907(a)(1)), the Federal Reserve Act, (12 U.S.C. 324), and section 5(c) of the BHC Act (12 U.S.C. 1844(c)), and section 252.153(b)(2) of Regulation YY (12 CFR 252.153(b)(2)). If a respondent considers the information to be trade secrets and/or privileged such information could be withheld from the public under the authority of the Freedom of Information Act, 5 U.S.C. 552(b)(4). Additionally, to the extent that such information may be contained in an examination report such information maybe also be withheld from the public, 5 U.S.C. 552 (b)(8).

Abstract: The Risk Based Capital Standards: Advanced Capital Adequacy Framework Information Collection (FR 4200) collects information relating to the regulatory capital rule (12 CFR part 217). The regulatory capital rule includes a common equity tier1 minimum risk-based capital requirement, a minimum tier 1 risk-based capital requirement, a minimum total risk-based capital requirement, a minimum leverage ratio of tier 1 capital to average total consolidated assets, and, for banking organizations subject to the advanced approaches risk-based capital rules, a supplementary leverage ratio that incorporates both on- and off-balance sheet exposures. The regulatory capital rule also limits a banking organization's capital distributions and certain discretionary bonus payments to the extent that the banking organization does not hold a specified ''buffer'' of common equity tier 1 capital in addition to the minimum risk-based capital requirements. The FR 4200 information collection requires respondents to: (a) Obtain legal opinions for certain agreements and maintain sufficient written documentation of this legal review, (b) obtain prior written approvals for the use of certain measures or methodologies, (c) maintain policies, procedures, and programs; (d) perform due diligence, perform and document analyses, or make a demonstration to supervisors; (e) develop plans for compliance and notify supervisors of certain changes; and (f) provide certain disclosures regarding their structure, regulatory capital, the risks to which they are subject, and other aspects of their operations. These obligations arise pursuant to sections _.3, _.22, _.35, _.37, _.41, _.42, _.62, _.63, _.121 through _.124, _.132, _.141, _.142, _.153, _.171, and _.173 of the regulatory capital rule (12 CFR part 217). Under most circumstances, IHCs would not be subject to the information collection requirements associated with sections _.62, _.63, _.121 through _.124, _.132, _.141, _.142, _.153, _.171, and _.173 of the regulatory capital rule.

10. *Report title:* Risk-Based Capital Guidelines: Market Risk.

Agency form number: FR 4201.

OMB control number: 7100–0314.

Frequency: On occasion.

Reporters: Banking organization, including U.S. intermediate holding companies (IHCs), with aggregate trading assets and trading liabilities equal to (1) 10 percent or more of quarter-end total assets or (2) $1 billion or more.

Estimated annual reporting hours: Prior written approvals reporting: 28,800 hours; policies and procedures recordkeeping: 2,880 hours; trading and hedging strategy recordkeeping: 480 hours; internal models recordkeeping: 3,840 hours; section 4(b) backtesting and stress testing: 1,920 hours; sections 5(c) and 9(c) backtesting and stress testing: 3,120 hours; securitizations backtesting and stress testing: 14,400 hours; disclosure policy backtesting and stress testing: 1,200 hours; quantitative disclosure: 1,920 hours; qualitative disclosure: 360 hours.

Estimated average hours per response: Prior written approvals reporting: 960 hours; policies and procedures recordkeeping: 96 hours; trading and hedging strategy recordkeeping: 16 hours; internal models recordkeeping: 128 hours; section 4(b) backtesting and stress testing: 16 hours; sections 5(c) and 9(c) backtesting and stress testing: 104 hours; securitizations backtesting and stress testing: 120 hours; disclosure policy backtesting and stress testing: 40 hours; quantitative disclosure: 16 hours; qualitative disclosure: 12 hours.

Number of respondents: 30.

General description of report: This information collection is mandatory pursuant to 12 U.S.C. 324 and 12 U.S.C. 1844(c), section 165 of the Dodd-Frank Act (12 U.S.C. 5365), and section 252.153(b)(2) of Regulation YY (12 CFR 252.153(b)(2)). Information collected pursuant to the reporting requirements of the FR 4201 (specifically, information related to seeking regulatory approval for the use of certain incremental and comprehensive risk models and methodologies under sections 217.208 and 217.209) is exempt from disclosure pursuant to exemption (b)(8) of the Freedom of Information Act (FOIA) (5 U.S.C § 552(b)(8)), and exemption (b)(4) of FOIA (5 U.S.C. 552(b)(4)). Exemption (b)(8) applies because the reported information is contained in or related to examination reports. Exemption (b)(4) applies because the information provided to obtain regulatory approval of the incremental or comprehensive risk models is confidential business information the release of which could cause substantial competitive harm to the reporting company. The recordkeeping requirements of the FR 4201 require banking organizations to maintain documentation regarding certain policies and procedures, trading and hedging strategies, and internal models. These documents would remain on the premises of the banking organizations and accordingly would not generally be subject to a FOIA request. To the extent these documents are provided to the regulators, they would be exempt under exemption (b)(8), and may be exempt under exemption (b)(4). Exemption (b)(4) protects from disclosure ''trade secrets and commercial or financial information obtained from a person and privileged or confidential.'' The disclosure requirements of the FR 4201 do not raise any confidentiality issues because they require banking organizations to make certain disclosures public.

Abstract: The market risk rule is an integral part of the Board's regulatory capital framework. The collection of information permits the Federal Reserve to monitor the market risk profile of banking organizations that it regulates and evaluate the impact and competitive implications of the market risk rule on those banking organizations and the industry as a whole. The collection of information provides the most current statistical data available to identify areas of market risk on which to focus for onsite and offsite examinations and allows the Federal Reserve to assess and monitor the levels and components of each reporting institution's risk-based capital requirements for market risk and the adequacy of the institution's capital under the market risk rule. Finally, the collection of information contained in the market risk rule is necessary to ensure capital adequacy of banking organizations according to their level of market risk and assists banking organizations in implementing and validating the market risk framework.

Current Actions: The Federal Reserve proposes to collect financial information for U.S. Intermediate Holding Companies (IHCs) of foreign banking organizations (FBOs) for the regulatory report forms listed above, beginning with the reporting period ending on September 30, 2016, to implement the enhanced prudential standards for FBOs adopted pursuant to Subparts L, M, N, and O of Regulation YY to indicate and to certify to the Federal Reserve Board their compliance with those requirements.

With regard to the FR Y–14 series of reports, the IHC would be required to complete the FR Y–14 reports in the same manner as a BHC, and would be subject to requirements to report historical data with respect to its U.S. bank and nonbank operations. The reporting instructions provide IHCs with the submission dates for each of the FR Y–14 reports, including the onboarding filing delays that apply to certain schedules, and the requirements for reporting historical data for the FR Y–14Q Retail and PPNR schedules. IHCs will also receive this information in an onboarding memo. The historical data are necessary for the Board to perform a supervisory assessment of the capital plans of IHCs and to conduct supervisory stress tests. The Federal Reserve expects to address requirements for the Market Shock exercise, as they would apply to IHCs with significant trading activity, in a separate proposal.

However, many IHCs may have difficulty reporting historical data prior to formation of the IHC because of the structural reorganizations associated with complying with the IHC requirement. In addition, the ability of IHCs to report historical data may differ because compliance burdens may vary in complexity across IHCs. The Federal Reserve invites comment on the ability of IHCs to report historical data, including, but not limited to

- a description, with supporting detail, of any challenges that IHCs may face in providing historical data;
- specific compliance burdens for IHCs, such as issues related to systems integration or data retention policies; and
- whether an IHC would be able to report historical data if granted an extension of time, and if so, how much additional time would be needed.

Board of Governors of the Federal Reserve System, February 2, 2016.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2016–02230 Filed 2–4–16; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–16–16MM; Docket No. CDC–2016–0019]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of

government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project entitled *Performance Monitoring of ''Working with Publicly Funded Health Centers to Reduce Teen Pregnancy among Youth from Vulnerable Populations.''* CDC seeks to collect information to monitor performance of three awardees working on teen pregnancy prevention project and to determine training and technical assistance needs to address any performance issues.

DATES: Written comments must be received on or before April 5, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0019 by any of the following methods:

Federal eRulemaking Portal: Regulation.gov. Follow the instructions for submitting comments.

Mail: Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to Regulations.gov, including any personal information provided. For access to the docket to read background documents or comments received, go to Regulations.gov.

Please note: All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Performance Monitoring of ''Working with Publicly Funded Health Centers to Reduce Teen Pregnancy among Youth from Vulnerable Populations''—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In 2014, the US rate of 24.2 births per 1,000 women aged 15–19 was the highest of all Western industrialized countries. Access to reproductive health services and the most effective types of contraception have been shown to reduce the likelihood that teens become pregnant. Nevertheless, reviews of recent research and teen pregnancy prevention projects, including a collaborative project implemented by CDC and the HHS Office of Adolescent Health (2010–2015), demonstrate that many health centers serving adolescents do not engage in youth-friendly best practices that may enhance access to care and to the most effective types of contraception. Furthermore, youth at highest risk of experiencing a teen pregnancy are often not connected to the reproductive health care that they need, even when they are part of a population that is known to be at high risk for a teen pregnancy. Significant racial, ethnic and geographic disparities in teen birth rates persist and continue to be a focus of public health efforts.

To address these challenges, CDC is providing funding to three organizations to strengthen partnerships and processes that improve reproductive health services for teens. CDC's awardees will work with approximately 35 publicly funded health centers to implement organizational changes and provider training based on best practices in adolescent reproductive health care. In addition, awardees will work with approximately 30 youth-serving organizations (YSO) to provide staff training and develop systematic approaches to identifying youth who are at risk for a teen pregnancy and referring those youth to reproductive health care services. Finally, awardees will develop communication campaigns that increase awareness of the partner health centers' services for teens. Activities are expected to result in changes to health center and YSO partners' policies, to staff practices, and to youth health care seeking and teen pregnancy prevention behaviors.

Although similar activities have been implemented in a variety of teen pregnancy prevention projects, the proposed combination of efforts, and the incorporation of youth-friendly best practices, have not been previously implemented or evaluated. CDC therefore plans to collect information needed to assess these efforts. Information will be collected from the CDC awardees, the health center and YSO partner organizations, and the youth served by the health center partner organizations. CDC will use the information to determine the types of training and technical assistance that are needed, to monitor whether awardees meet objectives related to health center and YSO partners' policies and staff practices, to support a data-driven quality improvement process for adolescent sexual and reproductive health care services and referrals, and to assess whether the project model was effective in increasing the utilization of services by youth.

OMB approval is requested for three years. Participation in the organizational

assessment activities is required for awardees and partner organizations. Participation in the Health Center Youth Survey is voluntary for youth and will not involve the collection of identifiable personal information. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
Awardee	Training and Technical Assistance Tool	3	12	2	72
	Quarterly Performance Measure Reporting Tool.	3	3	2	18
	Annual Performance Measure Reporting Tool.	3	1	6	18
Health Center Project Coordinator	Quarterly Performance Measure Reporting Tool.	35	3	2	210
	Annual Performance Measure Reporting Tool.	35	1	4	140
	Health Center Organizational Assessment.	35	1	2	70
Health Center Providers	Health Center Provider Survey	175	1	30/60	88
Youth	Health Center Youth Survey	1,750	1	15/60	438
YSO Project Coordinator	Quarterly Performance Measure Reporting Tool.	30	3	1	90
	Annual Performance Measure Reporting Tool.	30	1	75/60	38
	Youth Serving Organization (YSO) Organizational Assessment.	30	1	1	30
YSO Staff	YSO Staff Survey	450	1	30/60	225
Total					1,437

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–02173 Filed 2–4–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–16–0980; Docket No. CDC–2016–0018]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on the proposed revision of the information collection project entitled *National Environmental Assessment Reporting System (NEARS),* formerly known as the *National Voluntary Environmental Assessment Information System (NVEAIS).* The NEARS collects data on foodborne illness outbreaks and environmental assessments routinely conducted by food safety programs during outbreak investigations.

DATES: Written comments must be received on or before April 5, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0018 by any of the following methods:

- *Federal eRulemaking Portal:* Regulation.gov. Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov.*

Please note: *All public comment should be submitted through the Federal eRulemaking portal* (Regulations.gov) *or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information

is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

National Environmental Assessment Reporting System (NEARS), formerly the National Voluntary Environmental Assessment Information System (NVEAIS; OMB Control No. 0920–0980; expiration date 08/31/2016)—Revision—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Since 2014, environmental factor data associated with foodborne outbreaks have been reported to the National Voluntary Environmental Assessment Information System (NVEAIS). CDC intends to seek a three-year Office of Management and Budget (OMB) approval to revise the NVEAIS, hereafter referred to as the National Environmental Assessment Reporting System (NEARS). In 2015, it was recommended that NVEAIS be renamed as NEARS. This name change will be an enhancement of the current surveillance system and was recommended by CDC leadership, and other food safety partners who desired to simplify and improve the name.

The goal of NEARS remains to collect data on foodborne illness outbreaks and environmental assessments routinely conducted by local, state, federal, territorial, or tribal food safety programs during outbreak investigations. The data reported through this surveillance system provides timely data on the causes of outbreaks, including environmental factors associated with outbreaks, which are essential to environmental public health regulators' efforts to respond more effectively to outbreaks and prevent future, similar outbreaks.

NEARS was developed by the Environmental Health Specialists Network (EHS–Net), a collaborative network of CDC, the U.S. Food and Drug Administration (FDA), the U.S. Department of Agriculture (USDA), and local, state, territorial, and tribal food safety programs. NEARS is designed to link to CDC's National Outbreak Reporting System (NORS, under the National Disease Surveillance Program II—Disease Summaries; OMB Control No. 0920–0004; expiration date 10/31/2017), a disease outbreak surveillance system for enteric diseases transmitted by food.

When linked, NEARS and NORS data provide opportunities to strengthen the robustness of outbreak data reported to CDC. The foodborne outbreak environmental assessment data reported to NEARS will be used to characterize data on food vehicles and monitor trends; identify contributing factors and their environmental antecedents; generate hypotheses, guide planning, and implementation; evaluate food safety programs, and ultimately assist to prevent future outbreaks. Collectively, these data play a vital role in improving the food safety system, strengthening the robustness of outbreak data reported to CDC.

The first type of NEARS respondent is food safety program officials. Although not a requirement, food safety program personnel participating in NEARS will be encouraged to take two trainings: NEARS food safety program personnel training and NEARS e-learning. The former will train food safety personnel on identifying environmental factors, logging in and entering data into the web-based NEARS data entry system, and troubleshooting problems. The latter is an e-Learning course on how to use a systems approach in foodborne illness outbreak environmental assessments. It is suggested that respondents take this training one time, for a total of 10 hours.

Next, for each outbreak, one official from each participating program will spend about one hour to make establishment observations, 30 minutes to record environmental assessment data and 30 minutes to report environmental assessment data into the NEARS web-based system. Officials will not report on their programs or personnel. Food safety programs are typically located in public health or agriculture agencies. There are approximately 3,000 such agencies in the United States.

It is not possible to determine exactly how many outbreaks will occur in the future, nor where they will occur. However, based on existing data, we estimate a maximum of 1,400 foodborne illness outbreaks will occur annually. Only programs in the jurisdictions in which these outbreaks occur would voluntarily report to NEARS. Thus, not every program will respond every year. We assume each outbreak will occur in a different jurisdiction.

The second type of NEARS respondent is managers of retail establishments. The manager interview will be conducted at each establishment associated with an outbreak. Most outbreaks are associated with only one establishment. We estimate that a maximum average of four managers at each establishment will be interviewed per outbreak. Each interview will take about 20 minutes.

The total estimated annual burden is 20,067 hours, an increase of 14,000 hours over the previously approved 6,067. This increase in requested burden hours is due to the addition of the NEARS e-learning training opportunity. There is no cost to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Food safety program personnel	NEARS Food Safety Program Training	1,400	1	2	2,800
	NEARS e-Learning (screenshots)	1,400	1	10	14,000

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
	NEARS Data Recording (paper form)	1,400	1	30/60	700
	NEARS Data Reporting (web entry)	1,400	1	30/60	700
Retail food personnel	NEARS Manager Interview	5,600	1	20/60	1,867
Total					20,067

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–02175 Filed 2–4–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–16–0106; Docket No. CDC–2016–0017]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed revision of the information collection project entitled ''*Preventive Health and Health Services Block Grant*''.

DATES: Written comments must be received on or before April 5, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0017 by any of the following methods:

- *Federal eRulemaking Portal:* Regulation.gov. Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to Regulations.gov, including any personal information provided. For access to the docket to read background documents or comments received, go to Regulations.gov.

Please note: *All public comment should be submitted through the Federal eRulemaking portal* (Regulations.gov) *or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Preventive Health and Health Services Block Grant (OMB Control No. 0920–0106, exp. 8/31/2016)—Revision—Office for State, Tribal, Local and Territorial Support (OSTLTS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The management of the Preventive Health and Health Services (PHHS) Block Grant program has transitioned from the National Center for Chronic Disease Prevention and Health Promotion to the Office for State, Tribal, Local and Territorial Support (OSTLTS). The Program continues to provide awardees with a source of flexible funding for health promotion and disease prevention programs. Currently, 61 awardees (50 states, the District of Columbia, two American Indian Tribes, and eight U.S. territories) receive Block Grants to address locally-defined public health needs in innovative ways. Block Grants allow awardees to prioritize the use of funds and to fill funding gaps in programs that deal with the leading causes of death and disability. Block

Grant funding also provides awardees with the ability to respond rapidly to emerging health issues, including outbreaks of diseases or pathogens. The PHHS Block Grant program is authorized by sections 1901–1907 of the Public Health Service Act.

CDC currently collects information from Block Grant awardees to monitor their objectives and activities (Preventive Health and Health Services Block Grant, OMB No. 0920–0106, exp. 8/31/2016). Each awardee is required to submit an annual application for funding (Work Plan) that describes its objectives and the populations to be addressed, and an Annual Report that describes activities, progress toward objectives, and Success Stories which highlight the improvements Block Grant programs have made and the value of program activities. Information is submitted electronically through the web-based Block Grant Information Management System (BGMIS).

CDC PHHS Block Grant program has benefited from this system by efficiently collecting mandated information in a format that allows data to be easily retrieved in standardized reports. The electronic format verifies completeness of data at data entry prior to submission to CDC, reducing the number of re-submissions that are required to provide concise and complete information.

The Work Plan and Annual Report are designed to help Block Grant awardees attain their goals and to meet reporting requirements specified in the program's authorizing legislation. Each Work Plan objective is defined in SMART format (Specific, Measurable, Achievable, Realistic and Time-based), and includes a specified start date and end date. Block Grant activities adhere to the Healthy People (HP) framework established by the Department of Health and Human Services (HHS). The current version of the BGMIS associates each awardee-defined activity with a specific HP National Objective, and identifies the location where funds are applied. Although there are no substantive changes to the information collected (Attachment 4A), the Work Plan guidance document for users (Attachments 4B) has been updated to improve their usability and the clarity of instructions provided to BGMIS users. These changes are summarized in Attachments 4C.

There are no changes to the number of Block Grant awardees (respondents), or the estimated burden per response for the Work Plan or the Annual Report. At this time, the BGMIS does not collect data related to performance measures, but a future information collection request may outline additional reporting requirements related to performance measures.

The PHHS Block Grant program must continue to collect data in order to remain in compliance with legislative mandates. The system allows CDC and Grantees to measure performance, identifying the extent to which objectives were met and identifying the most highly successful program interventions. CDC requests OMB approval to continue the Block Grant information collection for three years. CDC will continue to use the BGMIS to monitor awardee progress, identify activities and personnel supported with Block Grant funding, conduct compliance reviews of Block Grant awardees, and promote the use of evidence-based guidelines and interventions. There are no changes to the number of respondents or the estimated annual burden per respondent. The Work Plan and the Annual Report will be submitted annually. The estimated burden per response for the Work Plan is 20 hours and the estimated burden per response for the Annual Report is 15 hours.

Participation in this information collection is required for Block Grant awardees. There are no costs to respondents other than their time. Awardees continue to submit Success Stories with their Annual Progress reports through BGMIS, without changes.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Block Grant Awardees	Work Plan	61	1	20	1,220
	Annual Report	61	1	15	915
Total					2,135

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–02174 Filed 2–4–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10406 and CMS–10599]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality,

utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by April 5, 2016.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10406 Medicare Probable Fraud Measurement Pilot; CMS–10599 Medicare Prior Authorization of Home Health Services Demonstration

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Probable Fraud Measurement Pilot; *Use:* The Centers for Medicare & Medicaid Services (CMS) is seeking Office of Management and Budget (OMB) approval of the collections required for a probable fraud measurement pilot. The probable fraud measurement pilot would establish a baseline estimate of probable fraud in payments for home health care services in the fee-for-service Medicare program. CMS and its agents will collect information from home health agencies, the referring physicians and Medicare beneficiaries selected in a national random sample of home health claims. The pilot will rely on the information collected along with a summary of the service history of the HHA, the referring provider, and the beneficiary to estimate the percentage of total payments that are associated with probable fraud and the percentage of all claims that are associated with probable fraud for Medicare fee-for-service home health. *Form Number:* CMS–10406 (OMB Control Number 0938–1192); *Frequency:* Annually; *Affected Public:* Individual and Private Sector (Business or other for-profits); *Number of Respondents:* 6,000; *Total Annual Responses:* 6,000; *Total Annual Hours:* 7,500. (For policy questions regarding this collection contact Cecelia Franco at (786) 313–0737).

2. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Medicare Prior Authorization of Home Health Services Demonstration; *Use:* Section 402(a)(1)(J) of the Social Security Amendments of 1967 (42 U.S.C. 1395b–1(a)(1)(J)) authorizes the Secretary to ''develop or demonstrate improved methods for the investigation and prosecution of fraud in the provision of care or services under the health programs established by the Social Security Act (the Act).'' In accordance with this authority, we seek to develop and implement a Medicare demonstration project, which we believe will help assist in developing improved procedures for the identification, investigation, and prosecution of Medicare fraud occurring among HHAs providing services to Medicare beneficiaries.

This demonstration would help assure that payments for home health services are appropriate before the claims are paid, thereby preventing fraud, waste, and abuse. As part of this demonstration, we propose performing prior authorization before processing claims for home health services in: Florida, Texas, Illinois, Michigan, and Massachusetts. We would establish a prior authorization procedure that is similar to the Prior Authorization of Power Mobility Device (PMD) Demonstration, which was implemented by CMS in 2012. This demonstration would also follow and adopt prior authorization processes that currently exist in other health care programs such as TRICARE, certain state Medicaid programs, and in private insurance.

The information required under this collection is requested by Medicare contractors to determine proper payment or if there is a suspicion of fraud. Medicare contractors will request the information from HHA providers submitting claims for payment from the Medicare program in advance to determine appropriate payment. *Form Number:* CMS–10599 (OMB Control Number: 0938–NEW); *Frequency:* Occasionally; *Affected Public:* Private sector (Business or other for-profits and Not-for-profits); *Number of Respondents:* 908,740; *Number of Responses:* 1; *Total Annual Hours:* 454,370. (For questions regarding this collection contact Carla David (410) 786–4799.)

Dated: February 2, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–02277 Filed 2–4–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10596, CMS–906, CMS–1771, CMS–1450, CMS–1500 (02–12)]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by April 5, 2016.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions:

OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR*, Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Reapplication Submission Requirement for Qualified Entities under ACA Section 10332; *Use:* Section 10332 of the Patient Protection and Affordable Care Act (ACA) requires the Secretary to make standardized extracts of Medicare claims data under Parts A, B, and D available to ''qualified entities'' for the evaluation of the performance of providers of services and suppliers. The statute provides the Secretary with discretion to establish criteria to determine whether an entity is qualified to use claims data to evaluate the performance of providers of services and suppliers. After consideration of comments from a wide variety of stakeholders during the public comment period, CMS established ''Medicare Program; Availability of Medicare Data for Performance Measurement'' (hereinafter called the Final Rule and referred to as the Medicare Data Sharing Program). It was published in the **Federal Register** on December 7, 2011 (42 CFR, Part 401, Subpart G). To implement the requirements outlined in the legislation, the Centers for Medicare and Medicaid Services (CMS) established the Qualified Entity Certification Program (QECP). The Qualified Entity Certification Program (QECP) was established to implement the Final Rule. One of the requirements in the Final Rule is that QEs must reapply for certification six months prior to the end of their 3-year certification period to remain in good standing. This form is the official reapplication that QEs must complete to reapply to the QECP. *Form Number:* CMS–10596 (OMB Control Number: 0938—New); *Frequency:* Occasionally; *Affected Public:* Private sector (Business or other for-profit and Not-for-profit institutions); *Number of Respondents:* 10; *Total Annual Responses:* 10; *Total Annual Hours:* 1,200. (For policy questions regarding this collection contact Kari Gaare at 410–786–8612.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* The Fiscal Soundness Reporting Requirements; *Use:* The CMS is assigned responsibility for overseeing all Medicare Advantage Organizations (MAOs), Prescription Drug Plan (PDP) sponsors and PACE organizations on-going financial performance. Specifically, CMS needs the requested collection of information to establish that contracting entities within those programs maintain fiscally sound organizations and thereby remain a going concern. All contracting organizations must submit annual independently audited financial statements one time per year. The MAOs with a negative net worth and/or a net loss and the amount of that loss is greater than one-half of the organization's total net worth must file three quarterly financial statements. Currently, there are approximately 71 MAOs filing quarterly financial statements. Part D organizations must also 3 quarterly financial statements. The PACE organizations are required to file 4 quarterly financial statements for the first three years in the program as well as PACE organizations with a negative net worth and/or a net loss and the amount of that loss is greater than one-half of the organization's total net worth. *Form Number:* CMS–906 (OMB control number: 0938–0469); *Frequency:* Annually; *Affected Public:* Business or other for-profits; *Number of Respondents:* 815; *Total Annual Responses:* 1,518; *Total Annual Hours:* 506. (For policy questions regarding this collection contact Geralyn Glenn at 410–786–0973.)

3. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:*

Emergency and Foreign Hospital Services; *Use:* Section 1866 of the Social Security Act states that any provider of services shall be qualified to participate in the Medicare program and shall be eligible for payments under Medicare if it files an agreement with the Secretary to meet the conditions outlined in this section of the Act. Section 1814 (d)(1) of the Social Security Act and 42 CFR 424.100, allows payment of Medicare benefits for a Medicare beneficiary to a nonparticipating hospital that does not have an agreement in effect with the Centers for Medicare and Medicaid Services. These payments can be made if such services were emergency services and if CMS would be required to make the payment if the hospital had an agreement in effect and met the conditions of payment. This form is used in connection with claims for emergency hospital services provided by hospitals that do not have an agreement in effect under Section 1866 of the Social Security Act. As specified in 42 CFR 424.103(b), before a non-participating hospital may be paid for emergency services rendered to a Medicare beneficiary, a statement must be submitted that is sufficiently comprehensive to support that an emergency existed. Form CMS–1771 contains a series of questions relating to the medical necessity of the emergency. The attending physician must attest that the hospitalization was required under the regulatory emergency definition and give clinical documentation to support the claim. A photocopy of the beneficiary's hospital records may be used in lieu of the CMS–1771 if the records contain all the information required by the form. *Form Number:* CMS–1771 (OMB control number: 0938–0023); *Frequency:* Annually; *Affected Public:* Private sector (Business or other for-profits and Not-for-profit institutions); *Number of Respondents:* 100; *Total Annual Responses:* 200; *Total Annual Hours:* 50. (For policy questions regarding this collection contact Shauntari Cheely at 410–786–1818.)

4. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Uniform Institutional Provider Bill and Supporting Regulations in 42 CFR 424.5; *Use:* Section 42 CFR 424.5(a)(5) requires providers of services to submit a claim for payment prior to any Medicare reimbursement. Charges billed are coded by revenue codes. The bill specifies diagnoses according to the International Classification of Diseases, Ninth Edition (ICD–9–CM) code. Inpatient procedures are identified by ICD–9–CM codes, and outpatient procedures are described using the CMS Common Procedure Coding System (HCPCS). These are standard systems of identification for all major health insurance claims payers. Submission of information on the CMS–1450 permits Medicare intermediaries to receive consistent data for proper payment. *Form Numbers:* CMS–1450 (UB–04) (OMB control number: 0938–0997); *Frequency:* On occasion; *Affected Public:* Private sector (Business or other for-profit and Not-for-profit institutions); *Number of Respondents:* 53,111; *Total Annual Responses:* 181,909,654; *Total Annual Hours:* 1,567,455. (For policy questions regarding this collection contact Matt Klischer at 410–786–7488.)

5. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Health Insurance Common Claims Form and Supporting Regulations at 42 CFR part 424, subpart C; *Use:* The Form CMS–1500 answers the needs of many health insurers. It is the basic form prescribed by CMS for the Medicare program for claims from physicians and suppliers. The Medicaid State Agencies, CHAMPUS/TriCare, Blue Cross/Blue Shield Plans, the Federal Employees Health Benefit Plan, and several private health plans also use it; it is the de facto standard ''professional'' claim form. Medicare carriers use the data collected on the CMS–1500 and the CMS–1490S to determine the proper amount of reimbursement for Part B medical and other health services (as listed in section 1861(s) of the Social Security Act) provided by physicians and suppliers to beneficiaries. The CMS–1500 is submitted by physicians/suppliers for all Part B Medicare. Serving as a common claim form, the CMS–1500 can be used by other third-party payers (commercial and nonprofit health insurers) and other Federal programs (*e.g.,* CHAMPUS/TriCare, Railroad Retirement Board (RRB), and Medicaid). However, as the CMS–1500 displays data items required for other third-party payers in addition to Medicare, the form is considered too complex for use by beneficiaries when they file their own claims. Therefore, the CMS–1490S (Patient's Request for Medicare Payment) was explicitly developed for easy use by beneficiaries who file their own claims. The form can be obtained from any Social Security office or Medicare carrier. *Form Number:* CMS–1500(02–12), CMS–1490S (OMB control number: 0938–1197) *Frequency:* On occasion; *Affected Public:* State, Local, or Tribal Governments, Private sector (Business or other-for-profit and Not-for-profit institutions); *Number of Respondents:* 1,448,346; *Total Annual Responses:* 988,005,045; *Total Annual Hours:* 21,418,336. (For policy questions regarding this collection contact Shannon Seales at 410–786–4089.)

Dated: February 2, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–02278 Filed 2–4–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by Section 2112(b)(2) of the Public Health Service (PHS) Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact the Clerk, United States Court of Federal Claims, 717 Madison Place NW., Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 11C–26, Rockville, MD 20857; (301) 443–6593, or visit our Web site at: *http://www.hrsa.gov/vaccinecompensation/index.html.*

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to

serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that ''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.'' Set forth below is a list of petitions received by HRSA on December 1, 2015, through December 31, 2015. This list provides the name of petitioner, city and state of vaccination (if unknown then city and state of person or attorney filing claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

a. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by'' one of the vaccines referred to in the Table, or

b. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading ''For Further Information Contact''), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Healthcare Systems Bureau, 5600 Fishers Lane, Room 11C–26, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Dated: January 21, 2016.

James Macrae,

Acting Administrator.

List of Petitions Filed

1. Sandra Malone, Germantown, Tennessee, Court of Federal Claims No: 15–1439V.
2. Robert Petrillo, Revere, Massachusetts, Court of Federal Claims No: 15–1441V.
3. Nikysha Cyrus on behalf of Jayden A. Baker, Pittsburgh, Pennsylvania, Court of Federal Claims No: 15–1442V.
4. Robert Niziol on behalf of S. N., Tenafly, New Jersey, Court of Federal Claims No: 15–1446V.
5. Karen Green, Alameda, California, Court of Federal Claims No: 15–1447V.
6. Ruth Major, Linwood, New Jersey, Court of Federal Claims No: 15–1449V.
7. Jamie Edwardson, Ketchikan, Alaska, Court of Federal Claims No: 15–1450V.
8. Steven McKown and Tabitha McKown on behalf of C. M., Vienna, Virginia, Court of Federal Claims No: 15–1451V.
9. Leroy Albert Weinreich, Towson, Maryland, Court of Federal Claims No: 15–1454V.
10. Stephanie Dimasi, Boston, Massachusetts, Court of Federal Claims No: 15–1455V.
11. Olga Galvis, Dallas, Texas, Court of Federal Claims No: 15–1456V.
12. Jason Johnson, Rock Island, Illinois, Court of Federal Claims No: 15–1457V.
13. Tara Evans on behalf of B. E., Pagosa Springs, Colorado, Court of Federal Claims No: 15–1458V.
14. Jennifer Hinkley on behalf of Charles Tuttle, Deceased, Richmond, Maine, Court of Federal Claims No: 15–1459V.
15. Teresa Dianne Perdue on behalf of Robert Carlyle Perdue, Jr., Deceased, Boones Mill, Virginia, Court of Federal Claims No: 15–1460V.
16. Odolphone Nored, Greenwood, Mississippi, Court of Federal Claims No: 15–1461V.
17. Betsy Redfern, Boulder, Colorado, Court of Federal Claims No: 15–1462V.
18. Marilyn Wenker, Brooklyn, New York, Court of Federal Claims No: 15–1463V.
19. Jane Tougas, Marion, Massachusetts, Court of Federal Claims No: 15–1464V.
20. Michelle Dalton on behalf of A. D., Phoenix, Arizona, Court of Federal Claims No: 15–1465V.
21. Sarah Morris on behalf of G. M., Phoenix, Arizona, Court of Federal Claims No: 15–1466V.
22. Kiasha Leitch on behalf of N. W., Brooklyn, New York, Court of Federal Claims No: 15–1467V.
23. Kristal Grigg on behalf of N. G., Linwood, New Jersey, Court of Federal Claims No: 15–1468V.
24. Susan Boyer, Merr, Indiana, Court of Federal Claims No: 15–1469V.
25. Andrea Fuller on behalf of B. F., Phoenix, Arizona, Court of Federal Claims No: 15–1470V.
26. Jennifer Leedy, Cherry Hill, New Jersey, Court of Federal Claims No: 15–1471V.
27. Shelly Plescia, Fountain Valley, California, Court of Federal Claims No: 15–1472V.
28. Janet Cakir on behalf of C. A. C., Chapel Hill, North Carolina, Court of Federal Claims No: 15–1474V.
29. Laurie Simmon, Boston, Massachusetts, Court of Federal Claims No: 15–1475V.
30. Daryl Dawsonia, Boston, Massachusetts, Court of Federal Claims No: 15–1476V.
31. Diane C. Perl, Hamburg, New York, Court of Federal Claims No: 15–1477V.
32. Lou Ann Boersch, East Aurora, New York, Court of Federal Claims No: 15–1480V.

33. Adam Caselles and Lisa Caselles on behalf of N. A. C., Mission Viejo, California, Court of Federal Claims No: 15–1481V.
34. Robert Lovejoy, Sarasota, Florida, Court of Federal Claims No: 15–1484V.
35. Bettina McGill, Durham, North Carolina, Court of Federal Claims No: 15–1485V.
36. Andrew Potts, West Chester, Pennsylvania, Court of Federal Claims No: 15–1487V.
37. Richard Hesse, Dallas, Texas, Court of Federal Claims No: 15–1488V.
38. Matt Nichols, Fortville, Indiana, Court of Federal Claims No: 15–1490V.
39. Phyllis Weir, Fairview, Texas, Court of Federal Claims No: 15–1491V.
40. Jane M. Stuart, Livonia, Michigan, Court of Federal Claims No: 15–1493V.
41. Carla Shiel and Mathew Shiel on behalf of Zara Antoinette Shiel, Deceased, Henderson, Nevada, Court of Federal Claims No: 15–1496V.
42. Scott Marshall and Amy Marshall on behalf of H. M., Baraboo, Wisconsin, Court of Federal Claims No: 15–1497V.
43. Candace M Thompson and Stephen E. Powell on behalf of A. H. P., Ocean City, New Jersey, Court of Federal Claims No: 15–1498V.
44. Lee Patalowski, Lititz, Pennsylvania, Court of Federal Claims No: 15–1499V.
45. Daniel Doherty, Long Island, New York, Court of Federal Claims No: 15–1500V.
46. Doris Levitzki, Washington, District of Columbia, Court of Federal Claims No: 15–1502V.
47. Ronald Belair, Bakersfield, California, Court of Federal Claims No: 15–1503V.
48. Mario Reyes-Nieto, Riverside, California, Court of Federal Claims No: 15–1504V.
49. Susan G. Webber, Woodstock, Georgia, Court of Federal Claims No: 15–1506V.
50. Monty Lowas, Manteca, California, Court of Federal Claims No: 15–1507V.
51. Aileen Goner, Hallandale Beach, Florida, Court of Federal Claims No: 15–1508V.
52. David Parker, Philadelphia, Pennsylvania, Court of Federal Claims No: 15–1512V.
53. Maxie Downs, Albertville, Alabama, Court of Federal Claims No: 15–1513V.
54. Bryant Thompson, Seward, Nebraska, Court of Federal Claims No: 15–1514V.
55. Ian Brooks, Chicago, Illinois, Court of Federal Claims No: 15–1515V.
56. Tonya Brock, Hixson, Tennessee, Court of Federal Claims No: 15–1516V.
57. Edward Piotrowski, Itasca, Illinois, Court of Federal Claims No: 15–1517V.
58. Jamie J. Dyson, Orlando, Florida, Court of Federal Claims No: 15–1518V.
59. Eric G. Craver, Greensboro, North Carolina, Court of Federal Claims No: 15–1519V.
60. Tracy Mollica on behalf of A. M., Cranberry Township, Pennsylvania, Court of Federal Claims No: 15–1520V.
61. Heidi White and David White on behalf of A. C. W., Exeter, New Hampshire, Court of Federal Claims No: 15–1521V.
62. Stacia Wright, Beverly Hills, California, Court of Federal Claims No: 15–1523V.
63. Gary Harris, San Antonio, Texas, Court of Federal Claims No: 15–1525V.
64. Abigail Sims and Daniel Sims on behalf of A. E. S., Deceased, Oxford, Pennsylvania, Court of Federal Claims No: 15–1526V.
65. John Homick and Rachel Homick on behalf of Z. H., Pittsburgh, Pennsylvania, Court of Federal Claims No: 15–1529V.
66. Diane Streck, Scottsboro, Alabama, Court of Federal Claims No: 15–1530V.
67. Carole Batson, Chicago, Illinois, Court of Federal Claims No: 15–1531V.
68. Cathy Bruno on behalf of C B, Pittsburgh, Pennsylvania, Court of Federal Claims No: 15–1537V.
69. Viola Bentley, Bethesda, Maryland, Court of Federal Claims No: 15–1540V.
70. Elizabeth Ann Gray, Gallatin, Tennessee, Court of Federal Claims No: 15–1542V.
71. Olivia Rodriguez, Philadelphia, Pennsylvania, Court of Federal Claims No: 15–1543V.
72. Nancy Conley, Beverly Hills, California, Court of Federal Claims No: 15–1544V.
73. David Merritt, Beverly Hills, California, Court of Federal Claims No: 15–1545V.
74. Doris Steinbach, Athol, Massachusetts, Court of Federal Claims No: 15–1546V.
75. Bernadette Dicianni and Michael Szilagyi on behalf of D. S., Chicago, Illinois, Court of Federal Claims No: 15–1548V.
76. Mona Holtry, Shippensburg, Pennsylvania, Court of Federal Claims No: 15–1551V.
77. Karol Danner-Rieland, Boston, Massachusetts, Court of Federal Claims No: 15–1552V.
78. Sherri Harrod on behalf of Jonathan Patton, St. Petersburg, Florida, Court of Federal Claims No: 15–1553V.
79. John Cogliandro, Woburn, Massachusetts, Court of Federal Claims No: 15–1557V.
80. Marcus C. Turner, Austin, Texas, Court of Federal Claims No: 15–1561V.
81. David Landis, Cary, North Carolina, Court of Federal Claims No: 15–1562V.
82. Vanessa Wood on behalf of A. W., Fort Dodge, Iowa, Court of Federal Claims No: 15–1568V.
83. Glenda Ivy, Fredericksburg, Texas, Court of Federal Claims No: 15–1569V.
84. Kimberly Bertolucci and Arthur Joseph McCauley, III on behalf of E. M., Napa, California, Court of Federal Claims No: 15–1573V.
85. Carmen James on behalf of A J, Phoenix, Arizona, Court of Federal Claims No: 15–1576V.
86. Hope Doucet on behalf of A. C., Deceased, Phoenix, Arizona, Court of Federal Claims No: 15–1577V.
87. Michael DeAngelo, Laughlin, Nevada, Court of Federal Claims No: 15–1578V.
88. Laura McKenna, Abington, Pennsylvania, Court of Federal Claims No: 15–1580V.
89. Stephen Lesicko, Dresher, Pennsylvania, Court of Federal Claims No: 15–1581V.
90. Donna Soderman, Dresher, Pennsylvania, Court of Federal Claims No: 15–1582V.
91. Gerry Ramey, Dresher, Pennsylvania, Court of Federal Claims No: 15–1585V.
92. Stacey Nash, Oakland, California, Court of Federal Claims No: 15–1587V.
93. Evelyn Bell, Philadelphia, Pennsylvania, Court of Federal Claims No: 15–1588V.
94. Melvin Craig, Sarasota, Florida, Court of Federal Claims No: 15–1590V.

[FR Doc. 2016–02245 Filed 2–4–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Minority Health; Correction

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Minority Health.

ACTION: Notice; correction.

SUMMARY: The meeting of the Advisory Committee on Minority Health (ACMH) scheduled for January 28 and 29, 2016, is cancelled due to inclement weather. This meeting will be rescheduled at a future date.

FOR FURTHER INFORMATION CONTACT: Dr. Minh Wendt, Designated Federal Officer, ACMH; Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852. Phone: 240–453–8222. Fax: 240–453–8223. Email: *OMH-ACMH@hhs.gov.*

Correction

In the **Federal Register** of January 5, 2016, Vol. 81, No. 2, on pages 242–243 a meeting of the Advisory Committee on Minority Health was announced. That meeting has been cancelled due to inclement weather.

Dated: February 1, 2016.

Minh Wendt,

Alternate Designated Federal officer, ACMH, Office of Minority Health, U.S. Department of Health and Human Services.

[FR Doc. 2016–02246 Filed 2–4–16; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Omnibus SEP–7 R03 & R21.

Date: March 21–22, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites/Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Yisong Wang, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W240, Bethesda, MD 20892–9750, 240–276–7157, *yisong.wang@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI R01 Review.

Date: March 23, 2016.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W126, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Caron A. Lyman, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W126, Bethesda, MD 20892–9750, 240–276–6348, *lymanc@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Provocative Questions Review—PQ 1.

Date: April 8, 2016.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W618, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Sanita Bharti, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, 7W618, Bethesda, MD 20892–9750, 240–276–5909, *sanitab@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Smoking Cessation within the Context of Lung Cancer Screening.

Date: April 12, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Scott A. Chen, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W604, Rockville, MD 20850, 240–276–6038, *chensc@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Cancer Immuno-Diagnostics.

Date: May 4, 2016.

Time: 11:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W556, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Bratin K. Saha, Ph.D., Scientific Review Officer, Program Coordination and Referral Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W556, Rockville, MD 20850, 240–276–6411, *sahab@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 1, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–02186 Filed 2–4–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; National Toxicology Program (NTP) Level of Concern Categories Study (NIEHS)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on August 19, 2015 (80 FR 50298) and allowed 60-days for public comment. One public comment was received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institute of Environmental Health Sciences (NIEHS), NIH may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if

received within 30 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project contact: Dr. Kristina Thayer, Director of the Office of Health Assessment and Translation, Division of National Toxicology Program, NIEHS, P.O. Box 12233, Mail Drop K2–04, Research Triangle Park, NC 27709, or call non-toll-free number (919) 541–5021, or Email your request, including your address, to: *thayer@niehs.nih.gov.* Formal requests for additional information must be requested in writing.

Proposed Collection: National Toxicology Program (NTP) Level of Concern Categories, 0925–NEW, National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

Need and Use of Information Collection: The NTP has used a 5-point level of concern (LoC) framework to communicate NTP's assessment of the degree of concern regarding the potential human health effects of selected substances given what is known about their toxicity, level of human exposure, and pharmacokinetics. As part of its systematic review methodologies, the NTP is updating its LoC framework to enhance transparency in what the LoC categories mean, describing the factors considered in reaching conclusions and identifying strategies for improving their use as a risk communication tool. This study will use expert solicitation from five NTP stakeholder sectors (academia, industry, non-government organizations, and federal and state agencies) to aid in determining the optimal number of LoC categories for an updated LoC framework. Information about this project was presented to the NTP Board of Scientific Counselors on June 16, 2015. Materials describing the project, including slides and summary minutes from the meeting, are available at *http://ntp.niehs.nih.gov/go/9741.*

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 620.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hour
Study Consent	Experts	200	1	6/60	20
LoC "Cards"	Experts	200	2	90/60	600
Total		200	600		620

Dated: January 28, 2016.

Jane M. Lambert,

Project Clearance Liaison, NIEHS, NIH.

[FR Doc. 2016–02266 Filed 2–4–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Neurological Disorders and Stroke, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke.

Date: February 28–March 1, 2016.

Time: 6:00 p.m. to 11:30 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Alan P. Koretsky, Ph.D., Scientific Director, Division of Intramural Research, National Institute of Neurological Disorders and Stroke, NIH, 35 Convent Drive, Room 6A 908, Bethesda, MD 20892, (301) 435–2232, *koretskya@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS).

Dated: January 29, 2016.

Sylvia Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–02182 Filed 2–4–16; 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 Bio-Behavioral Research Awards for Innovative New Scientists (NIMH BRAINS).

Date: February 29, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.

Contact Person: Megan Kinnane, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9609, Rockville, MD 20852–9609, 301–402–6807, *libbeym@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Fellowships and Dissertation Grants.

Date: February 29, 2016.

Time: 11:30 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: Marcy Ellen Burstein, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6143, MSC 9606, Bethesda, MD 20892–9606, 301–443–9699, *bursteinme@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Dimensional Approaches to Research Classification in Psychiatric Disorders (RDoC).

Date: March 1, 2016.

Time: 8:30 a.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: Rebecca Steiner Garcia, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9608, Bethesda, MD 20892–9608, 301–443–4525, *steinerr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: February 1, 2016.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–02183 Filed 2–4–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request Consumer Health Information in Public Libraries User Needs Survey (NLM)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on October 30, 2015, page 66914 and allowed 60-days for public comment. One public comment was received. The purpose of this notice is to allow an additional 30 days for public comment. The National Library of Medicine (NLM), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments or request more information on the proposed project contact: David Sharlip, Office of Administrative and Management Analysis Services,, National Library of Medicine, Building 38A, Room B2N12, 8600 Rockville Pike, Bethesda, MD 20894, or call non-toll-free number (301) 402–9680, or Email your request, including your address to: *sharlipd@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Consumer Health Information in Public Libraries User Needs Survey (NLM)), 0925–New, National Library of Medicine (NLM), National Institutes of Health (NIH).

Need and Use of Information Collection: In 1994, the NLM was designated a ''Federal Reinvention Laboratory'' with a major objective of improving its methods of delivering information to the public.

NLM has become an international leader in health informatics research and development, especially in consumer health informatics. As a result, NLM needs to remain contemporary in consumer health informatics research by utilizing research methods that yield a better understanding of the predictors of consumer satisfaction. Without ongoing insights into the predictors of consumer satisfaction, NLM will lack the research findings to make evidence-based changes in the content, design and editorial management of its consumer Web sites and will not optimally serve the public.

Public libraries have been identified as a key resource for public information about the Patient Protection and Affordable Care Act (PPACA), which took full effect on October 1, 2013. A national anonymous survey of library staff will help us better understand the challenges and successes of information provision in this critical area of high information need. Research and funding into the challenges of health information in public libraries is, at present, almost nonexistent. In the present environment of health insurance reform and presumption of informed consumer choice, this is a critical knowledge gap. Information collection from library workers will supply much-needed feedback on the specific areas of challenge for information provision by public libraries. The results of this study will be used by the Principal Investigators' home institutions—the University of Wisconsin-Madison, an institution of higher education preparing future library workers, and the Specialized Information Services division of the National Library of Medicine—to inform preparation of outreach and training materials as well as advising other organizations and institutions providing PPACA information provision assistance to public libraries (*e.g.,* American Library Association). To improve our understanding of the challenges and gaps in information provision and awareness around PPACA, the information we get from this survey will be used to inform and improve NLM's services to public libraries, as well as increase our understanding of the resource and education needs of public library workers.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 390.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Number of respondents	Number of responses per respondent	Average time per response (minutes/hours)	Total annual burden hour
Library workers	779	1	30/60	390
Total		779		390

Dated: January 28, 2016.

David Sharlip,

Project Clearance Liaison, NLM, NIH.

[FR Doc. 2016–02181 Filed 2–4–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Clinical Trials and Translational Research Advisory Committee, March 09, 2016, 11:00 a.m. to March 09, 2016, 01:00 p.m., National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Rockville, MD, 20850 which was published in the **Federal Register** on January 26, 2016, 81 FR 4321.

The meeting notice is amended to change the location of the meeting from the National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Rockville, MD, 20850 to the National Institutes of Health, 9000 Rockville Pike, Bethesda, MD, 20892, Building 31, C-Wing, 6th Floor, Room 10. The meeting is open to the public.

Dated: February 1, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–02187 Filed 2–4–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Oral Dental and Craniofacial Sciences.

Date: February 24, 2016.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Baljit S. Moonga, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7806, Bethesda, MD 20892, 301–435–1777, *moongabs@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel PAR–15–020: Systems Developmental Biology for Understanding Embryonic Development and the Ontogeny of Structural Birth Defects.

Date: February 29–March 1, 2016.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Thomas Beres, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr. Rm. 5201, MSC 7840, Bethesda, MD 20892, 301–435–1175, *berestm@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel PAR13–185: Image Guided Drug Delivery in Cancer.

Date: March 2, 2016.

Time: 8:00 a.m. to 5:00 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: Mehrdad Mohseni, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5211, MSC 7854, Bethesda, MD 20892, 301–435–0484, *mohsenim@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Neurodevelopment, Synaptic Plasticity and Neurodegeneration.

Date: March 3–4, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westgate Hotel, 1055 2nd Avenue, San Diego, CA 92101.

Contact Person: Mary Schueler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7846, Bethesda, MD 20892, 301–451–0996, *marygs@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Fellowships: Learning, Memory, Language, Communication and Related Neurosciences.

Date: March 3–4, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott Wardman Park Hotel, 2660 Woodley Road, NW., Washington, DC 20008.

Contact Person: Mary G. Schueler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7846, Bethesda, MD 20892, 301–915–6301, *marygs@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Surgical Sciences and Bioengineering.

Date: March 3, 2016.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: John Firrell, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, MSC 7854, Bethesda, MD 20892, 301–435–2598, *firrellj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel PAR Panel: Extracellular Vesicles and Substance Abuse.

Date: March 4, 2016.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jasenka Borzan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 4214 MSC 7814, Bethesda, MD 20892–7814, 301–435–1787, *borzanj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel PAR Panel: NIDDK Translational Research.

Date: March 4, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: 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.*

(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: February 1, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–02188 Filed 2–4–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Charter Renewal

In accordance with Title 41 of the U.S. Code of Federal Regulations, Section 102–3.65(a), notice is hereby given that the Charter for the National Center for Advancing Translational Sciences Advisory Council was renewed for an additional two-year period on February 7, 2016.

It is determined that the National Center for Advancing Translational Sciences Advisory Council is in the public interest in connection with the performance of duties imposed on the National Institutes of Health by law, and that these duties can best be performed through the advice and counsel of this group.

Inquiries may be directed to Jennifer Spaeth, Director, Office of Federal Advisory Committee Policy, Office of the Director, National Institutes of Health, 6701 Democracy Boulevard, Suite 1000, Bethesda, Maryland 20892 (Mail code 4875), Telephone (301) 496–2123, or *spaethj@od.nih.gov.*

Dated: February 1, 2016.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–02185 Filed 2–4–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Cancellation of Meeting

Notice is hereby given of the cancellation of the Center for Scientific Review Special Emphasis Panel, February 24, 2016, 10:00 a.m. to February 24, 2016, 5:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, which was published in the **Federal Register** on January 26, 2016, 81 FR 4318.

The meeting is cancelled due to the reassignment of applications.

Dated: February 1, 2016.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–02184 Filed 2–4–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2015–0909]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0039

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collection of information: 1625–0039, Declaration of Inspection Before Transfer of Liquid in Bulk. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before March 7, 2016.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2015–0909] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* Alternatively, you may submit comments to OIRA using one of the following means:

(1) *Email: OIRA-submission@omb.eop.gov.*

(2) *Mail:* OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Fax:* 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., STOP 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These

comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2015–0909], and must be received by March 7, 2016.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0039.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (80 FR 64429, October 23, 2015) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

1. *Title:* Declaration of Inspection Before Transfer of Liquid in Bulk.

OMB Control Number: 1625–0039.

Summary: A Declaration of Inspection (DOI) documents the transfer of oil and hazardous materials, to help prevent spills and damage to a facility or vessel. Persons-in-charge of the transfer operations must review and certify compliance with procedures specified by the terms of the DOI.

Need: Title 33 U.S.C. 1321(j) authorizes the Coast Guard to establish regulations to prevent the discharge of oil and hazardous material from vessels and facilities. The DOI regulations appear at 33 CFR 156.150 and 46 CFR 35.35–30.

Forms: N/A.

Respondents: Persons-in-charge of transfers.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 62,514 hours to 77,973 hours a year due to an increase in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: January 26, 2016.

Thomas P. Michelli,

U.S. Coast Guard, Deputy Chief Information Officer.

[FR Doc. 2016–02279 Filed 2–4–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5851–N–03]

Rental Assistance Demonstration (RAD)—Alternative Requirements or Waivers: Alternative Requirements for Use of Public Housing Units for the San Francisco Housing Authority

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, and Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The Rental Assistance Demonstration (RAD) statute gives HUD authority to establish waivers and alternative requirements. This notice advises that HUD is providing alternative requirements for statutory limits on the use of public housing units in response to plans submitted by the San Francisco Housing Authority (SFHA) to preserve available affordable housing in its jurisdiction and use unoccupied public housing units to temporarily house former public housing families whose units are undergoing renovations.

DATES: *Effective date:* February 16, 2016.

FOR FURTHER INFORMATION CONTACT: Thomas R. Davis, Director of the Office of Recapitalization, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410–7000; telephone number 202–708–0001 (this is not a toll-free number). Hearing- and speech-impaired persons may access these numbers through TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

Background and Action

The RAD statute (Pub. L. 112–55, approved November 18, 2011, as amended) gives HUD authority to waive or specify alternative requirements for, among other things, provisions of the United States Housing Act of 1937 (the 1937 Act). In order to utilize this authority, the RAD statute requires HUD to publish by notice in the **Federal Register** any waiver or alternative requirement no later than 10 days before the effective date of such notice. This notice meets this publication requirement.

In November of 2015, the SFHA closed on transactions involving 14 public housing properties using a combination of RAD and Section 8. Plans for the 14 projects include in-place rehabilitation requiring temporary relocation of the 1,425 households. To accomplish this large-scale temporary relocation, the SFHA will utilize a number of relocation options. In addition to traditional relocation options, the SFHA has asked HUD for the ability to use, during rehabilitation after conversion, 58 public housing units as temporary relocation housing for former public housing residents of projects that receive assistance converted pursuant to RAD.

Accordingly, HUD is specifying alternative requirements for sections 9(d)(3)(A) and (B) of the 1937 Act (42 U.S.C. 1437g(d)(3)(A) and (B)). Subject to certain conditions that the SFHA has agreed to follow, HUD is allowing the SFHA to follow its stated relocation plans.

Dated: January 21, 2016.

Lourdes Castro Ramírez,

Principal Deputy Assistant Secretary for Public and Indian Housing.

Edward L. Golding,

Principal Deputy Assistant Secretary for Housing.

Approved on January 21, 2016.

Nani A. Coloretti,

Deputy Secretary.

[FR Doc. 2016–02172 Filed 2–4–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5907–N–06]

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 use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, 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 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, and suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to: Ms. Theresa M. Ritta, Chief Real Property Branch, the Department of Health and Human Services, Room 5B–17, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: AGRICULTURE: Ms. Debra Kerr, Department of Agriculture, Reporters Building, 300 7th Street SW., Room 300, Washington, DC 20024, (202) 720–8873; COE: Mr. Scott Whiteford, Army Corps of Engineers, Real Estate, CEMP–CR, 441 G Street NW., Washington, DC 20314; (202) 761–5542; ENERGY: Mr. David Steinau, Department of Energy, Office of Property Management, OECM MA–50, 4B122, 1000 Independence Ave. SW., Washington, DC 20585 (202) 287–1503; GSA: Mr. Flavio Peres, General Services Administration, Office of Real Property Utilization and Disposal, 1800 F Street NW., Room 7040, Washington, DC 20405, (202) 501–0084; NAVY: Mr. Steve Matteo, Department of the Navy, Asset Management; Division, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave. SW., Suite 1000, Washington, DC 20374; (202) 685–9426; (These are not toll-free numbers).

Dated: January 28, 2016.

Tonya Proctor,

Deputy Director, Office of Special Needs Assistance Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM, FEDERAL REGISTER REPORT FOR 02/05/2016

Suitable/Available Properties

Building

Arkansas

Prairie Creek Park Picnic
Shelters; 9300 N. Park Rd.
Beaver Lake Project
Rogers AR 72756
Landholding Agency: COE
Property Number: 31201610001
Status: Underutilized
Comments: off-site removal only; no future agency need; used seasonal; 600 sq. ft.; roof need repairs; contact COE for more information.

Waveland Park, Vault Toilet
BLUMTN–43365
Blue Mountain Lake
Havana AR 72842
Landholding Agency: COE
Property Number: 31201610002
Status: Underutilized
Comments: 10′8″x24′; 3+ months vacant; substantial repairs needed; contact COE for more information.

California

Kernville Work Center
I.D. #1013 Kernville Residence (Duplex); 11380 Kernville Rd.
Kernville CA 93238
Landholding Agency: Agriculture
Property Number: 15201610001
Status: Underutilized
Comments: off-site removal only; 2,224 sq. ft.; removal difficult due to size/type; 50% vacant; available 30 days after application approved by HHS; fair conditions; contact Agriculture for more info.

Illinois

Federal Bldg. & Courthouse
201 N. Vermillion St.
Danville IL 61832
Landholding Agency: GSA

Property Number: 54201610003
Status: Excess
GSA Number: 1–G–IL–810
Comments: 67,845 sq. ft.; office & courthouse; good condition; asbestos and LBPs identified; remediation needed; contact GSA for more information.

Oklahoma

03.50716 621700B023
Entomology Headhouse (USDA/ARS)
07334 Plant Science & Water Conserv.
Research
Stillwater OK 74075
Landholding Agency: Agriculture
Property Number: 15201610002
Status: Unutilized
Directions: Located off west Virginia Ave.
Comments: off-site removal only; no future agency need; removal difficult due to size/type; 3,000 sq. ft.; good conditions; contact Agriculture for more info.

03.50715 621700B022
Entomology Greenhouse (USDA/ARS)
07334 Plant Science & Water Conserv.
Stillwater OK 74075
Landholding Agency: Agriculture
Property Number: 15201610003
Status: Unutilized
Directions: Located off west Virginia Ave.
Comments: off-site removal only; no future agency need; 500 sq. ft.; good conditions; contact Agriculture for more info.

03.50710 621700B014
Storage 14 (USDA/ARS)
07334 Plant Science & Water Conserv.
Stillwater OK 74075
Landholding Agency: Agriculture
Property Number: 15201610004
Status: Unutilized
Comments: off-site removal only; removal difficult due to type/size; no future agency need; 2,976 sq. ft.; warehouse; very good conditions but no potable water; contact Agriculture for more info.

03.50713 621700B019
Storage Entomology (USDA/ARS)
07334 Plant Science & Water Conserv.
Stillwater OK 74075
Landholding Agency: Agriculture
Property Number: 15201610005
Status: Unutilized
Comments: off-site removal only; no future agency need; removal difficult due to type/size; 1,440 sq. ft.; fair conditions; contact Agriculture for more info.

Land

Florida

Former Outer Maker Site
105th Ave. North
Royal Palm Beach FL 33411
Landholding Agency: GSA
Property Number: 54201610001
Status: Surplus
GSA Number: 4–U–FL_1332AA
Directions: Landholding Agency: FAA; Disposal Agency: GSA
Comments: 0.92 acres; contact GSA for more information.

Former Radio Communication
Receiver Site
SW Kanner Hwy
Martin FL 34956
Landholding Agency: GSA
Property Number: 54201610002
Status: Surplus
GSA Number: 4–U–FL–1321
Directions: Landholding Agency: FAA; Disposal Agency: GSA
Comments: 1.06 acres; contact GSA for more information.

Unsuitable Properties

Building

Arkansas

44915
Nimrod—Blue Mountain
Project Office
Plainview AR 72857
Landholding Agency: COE
Property Number: 31201610003
Status: Underutilized
Comments: documented deficiencies: submerged underwater for several months; clear threat to physical safety.
Reasons: Extensive deterioration

California

Seiad Oaks Residence Garage
NRM Bldg. ID 4916002; RPUID:96086 1061.003771
1205 Seiad Oaks Rd.
Seiad Valley CA 96086
Landholding Agency: Agriculture
Property Number: 15201610006
Status: Underutilized
Comments: documented deficiencies: dilapidated; must be removed; however, most likely will collapse if relocation attempted; clear threat to physical safety.
Reasons: Extensive deterioration

Florida

3862
Naval Air Station
Pensacola FL 32508
Landholding Agency: Navy
Property Number: 77201610004
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

3578
Naval Air Station
Pensacola FL 32508
Landholding Agency: Navy
Property Number: 77201610005
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

1518
Naval Air Station
Pensacola FL 32508
Landholding Agency: Navy
Property Number: 77201610006
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Hawaii

2 Buildings
Marine Corps Base
Camp Smith HI 96861
Landholding Agency: Navy
Property Number: 77201610018
Status: Excess
Directions: 69; 70
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Mississippi

Facility Number 361-Applied
Facility
Naval Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77201610007
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Facility Number 399
San Blast Facility
Naval Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77201610008
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Facility Number 328
Naval Lodge
Naval Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77201610009
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Facility Number 190B
Magazine
Naval Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77201610010
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area.

Facility Number 190C
Magazine
Naval Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77201610011
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Facility Number 190D
Magazine
Naval Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77201610012
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Facility Number 190E

Magazine
Naval Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77201610013
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area
Facility Number 190F
Magazine
Naval Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77201610014
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Facility number 190A
Magazine
Naval Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77201610015
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Facility Number 33
Child Development Center Annex
Naval Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77201610016
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Facility Number 45
Addiction Treatment Facility
Naval Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77201610017
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

New Jersey

Naval Weapons Station Earle
201 Highway 34
Colts Neck NJ 07722
Landholding Agency: Navy
Property Number: 77201610002
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

New Mexico

2 Buildings
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41201610001
Status: Excess
Directions: TA 03–2147; TA 33–0016
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Tennessee

2 Buildings
Y–12 National Security Complex
Oak Ridge TN 37831
Landholding Agency: Energy
Property Number: 41201610002
Status: Unutilized
Directions: 9949–BB; 9949–90
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Texas

Proctor Lake; Sowell Creek
Group Shelter
801 FM 1476
Dublin TX 76446
Landholding Agency: COE
Property Number: 31201610004
Status: Excess
Comments: documented deficiencies: severe foundation issues; moisture in cracks; flooding damage; broken support beam; clear threat to physical safety.
Reasons: Extensive deterioration

Proctor Lake, High Point Restroom #2
State Park Rd.
Dublin TX 76446
Landholding Agency: COE
Property Number: 31201610005
Status: Excess
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

[FR Doc. 2016–01935 Filed 2–4–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF INTERIOR

Bureau of Indian Affairs

[167 A2100DD/AADD001000/ A0A501010.999900]

Request for Nominations of Members To Serve on the Bureau of Indian Education Advisory Board for Exceptional Children

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of request for nominations.

SUMMARY: Pursuant to the Federal Advisory Committee Act and the Individuals with Disabilities Education Act of 2004 (IDEA), the Bureau of Indian Education (BIE) requests nominations of individuals to serve on the Advisory Board for Exceptional Children (Advisory Board). There are two positions available. The BIE will consider nominations received in response to this request for nominations, as well as other sources. The **SUPPLEMENTARY INFORMATION** section of this notice provides committee and membership criteria.

DATES: Please submit nominations by March 7, 2016.

ADDRESSES: Please submit nominations to Ms. Sue Bement, Designated Federal Officer (DFO), Bureau of Indian Education, Division of Performance and Accountability, 1011 Indian School Road NW., Suite 332, Albuquerque, NM 87104, Telephone (505) 563–5274, or Fax to (505) 563–5281.

FOR FURTHER INFORMATION: Contact Ms. Sue Bement, DFO, at the above listed address and telephone number.

SUPPLEMENTARY INFORMATION: The Advisory Board was established in accordance with the Federal Advisory Committee Act, Public Law 92–463. The following provides information about the Committee, the membership and the nomination process.

1. Objective and Duties

(a) Members of the Advisory Board will provide guidance, advice and recommendations with respect to special education and related services for children with disabilities in BIE-funded schools in accordance with the requirements of IDEA;

(b) The Advisory Board will:

(1) Provide advice and recommendations for the coordination of services within the BIE and with other local, State and Federal agencies;

(2) Provide advice and recommendations on a broad range of policy issues dealing with the provision of educational services to American Indian children with disabilities;

(3) Serve as advocates for American Indian students with special education needs by providing advice and recommendations regarding best practices, effective program coordination strategies, and recommendations for improved educational programming;

(4) Provide advice and recommendations for the preparation of information required to be submitted to the Secretary of Education under 20 U.S.C. 1411 (h)(2);

(5) Provide advice and recommend policies concerning effective inter/intra agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities; and

(6) Will report and direct all correspondence to the Assistant Secretary—Indian Affairs through the Director, BIE with a courtesy copy to the Designated Federal Officer (DFO).

2. Membership

(a) Pursuant to 20 U.S.C. 1411(h)(6), the Advisory Board will be composed of up to 15 individuals involved in or concerned with the education and provision of services to Indian infants, toddlers, children, and youth with disabilities. The Advisory Board composition will reflect a broad range of viewpoints and will include at least one member representing each of the following interests: Indians with disabilities; teachers of children with disabilities; Indian parents or guardians of children with disabilities; service providers, state education officials; local education officials; state interagency coordinating councils (for states having Indian reservations); tribal representatives or tribal organization representatives; and other members representing the various divisions and entities of the BIE.

(b) The Assistant Secretary—Indian Affairs may provide the Secretary of the Interior recommendations for the chairperson; however, the chairperson and other Advisory Board members will be appointed by the Secretary of the Interior. Advisory Board members shall serve staggered terms of two years or three years from the date of their appointment.

3. Miscellaneous

(a) Members of the Advisory Board will not receive compensation, but will be reimbursed for travel, including subsistence, and other necessary expenses incurred in the performance of their duties in the same manner as persons employed intermittently in Government Service under 5 U.S.C. 5703.

(b) A member may not participate in matters that will directly affect, or appear to affect, the financial interests of the member or the member's spouse or minor children, unless authorized by the appropriate ethics official. Compensation from employment does not constitute a financial interest of the member so long as the matter before the committee will not have a special or distinct effect on the member or the member's employer, other than as part of a class. The provisions of this paragraph do not affect any other statutory or regulatory ethical obligations to which a member may be subject.

(c) The Advisory Board meets at least twice a year, budget permitting, but additional meetings may be held as deemed necessary by the Assistant Secretary—Indian Affairs or the DFO.

(d) All Advisory Board meetings are open to the public in accordance with the Federal Advisory Committee Act regulations.

4. Nomination Information

(a) Nominations are requested from individuals, organizations, and federally recognized tribes, as well as from State Directors of Special Education (within the 23 states in which BIE-funded schools are located) concerned with the education of Indian children with disabilities as described above.

(b) Nominees should have expertise and knowledge of the issues and/or needs of American Indian children with disabilities. Such knowledge and expertise are needed to provide advice and recommendations to the BIE regarding the needs of American Indian children with disabilities.

(c) A summary of the candidates' qualifications (résumé or curriculum vitae) must be included with the nomination application, which can be found on the Bureau of Indian Education Web site. Nominees must have the ability to attend Advisory Board meetings, carry out Advisory Board assignments, participate in teleconference calls, and work in groups.

(d) The Department of the Interior is committed to equal opportunities in the workplace and seeks diverse Committee membership, which is bound by Indian Preference Act of 1990 (25 U.S.C. 472).

5. Basis for Nominations

If you wish to nominate someone for appointment to the Advisory Board, please do not make the nomination until the person has agreed to have his or her name submitted to the BIE for this purpose.

6. Nomination Application

Please fill out the application form completely and include a copy of the nominee's resume or curriculum vitae. The membership nomination form can be found on the BIE Web site at *http://www.bie.edu/Programs/SpecialEd/AdvisoryBoard/index.htm.*

7. Information Collection

This collection of information is authorized by OMB Control Number 1076–0179, ''Solicitation of Nominations for the Advisory Board for Exceptional Children.''

Dated: January 11, 2016.

Lawrence S. Roberts,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 2016–02248 Filed 2–4–16; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[167 A2100DD/AADD001000/A0A501010.999900]

Advisory Board for Exceptional Children

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bureau of Indian Education (BIE) is announcing that the Advisory Board for Exceptional Children (Advisory Board) will hold its next meeting in Albuquerque, New Mexico. The purpose of the meeting is to meet the mandates of the Individuals with Disabilities Education Act of 2004 (IDEA) for Indian children with disabilities.

DATES: The Advisory Board will meet on Thursday, March 17, 2016, from 8:30 a.m. to 4:30 p.m. and Friday, March 18, 2016, from 8:30 a.m. to 4:30 p.m. Local Time.

ADDRESSES: The meetings will be held at the Manual Lujan, Jr. Building, Room 234, 1011 Indian School Road NW., Albuquerque, NM 87104.

FOR FURTHER INFORMATION CONTACT: Ms. Sue Bement, Designated Federal Officer, Bureau of Indian Education, Albuquerque Service Center, Division of Performance and Accountability, 1011 Indian School Road NW., Suite 332, Albuquerque, NM 87104; telephone number (505) 563–5274.

SUPPLEMENTARY INFORMATION: In accordance with the Federal Advisory Committee Act, BIE is announcing that the Advisory Board will hold its next meeting in Albuquerque, New Mexico. The Advisory Board was established under the Individuals with Disabilities Education Act of 2004 (20 U.S.C. 1400 *et seq.*) to advise the Secretary of the Interior, through the Assistant Secretary-Indian Affairs, on the needs of Indian children with disabilities. The meetings are open to the public.

The following items will be on the agenda:

- Introduction of Advisory Board members
- Report from Gloria Yepa, Supervisory Education Specialist, BIE, Division of Performance and Accountability
- Report from BIE Director's Office
- Board work on Priority's for 2016
- Public Comment (via conference call, March 18, 2016 meeting only*).
- BIE Advisory Board-Advice and Recommendations

* During the March 18, 2016, meeting, time has been set aside for public comment via conference call from 1:30—2:00 p.m. Eastern Standard Time. The call-in information is:

Conference Number 1–888–417–0376, Passcode 1509140.

Dated: January 11, 2016.

Lawrence S. Roberts,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 2016–02249 Filed 2–4–16; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

[FWS–R4–FHC–2016–N004; FVHC98210408710–XXX–FF04G01000]

Deepwater Horizon Oil Spill; Final Phase V Early Restoration Plan and Environmental Assessment

AGENCY: Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), and the Framework Agreement for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill, notice is hereby given that the Federal and State natural resource trustee agencies (Trustees) have approved the Phase V Early Restoration Plan and Environmental Assessment (Phase V ERP/EA). The Trustees have selected the first phase of the Florida Coastal Access Project which is consistent with the early restoration program alternatives selected in the final Phase III Early Restoration Plan/Programmatic Environmental Impact Statement (Phase III ERP/PEIS). This early restoration project will continue the process of restoring natural resources and services injured or lost as a result of the *Deepwater Horizon* oil spill, which occurred on or about April 20, 2010, in the Gulf of Mexico. The Phase V ERP/EA also includes notices of change and supporting analysis for two Phase III Early Restoration Projects: ''Strategically Provided Boat Access Along Florida's Gulf Coast—City of Port St. Joe, Frank Pate Boat Ramp Improvements'' and ''Florida Artificial Reef Creation and Restoration.''

ADDRESSES: *Obtaining Documents:* You may download the Phase V ERP/EA at: *http://www.gulfspillrestoration.noaa.gov* or *http://www.doi.gov/deepwater horizon.* Alternatively, you may request a CD of the Phase V ERP/EAs (see **FOR FURTHER INFORMATION CONTACT**). You may also view the document at any of the public facilities listed at *http://www.gulfspillrestoration.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Nanciann Regalado, at 404–679–4161.

SUPPLEMENTARY INFORMATION:

Introduction

On or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the Macondo prospect (Mississippi Canyon 252—MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest off shore oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over 1 million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

Under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701 *et seq.*), designated Federal and State agencies may act as trustees on behalf of the public to assess natural resource injuries and losses resulting from an oil spill and to determine the restoration actions needed to compensate the public for those injuries and losses. OPA instructs the trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete. For the *Deepwater Horizon* oil spill, designated trustees (Trustees) in four Federal agencies and five Gulf States—Alabama, Florida, Louisiana, Mississippi, and Texas—have been working together to assess natural resource injuries and prepare a series of restoration plans described below.

The Trustees are:

- U.S. Department of the Interior, as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration, on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture;
- U.S. Environmental Protection Agency;
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- For the State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

Background

In the April 2011 Framework Agreement for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill (Framework Agreement), BP agreed to provide the Trustees up to $1 billion toward early restoration projects in the Gulf of Mexico to address injuries to natural resources caused by the *Deepwater Horizon* oil spill. The Framework Agreement represents a preliminary step toward the restoration of injured natural resources and is intended to expedite the start of restoration in the Gulf in advance of the completion of the injury assessment process. The Framework Agreement provides a mechanism through which the Trustees and BP can work together ''to commence implementation of early restoration projects that will provide meaningful benefits to accelerate restoration in the Gulf as quickly as practicable'' and prior to the resolution of the Trustees' natural resource damages claim. Early restoration is not intended to and does not fully address all injuries caused by the *Deepwater Horizon* oil spill. Restoration beyond early restoration projects will be required to fully compensate the public for natural resource losses, including recreational use losses, from the *Deepwater Horizon* oil spill.

A Notice of Availability of the Draft Phase V Early Restoration Plan and Environmental Assessments (Draft Phase V ERP/EA) was published in the **Federal Register** on December 1, 2015 (80 FR 75126). The Trustees provided the public with 30 days to review the Draft Phase V ERP/EA and held one public meeting on December 14, 2015 in Panama City, FL. The Trustees considered the public comments received, which informed the Trustees' analyses and selection of the early restoration project in the final Phase V ERP/EA. A summary of the public comments received, and the Trustees' responses to those comments are addressed in Chapter 4 of the final Phase V ERP/EA.

In four previous phases, the Trustees selected, and BP agreed to fund, a total

of 64 early restoration projects expected to cost a total of approximately $832 million. The Trustees selected these projects after public notice, public meetings, and consideration of public comments, through the Phase I Early Restoration Plan/Environmental Assessment (Phase I ERP/EA), Phase II Early Restoration Plan/Environmental Review (Phase II ERP/ER), the Programmatic and Phase III Early Restoration Plan and Early Restoration Programmatic Environmental Impact Statement (Phase III ERP/PEIS), and the Phase IV Early Restoration Plan/Environment Assessments (Phase IV ERP/EA).

The Trustees released the Phase I ERP/EA on April 20, 2012 (77 FR 23741) and the Phase II ERP/ER on February 5, 2013 (78 FR 8184). The Trustees released the Phase III ERP/PEIS on June 26, 2014 (79 FR 36328), and subsequently approved that Plan and programmatic EIS in a Record of Decision on October 31, 2014 (79 FR 64831). The Trustees released the Phase IV ERP/EA on September 23, 2015 (80 FR 57384). These plans are available at: *https://www.doi.gov/deepwaterhorizon/adminrecord.*

Overview of the Phase V ERP/EA

The Trustees approved the first phase of the Florida Coastal Access Project in the Phase V ERP/EA. The estimated cost for the first phase of the Florida Coastal Access Project is $34,372,184. The estimated cost of the total Florida Coastal Access Project is $45,415,573. The Trustees anticipate proposing an additional future phase of the Florida Coastal Access Project, consisting of similar restoration activities that would utilize the remaining $11,043,389, if approved. Details on the first phase of the Florida Coastal Access Project are provided in the Phase V ERP/EA.

The first phase of the Florida Coastal Access Project is intended to continue the process of using early restoration funding to restore natural resources, ecological services, and recreational use services injured or lost as a result of the *Deepwater Horizon* oil spill. The Trustees considered hundreds of projects leading to the identification of the Florida Coastal Access Project and considered both ecological and recreational use restoration projects to address injuries caused by the *Deepwater Horizon* oil spill, (both injuries to the physical and biological environment, as well as to the relationship people have with the environment).

In addition, the Phase V ERP/EA includes notices of change and supporting analysis for two Phase III Early Restoration Projects: ''Strategically Provided Boat Access Along Florida's Gulf Coast—City of Port St. Joe, Frank Pate Boat Ramp Improvements'' and ''Florida Artificial Reef Creation and Restoration.''

Administrative Record

The documents comprising the Administrative Record can be viewed electronically at the following location: *https://www.doi.gov/deepwaterhorizon/adminrecord.*

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*) and the implementing Natural Resource Damage Assessment regulations found at 15 CFR 990.

Cynthia K. Dohner,

DOI Authorized Official.

[FR Doc. 2016–02089 Filed 2–4–16; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNV912000 L13400000.PQ0000 LXSS006F0000; MO#4500090018]

Notice of Public Meeting: Bureau of Land Management Nevada Resource Advisory Councils; Postponement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting; Postponement.

SUMMARY: In the notice published Monday, February 1, 2016 (81 FR 5132), a public meeting of the Bureau of Land Management Nevada Resource Advisory Councils was announced.

The BLM Nevada Resource Advisory Council meeting scheduled for February 10–11, 2016 has been postponed to allow for additional public notice. A new meeting date will be announced at a later time.

Neil Kornze,

BLM Director.

[FR Doc. 2016–02405 Filed 2–4–16; 8:45 am]

BILLING CODE 4310–84–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1306 (Preliminary)]

Large Residential Washers From China; Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of large residential washers from China, provided for in subheading 8450.20.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (''LTFV'').

Commencement of Final Phase Investigation

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (''Commerce'') of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Background

On December 16, 2015, Whirlpool Corp., Benton Harbor, Michigan, filed a petition with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

reason of LTFV imports of large residential washers from China. Accordingly, effective December 16, 2015, the Commission, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), instituted antidumping duty investigation No. 731–TA–1306 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of December 22, 2015 (80 FR 79611). The conference was held in Washington, DC, on January 6, 2016, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made this determination pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)). It completed and filed its determination in this investigation on February 1, 2016. The views of the Commission are contained in USITC Publication 4591 (February 2016), entitled *Large Residential Washers from China: Investigation No. 731–TA–1306 (Preliminary).*

By order of the Commission.

Dated: February 1, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–02223 Filed 2–4–16; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0054]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection Monthly Return of Human Trafficking Offenses Known to Law Enforcement

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division (CJIS) will submit the following Information Collection Request to the Office of Management and Budget (OMB) for review and clearance in accordance with the established review procedures of the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** at 80 FR 75879, on December 4, 2015, allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until March 7, 2016.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Mr. Samuel Berhanu, Unit Chief, Federal Bureau of Investigation, CJIS Division, Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625–3566. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and/or

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Monthly Return of Human Trafficking Offenses Known to Law Enforcement.

3. *The agency form number:* UnNumbered.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: City, county, state, federal and tribal law enforcement agencies.

Abstract: This collection is needed to collect information on human trafficking incidents committed throughout the United States.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

There are approximately 18,498 law enforcement agency respondents that submit monthly for a total of 221,976 responses with an estimated response time of 14 minutes per response.

6. *An estimate of the total public burden (in hours) associated with this collection:*

There are approximately 51,794 hours, annual burden, associated with this information collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: February 2, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–02259 Filed 2–4–16; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection: Financial Capability Form

AGENCY: Office on Violence Against Women, Department of Justice

ACTION: 60-Day notice.

SUMMARY: The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until April 5, 2016.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Cathy Poston, Office on Violence

Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New collection

(2) *Title of the Form/Collection:* Financial Capability Form

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–NEW. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes non-governmental applicants to OVW grant programs that do not currently (or within the last 3 years) have funding from OVW. In accordance with 2 CFR 200.205, the information is required for assessing the financial risk of an applicant's ability to administer federal funds. The form includes a mix of check box and narrative questions related to the organization's financial systems, policies and procedures.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 40 respondents (non-governmental) applicants to OVW grant programs approximately 4 hours to complete an online assessment form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 160 hours, that is 40 applicants completing a form once as a new applicant with an estimated completion time for the form being 4 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E, 405B, Washington, DC 20530.

Dated: February 2, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–02260 Filed 2–4–16; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection: State and Local Justice Agencies Serving Tribal Lands (SLJASTL): Census of State and Local Prosecutor Offices Serving Tribal Lands (CSLPOSTL)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until April 5, 2016.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Suzanne Strong, Statistician, Prosecution and Judicial Statistics, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: *Suzanne.M.Strong@usdoj.gov;* telephone: 202–616–3666).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New collection.

(2) *The Title of the Form/Collection:* State and Local Justice Agencies Serving Tribal Lands (SLJASTL): Census of State and Local Prosecutor Offices Serving Tribal Lands (CSLPOSTL).

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* No agency form number at this time. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents will be general purpose state and local prosecutor offices. *Abstract:* Among other responsibilities, the Bureau of Justice Statistics is charged with collecting data regarding crimes occurring on tribal lands. The SLJASTL is the first effort by BJS to include state and local justice agencies responsible for policing and prosecuting crimes that occur on tribal lands. Specifically, the CSLPOSTL will collect information that will help fill the gaps we have in our understanding of the nature of crime on tribal lands. The data collection instrument is designed to capture administrative, operational and caseload data from prosecutor offices that investigate and prosecute crimes that occur on tribal lands. This survey is the first of its kind to describe the role that state and local prosecutor offices play in charging and prosecuting crimes that occur on tribal lands.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An agency-level survey will be sent to approximately 250 offices. The expected burden placed on these respondents is about 60 minutes per respondent.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden is approximately 282 burden hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: February 1, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–02209 Filed 2–4–16; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

[OMB Number 1121—NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection: State and Local Justice Agencies Serving Tribal Lands (SLJASTL): Census of State and Local Law Enforcement Agencies Serving Tribal Lands (CSLLEASTL)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until April 5, 2016.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Suzanne Strong, Statistician, Prosecution and Judicial Statistics, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: *Suzanne.M.Strong@usdoj.gov;* telephone: 202–616–3666).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New collection.

(2) *The Title of the Form/Collection:* State and Local Justice Agencies Serving Tribal Lands (SLJASTL): Census of State and Local Law Enforcement Agencies Serving Tribal Lands (CSLLEASTL).

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* No agency form number at this time. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents will be general purpose state and local law enforcement agencies (LEAs) that are responsible for policing tribal lands, including police departments, sheriff's offices, state law enforcement agencies and special jurisdiction agencies.

Abstract: Among other responsibilities, the Bureau of Justice Statistics (BJS) is charged with collecting data regarding crimes occurring on tribal lands. The SLJASTL is the first effort by BJS to include state and local justice agencies responsible for policing and prosecuting crimes that occur on tribal lands. Specifically, the CSLLEASTL will collect information that will help fill the gaps we have in our understanding of the nature of crime on tribal lands. The data collection instrument is designed to capture administrative, operational and caseload data from respondents. This survey is the first of its kind to describe the role that state and local law enforcement play in policing crime on tribal lands.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An agency-level survey will be sent to approximately 600 agencies. The expected burden placed on these respondents is about 60 minutes per respondent.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden is approximately 713 burden hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: February 1, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–02210 Filed 2–4–16; 8:45 am]

BILLING CODE 4410–18–P

LEGAL SERVICES CORPORATION

Notice—Agricultural Worker Population Estimates for Basic Field—Migrant Grants

AGENCY: Legal Services Corporation.

ACTION: Notice.

SUMMARY: On February 3, 2015, the Legal Services Corporation (LSC) published a notice in the **Federal Register** requesting comment on a proposal to update the agricultural worker population estimates used for determining the amount of Basic Field funds that LSC will distribute through Basic Field—Migrant grants. 80 FR 5791. Based on comments received in response to this notice, LSC has identified three areas for further public input.

Specifically, LSC seeks (1) comments on the methodology and data used for estimating the agricultural worker population by the U.S. Department of Labor's Employment Training Administration (ETA) considering the additional ETA materials published

with this notice; (2) comments on a new estimate of aliens within the agricultural worker population who are eligible for services from LSC grantees based on sexual abuse, domestic violence, trafficking, or other abusive or criminal activities; and (3) submission of available and reliable state- or region-specific, data-based estimates of the population of agricultural workers eligible for LSC-funded services to augment the ETA estimates in individual states or regions. LSC will accept such estimates only if they include the data and methodologies used, including authorship and other relevant information.

DATES: Comments must be submitted on or before March 21, 2016.

ADDRESSES: Written comments must be submitted to Mark Freedman, Senior Associate General Counsel, Legal Services Corporation, 3333 K St. NW., Washington, DC 20007–3522; 202–337–6519 (fax); *mfreedman@lsc.gov.* LSC prefers electronic submissions via email with attachments in Acrobat PDF format. Written comments sent to any other address or received after the end of the comment period may not be considered by LSC.

FOR FURTHER INFORMATION CONTACT: Mark Freedman, Senior Associate General Counsel, Legal Services Corporation, 3333 K St. NW., Washington, DC 20007–3522; 202–295–1623 (phone); 202–337–6519 (fax); *mfreedman@lsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The Legal Services Corporation (LSC) seeks public comment on three enhancements to its proposal to obtain and implement more current estimates of the U.S. agricultural worker population eligible for LSC-funded legal assistance. LSC will use those estimates to determine how much of the appropriated Basic Field Programs funds to provide through Basic Field—Migrant grants and the distribution of those grants among the states and other LSC service areas.

On February 3, 2015, LSC published a notice in the **Federal Register** at 80 FR 5791 requesting comment on a proposal to recalculate the amount and distribution of funds through these grants based on new estimates obtained from the U.S. Department of Labor's Employment Training Administration (ETA). LSC set out three issues for comment:

A. Implementing the new estimates for the distribution of grants beginning in January 2016.

B. Phasing in the changes by providing intermediate funding halfway between the old and new levels for 2016 and fully implementing the new levels for 2017.

C. Obtaining updated estimates every three years for recalculation on the same statutory cycle as LSC obtains updated poverty-population data from the U.S. Census Bureau for the distribution of LSC's Basic Field Programs appropriation.

Based on the eleven comments received in response to the notice, LSC identified three issues for additional public comment.

1. LSC is providing increased access to the original source data and methodology used by ETA, and LSC seeks comments on ETA's methodology and data.

2. LSC seeks comments on a new proposal for estimating the number of aliens within the agricultural worker population who are eligible for services from LSC grantees pursuant to 45 CFR 1626.4, based on sexual abuse, domestic violence, trafficking, or other abusive or criminal activities.

3. LSC will accept submission of available and reliable state- or region-specific, data-based estimates of the population of agricultural workers eligible for LSC-funded services to augment the ETA estimates in individual states or regions—LSC will accept such estimates only if they include the data and methodologies used, including authorship and other relevant information.

Individuals and organizations can submit materials regarding these three topics to LSC at the address noted above before the specified deadline.

LSC has posted on *www.lsc.gov* the original notice, the original ETA report, LSC's memo regarding this issue, the comments received, and this notice with all referenced tables and appendices. *www.lsc.gov/ag-worker-data.*

II. Background

On January 21, 2015, LSC Management issued the *LSC Agricultural Worker Population Estimate Update—LSC Management Report to the LSC Board of Directors* (LSC Management Report) providing a detailed background and discussion of the need for new population estimates to inform LSC's decisions about grant funding for legal services to agricultural workers. *www.lsc.gov/ag-worker-data* (updated January 30, 2015 version of the report).

Briefly summarized, Congress annually appropriates funds to LSC for supporting legal services for eligible clients through grants to ''Basic Field Programs'' in each state, territory, and the District of Columbia on a per-capita basis using poverty-population data from the U.S. Census Bureau. Public Law 104–134, tit. V, Sec. 501(a), 110 Stat. 1321, 1321–50 (1996), as amended by Public Law 113–6, div. B, tit. IV, 127 Stat. 198, 268 (2013) (LSC funding formula adopted in 1996, incorporated by reference in LSC's appropriations thereafter, and amended in 2013). LSC divides the total per-capita funding for the area into one category for ''Basic Field—General'' grants and another category for ''Basic Field—Migrant'' grants (Migrant Grants) to serve the ''special difficulties of access to legal services or special legal problems'' of agricultural workers. 42 U.S.C. 2996f(h) (LSC Act requirement that LSC address such issues for farmworkers). LSC determines where to provide Migrant Grants and how much of the Basic Field Programs appropriation to allocate to each Migrant Grant based on the agricultural worker population of that area.

The U.S. Census Bureau does not estimate populations of migrant workers or agricultural workers. For Migrant Grants, LSC has been using information based on historical estimates dating back to 1990. Furthermore, those estimates include only migrant workers and do not count the entire population of agricultural workers—migrants and non-migrants—that LSC expects grantees to serve with Migrant Grants.

Unlike the U.S. Census Bureau, ETA collects data and provides estimates of the agricultural-worker population for federal grants serving the needs of the agricultural workers in the U.S. LSC contracted with ETA to obtain better and more current estimates of the size and distribution of the population of agricultural workers and their dependents who are eligible for services provided by LSC grantees, and who have incomes below the poverty line (the benchmark used by the U.S. Census Bureau for defining the poverty population that LSC uses for distribution of the Basic Field Programs appropriation). ETA provided LSC with these estimates, including state-by-state breakdowns.

The LSC Management Report described the need for special legal services grants to serve agricultural workers and their dependents, how LSC funds those legal services, and the need to update population estimates for those grants. LSC also provided the new national and state-by-state estimates of the agricultural worker population eligible for LSC services as provided by ETA.

On February 3, 2015, LSC published a notice in the **Federal Register** at 80 FR 5791 seeking comments on:

A. Using the new estimates for distribution of Migrant Grants beginning in January 2016;

B. phasing in the funding changes to provide intermediate funding halfway between the old and new levels for 2016 and to fully implement the new levels for 2017; and

C. obtaining and implementing new estimates every three years on the same cycle as LSC obtains and implements new poverty-population data for LSC's Basic Field—General grants.

III. Analysis of Comments Received

LSC received eleven comments from eight organizations and three individuals. The National Legal Aid and Defender Association (NLADA) submitted two comments—one from the NLADA Civil Policy Group and one from the NLADA Farmworker Section. The American Bar Association commented through its Standing Committee of Legal Aid and Indigent Defense. Six LSC grantees submitted comments: (1) Georgia Legal Services, (2) Iowa Legal Aid, (3) the Michigan Advocacy Program (Legal Services of South Central Michigan and Farmworker Legal Services), (4) Southern Minnesota Regional Legal Services, (5) Legal Aid of Nebraska, and (6) Legal Action of Wisconsin. Three individuals submitted comments.

Generally, the comments supported using better estimates for distributing funds for these grants. This section summarizes the comments and identifies three issues about which LSC now seeks further comment. LSC does not seek comment on any of the other issues in the original notice or comments.

A. The Need for Specialized Services and Separate Grants To Support Legal Services for Agricultural Workers

The comments all affirmed the need for specialized services to agricultural workers and dependents, and endorsed continuing to separate funds for grants for those specialized services out of the Basic Field Programs appropriation. These comments agreed with LSC's determination that due to a variety of factors—including social, cultural, and geographic isolation and the unique body of laws governing agricultural employment—eligible agricultural workers and their families have special legal problems and difficulties accessing civil legal services that are different from those faced by the general population of eligible clients. Thus, consistent with the LSC Act's requirement to address such issues, LSC should provide separate Migrant Grants.

B. More Current Estimates of the Population of Agricultural Workers

The comments supported LSC's proposal to obtain and use more current estimates of the size of the agricultural worker population within each state.

C. Updating the Definition of Agricultural Workers

Most comments supported LSC's proposal to update its definition of eligible agricultural workers and dependents to include all crop workers (migrant, seasonal, and otherwise), livestock workers, and forestry workers.

One LSC grantee recommended limiting the parameters to people who perform agricultural work as migrants and excluding non-migrant workers. One individual expressed concern about the impact of including livestock and forestry workers (or other non-traditional agricultural workers) in the national count of ''agricultural workers.'' That commenter argued that those other populations have less need for specialized legal services than people working in traditional hand-harvest labor. Furthermore, that commenter expressed concern that the inclusion of these workers would result in a shift in funding and service delivery from the ''traditional farmworker states'' to other states.

LSC will include the previously-proposed categories of livestock and forestry workers (and other non-migrant agricultural workers) in the new estimates as supported by many of the comments. LSC agrees that migrant workers and their dependents face particular challenges because of their geographic mobility and heightened social and cultural isolation. For the reasons set forth in the LSC Management Report, the legal needs of non-migrant agricultural workers are more similar to those of migrant agricultural workers than to those of non-agricultural workers and are most efficiently and effectively addressed by legal services providers with experience serving those unique needs. Thus, LSC can best serve the legal needs of all individuals eligible for LSC-funded services by allocating funds to the Migrant Grants for all agricultural workers rather than dividing the agricultural worker population between Migrant Grants and Basic Field—General grants.

The comments expressing concerns that a modification in the definition of agricultural workers will alter the distribution of funds among the states are based on a misunderstanding regarding the allocation of funding to Migrant Grants. *Changes in Migrant Grant funding in one state will not affect Migrant Grant funding in any other state.* Rather, ''funding for migrant legal services is based on the estimated size of the migrant poverty population *in each geographic area* . . . [and] the funding for this population is 'backed out' of the funding *for the rest of [that] state's poverty population.'' LSC Management Report,* 19 (emphasis added). Thus, increasing the agricultural-worker count for one State will have *no effect* on any LSC grants in any other state.

Finally, some comments also suggested that LSC include off-farm fruit and vegetable canning workers in its definition of agricultural workers because those workers can face the same barriers to accessing civil legal assistance experienced by the agricultural workers currently included in LSC's ''agricultural worker'' definition. The ETA expert panel recommended excluding those off-farm workers from the definition of agricultural workers because those workers are not subject to the special Fair Labor Standards Act rules that apply to the other categories of agricultural workers. *See* 29 CFR part 780 (exemptions for agricultural work). Rather, those off-farm workers are subject to the same Fair Labor Standards Act rules as other non-agricultural U.S. workers. Furthermore, the Migrant and Seasonal Agricultural Worker Protection Act does not apply to local workers employed in packing, processing, or canning operations. Therefore, LSC will not include off-farm fruit and vegetable canning workers in the ''agricultural worker'' definition.

One individual commented that LSC should provide funds to serve both eligible and ineligible workers. LSC does not structure special-purpose grants to serve ineligible people.

D. Methodological Issues

Some comments questioned ETA's methodology, source data, and the resulting estimates. As discussed in more detail in Section IV below (Areas for Further Public Input), these comments focused on (1) potential inaccuracies in ETA's final state estimates based on the use of the National Agricultural Worker Survey (NAWS) and United States Department of Agriculture (USDA) National Agricultural Statistics Service (NASS) regional ratios, (2) the lack of access to the source data and methodology used by ETA, and (3) the need for adjustments to the estimates for aliens eligible for LSC-grantee services based

on sexual abuse, domestic violence, trafficking, or other abusive or criminal activities. 45 CFR 1626.4—Aliens eligible for assistance under anti-abuse laws. LSC will address these concerns through the information provided in this notice for additional comment.

Some comments also asked if the count of eligible dependents of farmworkers excluded as ''unauthorized'' aliens who are spouses, parents, or (in some cases) children of U.S. citizens and who are beneficiaries of pending I–130 petitions for permanent residence. LSC grantees can serve those individuals under 45 CFR 1626.5(b). ETA reported that the NAWS survey instrument is designed to identify individuals with pending I–130 petitions, so that those individuals were included in the eligible population estimate.

E. Implementation of New Estimates

All comments endorsed a phase-in approach, while many suggested a delay to allow grantees (both farmworker and basic field grant recipients) time to implement appropriate delivery changes based on new estimates. LSC's decision to publish this notice seeking additional comment has moved implementation to January 2017. LSC will phase in funding changes so that one-half of the transition occurs in 2017 and the full changes occur in 2018.

All comments supported LSC's proposal to update the estimates at regular intervals. These comments agreed with LSC that updating those estimates on a more regular basis would cause less disruption for recipients in the future.

A number of comments, however, questioned whether LSC's proposal to update these estimates in three-year intervals would be sufficiently regular enough to account for rapid changes in agricultural worker populations. Furthermore, comments requested that LSC accept additional public comment once more information is known about the impact of the Census Bureau's recent announcement concerning discontinuing the so-called ''three-year estimates'' produced in conjunction with the American Community Survey. LSC will adopt the proposed triennial adjustment because Congress mandates that LSC obtain updated poverty-population data from the Census Bureau every three years for redistribution of the Basic Field Program appropriation. Public Law 104–134, tit. V, 501(a)(2)(A), 110 Stat. 1321, 1321–51 (1996), as amended by Public Law 113–6, div. B, tit. IV, 127 Stat. 198, 268 (2013) (LSC funding formula adopted in the 1996 LSC appropriation, incorporated by reference in LSC's appropriations thereafter, and amended in the 2013 LSC appropriation). LSC grantees can budget and plan service delivery better if LSC makes one adjustment to the distribution of grant funds every three years that includes both (1) the national distribution *among* states and territories and (2) the local distribution *within* each state or territory between farmworker grants and general-purpose grants.

IV. Areas for Further Public Input

LSC has identified three additional areas for public comment.

A. LSC Is Providing Increased Access to the Original Source Data and Methodology Used by ETA, and LSC Seeks Comments on ETA's Methodology and Data

Some comments maintained that they could not evaluate the validity of the ETA estimates because they did not have all the necessary information about the methodologies and data used to develop those estimates. LSC has provided greater access to the data and methodology used by ETA by producing the following additional tables. All tables are published at *www.lsc.gov/ag-worker-data.*

Table I—Updated Estimates of the Size and Geographic Distribution of the LSC-Eligible Agricultural Worker Population and the Sources and Calculations Used To Develop Those Estimates

Table I is a forty-three-column table that provides updated estimates of the LSC-Eligible Agricultural Worker Population for each state, for each region, and nationally and identifies all of the data sources, methods and calculations on which the updated agricultural working population estimates are based.

Table II—National and State Estimates of the LSC-Eligible Agricultural Worker Population—Summary Table

Table II is an abbreviated version of Table I. This fifteen-column table provides the updated estimates of the LSC-Eligible Agricultural Worker Population for each state, for each region, and nationally and identifies the most significant steps in the estimation formula on which the updated agricultural working population estimates are based.

Table III—Percentages of Agricultural Workers by National Agricultural Worker Survey (NAWS) Region and State Who Are Authorized and in Poverty

Table III is a five-column table that identifies for each state, for each region, and nationally: (1) The percentage of agricultural workers in poverty, (2) the percentage of farmworkers that are U.S. citizens or authorized aliens, and (3) the percentage of farmworkers that are in both categories.

Table IV—Average Numbers of Dependents per Farmworker by National Agricultural Worker Survey (NAWS) Region and State

Table IV is a five-column table that identifies for each state, for each region, and nationally the percentage of agricultural worker dependents who are: (1) In poverty, (2) U.S. citizens or authorized aliens, and (3) in both categories.

Table V—Number and Percentage of LSC-Eligible Agricultural Workers in Each State Who Are Crop, Livestock, and Forestry Workers

Table V is a nine-column table that identifies for each state, for each region, and nationally the percentage and number of agricultural workers who are eligible (*i.e.,* in poverty and either U.S. citizens or authorized aliens) and who are crop, livestock, or forestry workers.

Table VI—Number of Unauthorized and Below-Poverty Farmworkers Eligible for LSC-Funded Services Pursuant to Anti-Abuse Provisions of 45 CFR 1626.4(3)

Table VI is a twelve-column table that identifies each for state, for each region, and nationally the number of unauthorized and below-poverty agricultural workers eligible for LSC-funded services pursuant to the Anti-Abuse provisions of 45 CFR 1626.4.

Table VII—LSC-Eligible Agricultural Worker Population by State: Comparison of Current Population Estimates and Updated January 2016 Department of Labor, Employment and Training Administration (ETA) Estimates

Table VII is a seven-column table that provides for each state and nationally the estimated migrant population currently used to allocate LSC funding and the updated estimated agricultural worker population.

Because of NAWS survey data confidentiality issues, not all survey data can be published. Persons or entities needing access to the restricted NAWS data may seek approval to access the data in either (1) Washington, DC, at

the Employment and Training Administration, U.S. Department of Labor, or (2) in Burlingame, California, at the office of ETA's NAWS contractor, JBS International. The request should be submitted in writing to Mr. Daniel Carroll at ETA—*carroll.daniel.j@dol.gov*—and identify the need for the NAWS information for commenting on this LSC proposal and explain why the NAWS public data file does not provide sufficient information.

B. LSC Seeks Comments on a New Proposal for Estimating the Number of Aliens Within the Agricultural Worker Population Who Are Eligible for Services From LSC Grantees Pursuant to 45 CFR 1626.4, Based on Sexual Abuse, Domestic Violence, Trafficking, or Other Abusive or Criminal Activities

Several comments questioned the potential exclusion in the published estimates of certain non-U.S. citizen ''unauthorized'' farmworkers who could be LSC eligible pursuant to specific anti-abuse statutes, as provided in 45 CFR 1626.4. LSC separates Basic Field Programs funds into Basic Field—General Grants and Migrant Grants in order to make LSC funds available through grantees that are best equipped to serve the needs of different parts of the population of LSC-eligible clients. LSC therefore needs to use the best available information to estimate those populations and direct funds accordingly. Notably, these estimates do not affect the eligibility of any applicants for services; the numbers are used only for distribution of funding.

It is widely recognized by experts in the field that significant numbers of non-U.S. citizen farmworkers without work authorization are already subject to the abusive or criminal activities that would qualify them for LSC grantees' services pursuant to § 1626.4. However, the lack of data on this population precluded ETA from developing a national number to estimate this population. As a result, the published estimates implicitly assume that no unauthorized farmworkers are eligible for LSC-funded services.

This implicit assumption is inconsistent with statutes that explicitly authorize representation of unauthorized individuals who have been subject to abuse, sexual assault, trafficking, or certain other crimes and both public and private data that demonstrate that significant numbers of farmworkers are subject to such crimes and therefore eligible for LSC-funded services based on the provisions of 45 CFR 1626.4. In response to these concerns, LSC has identified and assessed available sources regarding the extent of these crimes against farmworkers and developed a methodology to estimate the size of the farmworker population that would be eligible for LSC grantees' services based on the provisions of § 1626.4. *See* Appendix A—*Estimate of the Population of Agricultural Workers Eligible for LSC-Funded Services Pursuant to 45 CFR 1626.4—Anti-Abuse Law.* LSC seeks feedback on the methodology and results produced by this methodology.

C. LSC Will Accept Submission of Available and Reliable State- or Region-Specific Estimates of the Population of Agricultural Workers Eligible for LSC-Funded Services To Augment the ETA Estimates in Individual States or Regions—LSC Will Accept Such Estimates Only if They Include the Data and Methodologies Used, Including Authorship and Other Relevant Information

Some comments raised concerns about the source data and the methodology used by ETA. In particular, concerns were raised about the types of state groupings used for distribution of the estimated population among the states, leading to understatements of the number of LSC-eligible farmworkers in particular states. Specifically, comments stated that differences affecting agricultural workforces within a NAWS/NASS region produced inaccurate estimates for states within that region. Comments expressed the concern that states grouped together by geographic proximity did not share similarities in commodities or farmworker workforces. These comments also identified potential sources of more detailed estimates within specific states or regions.

LSC investigated the possibility of ETA's developing alternative estimates of the LSC-eligible population by reconfiguring the NAWS/NASS regions, but ETA determined that doing so is not feasible.

Although the NAWS/NASS regions produce the best available nationwide and regional population estimates, LSC understands that the NAWS/NASS regions might not account for unique, state-specific factors that could be relevant to delivery of these legal services in some states. Therefore, LSC requests submission of available and reliable state- or region-specific estimates of the population of agricultural workers eligible for LSC-funded services to augment the ETA estimates in individual states or regions. We underscore that the estimates must include both the source data (and data description) and a detailed summary of the research methodology employed to derive the estimates. The information should also identify all authors and any relevant citations or references to those estimates or to materials relied upon by those estimates. Please note that LSC uses the 100%-of-poverty threshold for population estimates. After the close of the comment period, LSC will publish on *www.lsc.gov* all actual, potentially reliable estimates submitted and related information. LSC will also publish a notice in the **Federal Register** regarding the availability of the estimates and providing a comment period.

Dated: February 1, 2016.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2016–02201 Filed 2–4–16; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (16–007)]

Notice of Intent To Grant Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant exclusive license.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant an exclusive license in the United States to practice the inventions described and claimed in USPN 8,384,614, Deployable Wireless Fresnel Lens; NASA Case No. MSC–24525–1 to Wifi2way, LLC, having its principal place of business in Holmdel, NJ. The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, Office of Chief Counsel, NASA Johnson Space Center, 2101 NASA Parkway, Mail Code AL, Houston, Texas 77058; Phone (281) 483–3021; Fax (281) 483–6936.

FOR FURTHER INFORMATION CONTACT: Ms. Michelle P. Lewis, Technology Transfer and Commercialization Office, NASA Johnson Space Center, 2101 NASA Parkway, Mail Code AO52, Houston, TX 77058, (281) 483–8051. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Mark P. Dvorscak,

Agency Counsel for Intellectual Property.

[FR Doc. 2016–02225 Filed 2–4–16; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings; National Science Board

The National Science Board, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended, (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the addition of an agenda item in the plenary closed session of the National Science Board meetings on February 3, 2016, as shown below. The original notice appeared in the **Federal Register** on January 29, 2016 at 81 FR 70259.

Amended Agenda

Plenary Board meeting

Closed session: 12:30–1:00 p.m.

- NSB Chair's remarks
- Approval of closed plenary minutes for November 2015
- Approval of Stampede 2 preliminary resolution
- Approval of Gemini preliminary resolution
- Discussion and approval of Board's next steps regarding NEON (ADDED)
- Closed committee reports
- NSB Chair's closing remarks

UPDATES: Please refer to the National Science Board Web site for additional information. Meeting information and schedule updates (time, place, subject matter or status of meeting) may be found at *http://www.nsf.gov/nsb/meetings/notices.jsp.*

AGENCY CONTACT: Ron Campbell, *jrcampbe@nsf.gov,* 703–292–7000.

Kyscha Slater-Williams,

Program Specialist, National Science Board.

[FR Doc. 2016–02362 Filed 2–3–16; 11:15 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by March 7, 2016. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Division of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, at the above address or *ACApermits@nsf.gov* or (703) 292–7149.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details

1. *Applicant*—Permit Application: 2016–025

Dr. H. William Detrich, III, Dept. of Marine and Environmental Sciences, Northeastern University Marine Science Center, 430 Nahant Rd., Nahant, MA 01908

Activity for Which Permit Is Requested

ASPA entry; A permit is requested to enter ASPA 152 (Western Bransfield Strait) and ASPA 153 (Eastern Dallmann Bay) using the ARSV Laurence M. Gould to capture Antarctic fish by trawling and trapping. The collected fish would be used to study the effects of a warming Southern Ocean on development of the embryos of Antarctic fishes. Data collected under this permit would be part of a long-term (30-year) dataset. Approximately 50 hours of trawling would be conducted in ASPA 152 and approximately 20 hours would be conducted in ASPA 153. Sixteen traps would be set and allowed to soak for a total of 6 days. It is anticipated that approximately five hundred (500) individual fish representing four species (*Notothenia coriiceps, Chaenocephalus aceratus, Champsocephalus gunnari, Gobionotothen gibberifrons*) would be captured in the ASPAs and used in the study. Live fishes would be transported to the aquarium facilities at Palmer Station for experimentation. Breeding and biochemical experiments would be conducted. All experimental animals would be humanely euthanized and properly disposed of outside the ASPAs.

Location

ASPA 152 Western Bransfield Strait and ASPA 153 Eastern Dallmann Bay.

Dates

April 17, 2016 to September 1, 2018.

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2016–02166 Filed 2–4–16; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, Division of Polar Programs, Rm. 755,

National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Or by email: *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: On December 24, 2015 the National Science Foundation published a notice in the **Federal Register** of permit applications received. The permits were issued on February 1, 2016 to:

1. Charles D. Amsler, Jr.—Permit No. 2016–021
2. Sarah Eppley—Permit No. 2016–023

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2016–02165 Filed 2–4–16; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0006]

Operator Licensing Examination Standards for Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft NUREG; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft NUREG–1021, Revision 11, ''Operator Licensing Examination Standards for Power Reactors.''

DATES: Submit comments by March 21, 2016. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0006. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Maurin Scheetz, telephone: 301–415–2758, email: *Maurin.Scheetz@nrc.gov;* or Timothy Kolb, telephone: 703–462–3957, email: *Timothy.Kolb@nrc.gov,* both are staff of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0006 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0006.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section. The draft NUREG is available in ADAMS under Accession No. ML16028A409. The draft NUREG will also be accessible through the NRC's Public Site under draft NUREGs for comment.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2016–0006 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

I. Discussion

The draft NUREG provides policy and guidance for the development, administration, and grading of examinations used for licensing operators at nuclear power plants under the Commission's regulations in part 55 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Operator Licenses.'' This draft NUREG also provides guidance for maintaining operators' licenses, and for the NRC to conduct requalification examinations when necessary.

Dated at Rockville, Maryland, this 29th day of January, 2016.

For the Nuclear Regulatory Commission.

Clay Johnson,

Acting Deputy Director, Division of Inspection and Regional Support, Office of Nuclear Reactor Regulation.

[FR Doc. 2016–02244 Filed 2–4–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0081]

Information Collection; NRC Form 790 Classification Record

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''NRC Form 790 Classification Record.''

DATES: Submit comments by March 7, 2016.

ADDRESSES: Submit comments directly to the OMB reviewer at: Vlad Dorjets, Desk Officer, Office of Information and Regulatory Affairs (3150–0052), NEOB–10202, Office of Management and Budget, Washington, DC 20503;

telephone: 202–395–7315, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Kristen Benney, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6355; email: *INFOCOLLECTS.Resource@NRC.GOV.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0081 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0081. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2015–0081.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML15324A078. The supporting statement is available in ADAMS under Accession No. ML15324A077.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Acting Clearance Officer, Kristen Benney, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6355; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''NRC Form 790, Classification Record.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on August 24, 2015, 80 FR 51328.

1. *The title of the information collection:* NRC Form 790, ''Classification Record.''
2. *OMB approval number:* 3150–0052.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* NRC Form 790.
5. *How often the collection is required or requested:* On occasion.
6. *Who will be required or asked to respond:* NRC licensees, licensees' contractors, and certificate holders who classify and declassify NRC information.
7. *The estimated number of annual responses:* 1,500 annual responses.
8. *The estimated number of annual respondents:* Three annual respondents (two NRC licensees and one licensee's contractor).
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 143 hours.
10. *Abstract:* Completion of the NRC Form 790 is a mandatory requirement for NRC licensees, licensees' contractors, and certificate holder who classify and declassify NRC information in accordance with Executive Order 13526, ''Classified National Security Information,'' the Atomic Energy Act, and implementing directives.

Dated at Rockville, Maryland, this 2nd day of February 2016.

For the Nuclear Regulatory Commission.

Kristen Benney,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2016–02226 Filed 2–4–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–274; NRC–2015–0284]

United States Geological Survey, TRIGA Research Reactor

AGENCY: Nuclear Regulatory Commission.

ACTION: License renewal application; docketing; opportunity to request a hearing and to petition for leave to intervene; order.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering an application for the renewal of Facility Operating License No. R–113, which authorizes the United States Geological Survey (USGS or the licensee) to operate the USGS Training, Research, Isotope Production, General Atomics (TRIGA) Research Reactor (GSTR) at a maximum steady-state thermal power of 1.0 megawatts (MW). The GSTR is a TRIGA-fueled research reactor located at the Denver Federal Center, in Lakewood, Colorado. If approved, the renewed license would authorize the licensee to operate the GSTR up to a steady-state thermal power of 1.0 MW for an additional 20 years from the date of issuance of the renewed license.

DATES: A request for a hearing or petition for leave to intervene must be filed by April 5, 2016. Any potential party as defined in § 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to sensitive unclassified non-safeguards information (SUNSI) is necessary to respond to this notice must request document access by February 16, 2016.

ADDRESSES: Please refer to Docket ID NRC–2015–0284 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0284. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For

technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* For the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of this document.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Geoffrey Wertz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0893; email: *Geoffrey.Wertz@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering an application for the renewal of Facility Operating License No. R–113, which authorizes the licensee to operate the GSTR at a maximum steady-state thermal power of 1.0 MW. The renewed license would authorize the licensee to operate the GSTR up to a steady-state thermal power of 1.0 MW for an additional 20 years from the date of issuance of the renewed license.

By letter dated January 5, 2009, and as supplemented by various letters referenced in Section IV, ''Availability of Documents,'' of this document, the NRC received an application from the licensee filed pursuant to 10 CFR 50.51(a) to renew Facility Operating License No. R–113 for the GSTR. The application contains SUNSI.

Based on its initial review of the application, the NRC staff determined that the licensee submitted sufficient information in accordance with 10 CFR 50.33 and 50.34 so that the application is acceptable for docketing. The current Docket No. 50–274 for Facility Operating License No. R–113 will be retained. The docketing of the renewal application does not preclude requests for additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application. Prior to a decision to renew the license, the Commission will make findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

II. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, ''Hearing requests, petitions to intervene, requirements for standing, and contentions,'' which is available at the NRC's PDR, located in One White Flint North, Room O1–F21 (first floor), 11555 Rockville Pike, Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition. The Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted, with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the license renewal under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the

Commission by April 5, 2016. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may also have the opportunity to participate under 10 CFR 2.315(c).

If a hearing is granted, any person who does not wish, or is not qualified, to become a party to the proceeding may, in the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by April 5, 2016.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is

available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, in some instances, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

IV. Availability of Documents

Documents related to this action, including the license renewal application and other supporting documentation are available to interested persons as indicated.

Document	ADAMS Accession No.
NUREG–1537, ''Guidelines for Preparing and Reviewing Applications for the Licensing of Non-Power Reactors,'' Part 1, ''Format and Content,'' February 1996	ML042430055
NUREG–1537, Part 2, ''Standard Review Plan and Acceptance Criteria,'' February 1996	ML042430048
''United States Geological Survey—'Redacted' Revised Safety Analysis Report [SAR], Technical Specifications, and Environmental Report to Support License Renewal (ME1593),'' January 5, 2009	ML092120136
''U.S. Geological Survey TRIGA Reactor Response to the RAI [Request for Additional Information] Concerning R–113 License Renewal,'' November 24, 2010	ML103340090
''Response to Letter of February 1, 2011, Concerning R–113 License Renewal,'' February 11, 2011	ML110480046
''Response to Questions 23.1, 23.2, and 23.3 of the Referenced RAI,'' March 28, 2011	ML110950059
''U.S. Geological Survey—Response to Questions 22.1, 22,2, 25.1, 25.2, 25.3, 25.4, and 25.6 of the Referenced RAI,'' May 12, 2011	ML11138A027
''U.S. Geological Survey, Response to Request for Additional Information for Questions 17.1 and 17.2,'' June 29, 2011	ML11181A305
''Response to Question 2 of the Referenced RAI,'' July 27, 2011	ML11214A091
''Response to Question 1 of the Referenced RAI,'' August 30, 2011 (package)	ML112500522
''Response to Request for Additional Information to Question 20 of September 29, 2010,'' September 26, 2011	ML11277A013
''U.S. Geological Survey TRIGA Reactor (GSTR) Response to Question 6 of the Referenced RAI,'' October 31, 2011	ML11314A106
''U.S. Geological Survey—*Redacted* Licensee Response to NRC Request for Additional Information Questions 7 and 8 Re: License Renewal (TAC No. ME1593),'' November 30, 2011	ML113460014
''U.S. Geological Survey—*Redacted* Licensee Response to NRC Request for Additional Information Question 15.3 (ME1593),'' January 3, 2012	ML120240003
''U.S. Geological Survey TRIGA Reactor—Response to Question 15.2 of the Request for Additional Information (RAI) dated September 29, 2010,'' January 27, 2012	ML12068A138
''U.S. Geological Survey TRIGA Reactor (GSTR)—Response to Question 18 of a Request for Additional Information dated September 29, 2010,'' January 27, 2012	ML12039A173
''U.S. Geological Survey TRIGA Reactor, Response to Request for Additional Information to Question 14,'' March 28, 2012	ML12100A097
''U.S. Geological Survey TRIGA Reactor (GSTR)—Response to Question 16 of the Referenced RAI,'' April 27, 2012	ML12128A429
''U.S. Geological Survey, Responses to Questions 26 and 27 of the Referenced RAI,'' May 18, 2012	ML12151A407
''U.S. Geological Survey—Response to Request for Additional Information (RAI) Question 14,'' May 31, 2012	ML12160A064
''U.S. Geological Survey TRIGA Reactor (GSTR)—Response to Question 3 of the Referenced RAI,'' June 29, 2012	ML12200A055
''U.S. Geological Survey TRIGA Reactor—Response to Question 21 of the Referenced RAI dated September 29, 2010,'' July 31, 2012	ML12220A525
''Responses are Provided to Questions 9, 10, 11, 12, 15.1, 23.4, 24, and 25.5; Along with a Corrected Copy of the Proposed Technical Specifications (Chapter 14) of the SAR,'' August 30, 2012	ML12251A231
''U.S. Geological Survey—*Redacted* Response to NRC Request for Additional Information dated October 2, 2012 (TAC No. ME1593),'' November 16, 2012	ML12334A001
''U.S. Geological Survey—*Redacted*—Responses to NRC Request for Additional Information dated October 2, 2012 and Telephone Conference dated December 20, 2012,'' February 8, 2013	ML13052A179
''Redacted—U.S.GS RAI Clarification Information Needed to Support the U.S.GS License Renewal SAR (TAC No. ME1593),'' May 17, 2013	ML13162A662
''Follow-up Safety Analysis Responses from letter dated July 15, 2013,'' October 31, 2013	ML13311A047
''Redacted Version—U.S. Geological Survey TRIGA Reactor Request for Additional Information Responses to RAI Questions 15.3 and 28,'' November 24, 2014	ML14338A196
''Revision of Proposed Technical Specifications,'' September 8, 2015	ML15261A042

Portions of the license renewal application and its supporting documents contain SUNSI. These portions will not be available to the public. Any person requesting access to SUNSI must follow the procedures described in the Order below.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing SUNSI.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline. This provision does not extend the time for filing a request for a hearing and petition to intervene, which must comply with the requirements of 10 CFR 2.309.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) officer if that officer has been designated to rule on information access issues.

H. Review of Grants of Access. A party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. Attachment 1 to the Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 1st day of February, 2016.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in This Proceeding

Day	Event/Activity
0	Publication of *Federal Register* notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

Day	Event/Activity
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information). If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2016–02243 Filed 2–4–16; 8:45 am]
BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0001]

Sunshine Act Meeting Notice

DATES: February 8, 15, 22, 29, March 7, 14, 2016.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of February 8, 2016

There are no meetings scheduled for the week of February 8, 2016.

Week of February 15, 2016—Tentative

There are no meetings scheduled for the week of February 15, 2016.

Week of February 22, 2016—Tentative

Tuesday, February 23, 2016

9:30 a.m. Discussion of Management Issues (Closed—Ex. 2)

Thursday, February 25, 2016

9:00 a.m. Strategic Programmatic Overview of the Fuel Facilities and the Nuclear Material Users Business Lines (Public Meeting); (Contact: Anita Gray: 301–415–7036)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of February 29, 2016—Tentative

Thursday, March 3, 2016

9:30 a.m. Briefing on NRC International Activities (Closed—Ex. 1&9)

Friday, March 4, 2016

10:00 a.m. Meeting with Advisory Committee on Reactor Safeguards (Public Meeting); (Contact: Mark Banks: 301–415–3718)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of March 7, 2016—Tentative

There are no meetings scheduled for the week of March 7, 2016.

Week of March 14, 2016—Tentative

Tuesday, March 15, 2016

9:00 a.m. Briefing on Power Reactor Decommissioning Rulemaking (Public Meeting); (Contact: Jason Carneal: 301–415–1451).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Thursday, March 17, 2016

9:00 a.m. Meeting with the Advisory Committee on the Medical Uses of Isotopes (Public Meeting); (Contact: Douglas Bollock: 301–415–6609).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.*, braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: February 3, 2016.

Denise McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2016–02392 Filed 2–3–16; 4:15 pm]
BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016–76 and CP2016–98; Order No. 3061]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail & First-Class Package Service Contract 13 negotiated service agreement to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* February 9, 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

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30–.35, the Postal Service filed a formal request and associated supporting information to add Priority Mail & First-Class Package Service Contract 13 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. Request, Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2016–76 and CP2016–98 to consider the Request pertaining to the proposed Priority Mail & First-Class Package Service Contract 13 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than February 9, 2016. The public portions of these filings 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 these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2016–76 and CP2016–98 to consider the matters raised in each docket.
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 these proceedings (Public Representative).
3. Comments are due no later than February 9, 2016.
4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–02289 Filed 2–4–16; 8:45 am]

BILLING CODE 7710–FW–P

[1] Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 13 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, February 1, 2016 (Request).

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* February 5, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on February 1, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 13 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–76, CP2016–98.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–02205 Filed 2–4–16; 8:45 am]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Sunshine Act; Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on February 23, 2016, 10:00 a.m. at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois 60611. The agenda for this meeting follows:

Portion open to the public: (1) Executive Committee Reports.

The person to contact for more information is Martha P. Rico, Secretary to the Board, Phone No. 312–751–4920.

Dated: February 3, 2016.

Martha P. Rico,

Secretary to the Board.

[FR Doc. 2016–02357 Filed 2–3–16; 11:15 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77006; File No. SR–BX–2016–008]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change To Adopt a Limit Order Protection and a Market Order Protection

February 1, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1], and Rule 19b–4 thereunder,[2] notice is hereby given that on January 21, 2016, NASDAQ OMX BX, Inc. (''BX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 BX Rule 4757, entitled ''Book Processing'' to adopt a Limit Order Protection or ''LOP'' and a Market Order Protection for members accessing the BX.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt two new mechanisms to protect against erroneous orders which are entered into BX. Specifically, these features address risks to market participants of human error in entering Orders at unintended prices. LOP and the Market Order Protection would prevent certain Orders from executing or being placed on the Order Book at prices outside pre-set standard limits. The System would not accept such Orders, rather than executing them automatically.

Background

Today, the National Market System Plan to Address Extraordinary Market Volatility (the ''Plan'')[3] provides a limit up-limit down (''LULD'') mechanism designed to prevent trades in NMS securities from occurring outside of specified price bands. The bands are set at a percentage level above and below the average transaction price of the security over the immediately preceding five-minute period, and are calculated on a continuous basis during regular trading hours.[4] Rule 4120, entitled ''Limit Up-Limit Down Plan and Trading Halts,'' describes this process for BX.

The Exchange proposes to adopt two new features, LOP for Limit Orders and Market Order Protection for Market Orders, which would cancel these Orders back to the member when the order exceeds certain defined logic. These two new features would be in addition to the LULD protections, which exist today.[5] Each mechanism is explained further below.

LOP

The Exchange proposes to adopt a new LOP feature on BX to prevent certain Limit Orders at prices outside of pre-set standard limits (''LOP Limit Table'') from being accepted by the System. LOP shall apply to all Quotes and Orders,[6] including any modified Orders.[7] LOP would not apply to Market Orders. LOP would be operational each trading day, except during opening and closing crosses and trading halts.[8] Since BX Rules provide controls for the opening and closing processes within the Rulebook, the proposed protections are rendered ineffective for those processes.[9] Members will be subject to certain parameters when submitting Orders into the Order Book.

The Exchange proposes to not accept incoming Limit Orders that exceed the LOP Reference Threshold. The LOP Limit Table contains upper limits and lower limits, for a particular security, across all trading sessions. For example, today, if the NBO is at $50 and a Limit Buy Order was entered into the System at $500, the Limit Buy Order would execute at $50 and then would continue to be executed at other applicable price levels within the Order Book until the Limit Buy Order was canceled or halted. The Exchange proposes LOP to avoid a series of improperly priced aggressive orders transacting in the Order Book.

With respect to Market Maker Peg Orders,[10] the applicable limits shall be two times greater than the limits stated in the LOP Limit Table. A Market Maker Peg Order is a passive Order type which will not otherwise remove liquidity from the Order Book. This Order type was designed to assist Market Makers with meeting their quoting obligations which may require quoting at levels that are not standardized with LULD guidelines. Market Makers have a diverse business model as compared with other market participants. Widening the applicable limits for these market participants serves to promote market making. The Exchange believes that because Market Makers have other risk protections in place to prevent them from quoting outside of their financial means, the risk level for erroneous trades is not the same as with other market participants. Market Makers have more sophisticated infrastructures than other market participants and are able to manage their risk, particularly with quoting, utilizing other tools which may not be available to other market participants.

The Exchange will send an Equity Trader Alert in advance of implementation with the initial LOP

[3] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (Order Approving, on a Pilot Basis, the National Market System Plan To Address Extraordinary Market Volatility). *See also* Rule 608 of Regulation NMS under the Act.

[4] If the National Best Offer (''NBO'') equals the lower price band without crossing the NBB, or National Best Bid (''NBB'') equals the upper price band without crossing the NBO, then the stock will enter a limit state quotation period of 15 seconds during which no new reference prices or price bands will be calculated. A stock will exit the limit state when the entire size of all limit state quotations are executed or cancelled. If the limit state exists and trading continues to occur at the price band, or no trading occurs within the price band, for more than 15 seconds, then a five minute trading pause will be enacted.

[5] While LULD bands are in place from 9:30 to 4:00 p.m. E.T. each trading day, these new protections will be in place for each trading session.

[6] An Intermarket Sweep or ISO Order, which is an Order that is immediately executable within BX against Orders against which they are marketable, is subject to LOP. *See* BX Rule 6951(g).

[7] If an Order is modified, LOP will review the order anew and, if LOP is triggered, such modification will not take effect and the original order will not be accepted.

[8] LOP has the ability to suspend by symbol or system wide. The Exchange would notify market participants of any suspension that may be in place via an alert.

[9] The BX Rulebook provides specific rules for certain auction mechanisms, such as the opening and closing. The mechanisms contain their own protections with respect to the entry of Orders within those mechanisms. The addition of the proposed protections does not add value in the Exchange's analysis of those structures.

[10] A ''Market Maker Peg Order'' is an Order Type designed to allow a Market Maker to maintain a continuous two-sided quotation at a displayed price that is compliant with the quotation requirements for Market Makers set forth in Rule 4613(a)(2). The displayed price of the Market Maker Peg Order is set with reference to a ''Reference Price'' in order to keep the displayed price of the Market Maker Peg Order within a bounded price range. A Market Maker Peg Order may be entered through RASH or FIX only. A Market Maker Peg Order must be entered with a limit price beyond which the Order may not be priced. The Reference Price for a Market Maker Peg Order to buy (sell) is the then-current National Best Bid (National Best Offer), or if no such National Best Bid or National Best Offer, the most recent reported last-sale eligible trade from the responsible single plan processor for that day, or if none, the previous closing price of the security as adjusted to reflect any corporate actions (*e.g.,* dividends or stock splits) in the security. *See* BX 4702(b)(7).

Limit Table and, thereafter, to modify the LOP Limit Table. The initial LOP Limit Table utilizes the same limits as LULD to compare against the LOP Reference Threshold. The Exchange believes that utilizing the same tiers and bands will seek to provide additional market protection to BX members that submit erroneous trades, orders to reaching LULD limits. The initial LOP table is below.

Securities	Time period	Price band percentage
Tier 1 and Tier 2 NMS Securities Reference Price >$3.00.	Market Hours, excluding Open/Close (9:45 a.m. to 3:35 p.m.).	5% (Tier 1) & 10% (Tier 2).
Tier 1 and Tier 2 NMS Securities Reference Price equal to $0.75 to and including $3.00.	Market Hours, excluding Open/Close (9:45 a.m. to 3:35 p.m.).	20%.
Tier 1 & 2 NMS Securities Reference Price Less than $0.75.	Market Hours, excluding Open/Close (9:45 a.m. to 3:35 p.m.).	The lesser of $0.15 or 75%.
Tier 1 and Tier 2 NMS Securities Reference Price >$3.00.	During Market Open/Close 7:00 a.m. to 9:45 a.m. 3:35 p.m. to 7:00 p.m.	10% & 20% Note: Band % is doubled during these times.
Tier 1 and Tier 2 NMS Securities Reference Price equal to $0.75 to and including $3.00.	During Market Open/Close 7:00 a.m. to 9:45 a.m. 3:35 p.m. to 7:00 p.m. Same as above.	40% Note: Band % is doubled during these times.
Tier 1 and Tier 2 NMS Securities Reference Price less than $0.75.	During Market Open/Close 7:00 a.m. to 9:45 a.m. 3:35 p.m. to 7:00 p.m.	Lesser of $0.30 or 150% (upper band only) Note: Band % is doubled during these times.

LOP will cause Limit Orders to not be accepted if the price of the Limit Order is greater than the LOP Reference Threshold for a buy Limit Order. Limit Orders will also not be accepted if the price of the Limit Order is less than the LOP Reference Threshold for a sell Limit Order. The Exchange believes that doubling the band percentage for pre-open and post-close sessions is reasonable due to the volatility which may occur in the market during those trading sessions. The LULD Plan also doubles the percentages between 9:30 a.m. and 9:45 a.m. ET, and 3:35 p.m. and 4:00 p.m. ET. The Exchange's proposal aligns this protection with the LULD Plan.[11]

The LOP Reference Price shall be the current consolidated national Best Bid or Best Offer (consolidated NBBO), the Bid for sell orders and the Offer for buy orders. If there is no consolidated NBBO for a security, or if there is a one-sided market, the last regular way consolidated sale, adjusted for corporate actions, if any, will be the LOP Reference Price. If there is no last regular way consolidated sale on that trade date, then the prior day's adjusted close will be the LOP Reference Price.

The LOP Reference Threshold for buy orders will be the LOP Reference Price (offer) plus the applicable percentage specified in the LOP Limit Table. The LOP Reference Threshold for sell orders will be the LOP Reference Price (bid) minus the applicable percentage specified in the LOP Limit Table.

Market Order Protection

With respect to Market Orders, these Orders will not be accepted if the security is in an LULD Straddle State.[12] If the offer is in a Straddle State then all buy Market Orders will not be accepted. If the bid is in a Straddle State than all sell market orders will not be accepted. The Exchange believes that this Market Order Protection feature will prevent Participants from executing Market Orders that stray widely from the LULD defined reference price.

The Exchange also notes that both LOP and Market Order Protection will be applicable to all protocols.[13] Both the LOP and Market Order Protection features will be mandatory for all BX members. The Exchange proposes to implement this rule within ninety (90) days of the implementation date. The Exchange will issue an Equities Trader Alert in advance to inform market participants of such implementation date.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[14] in general, and furthers the objectives of Section 6(b)(5) of the Act[15] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by mitigating risks to market participants of human error in entering Orders at clearly unintended prices. Also, the Market Order Protection feature would protect Market Orders from being executed in very wide markets when those prices are compared to the reference price. The Exchange believes that the proposals are appropriate and reasonable, because they offer protections to both Limit and Market Orders which should encourage price continuity and, in turn, protect investors and the public interest by reducing executions occurring at dislocated prices.

The Exchange believes that the proposed LOP and Market Order Protection features would assist with the maintenance of fair and orderly markets by mitigating the risks associated with errors resulting in executions at prices that are away from the Best Bid or Offer and potentially erroneous. Further the proposal protects investors from potentially receiving executions away from the prevailing prices at any given time.

The Exchange believes that the LOP Limit Table is appropriate because it is based on the current LULD bands. The Exchange believes that the proposed specified percentages are appropriate because LOP is designed to reduce the risk of, and to potentially prevent, the automatic execution of Orders at prices that may be considered clearly erroneous. The System will only

[11] The LULD Plan provides that between 9:30 a.m. and 9:45 a.m. ET, and 3:35 p.m. and 4:00 p.m. ET, or in the case of an early scheduled close, during the last 25 minutes of trading before the early scheduled close, the Price Bands shall be calculated by applying double the Percentage Parameters set forth in Appendix A. *See* Rule 608 of Regulation NMS under the Act.

[12] The LULD Plan defines a Straddle State as when the National Best Bid (Offer) is below (above) the Lower (Upper) Price Band and the NMS Stock is not in a Limit State. For example, assume the Lower Price Band for an NMS Stock is $9.50 and the Upper Price Band is $10.50, such NMS stock would be in a Straddle State if the National Best Bid were below $9.50, and therefore non-executable, and the National Best Offer were above $9.50 (including a National Best Offer that could be above $10.50). If an NMS Stock is in a Straddle State and trading in that stock deviates from normal trading characteristics, the Primary Listing Exchange may declare a Trading Pause for that NMS Stock. *See* Section VII(A)(2) of the Plan.

[13] BX maintains several communications protocols for members to use in entering Orders and sending other messages to BX, such as: OUCH, RASH, FLITE and FIX.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

execute Limit Orders priced within the LOP Limit Table or within the upper (lower) band of LULD, if the latter is more conservative.

The Exchange believes that the proposal to not accept System Orders in a Straddle State will prevent Market Orders from being entered by market participants at erroneous prices which the Exchange believes would stray widely from the LULD defined reference price.

The Exchange believes LOP and Market Order Protection will remove impediments to and perfect the mechanisms of a free and open market because these features will operate in tandem with LULD.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the LOP and Market Order Protection features will provide market participants with additional protection from anomalous executions, in addition to LULD protections. Thus, the Exchange does not believe the proposal creates any significant impact on competition. The Exchange believes that offering these protections to the BX will not impose any undue burden on intra-market competition, rather, it would permit equities and options members to be protected in a similar manner from erroneous executions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2016–008 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2016–008. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2016–008 and should be submitted on or before February 26, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–02196 Filed 2–4–16; 8:45 am]

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[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77008; File No. SR–NYSEMKT–2015–106]

Self-Regulatory Organizations; NYSE MKT LLC; Order Approving Proposed Rule Change Amending the Seventh Amended and Restated Operating Agreement of the Exchange To Establish a Committee for Review as a Sub-Committee of the ROC and Make Conforming Changes to Rules and the NYSE MKT Company Guide

February 1, 2016.

I. Introduction

On December 11, 2015, NYSE MKT LLC (''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend the Seventh Amended and Restated Operating Agreement (''Operating Agreement'') of the Exchange and to amend various rules of the Exchange, as described below. The proposed rule change was published for comment in the **Federal Register** on December 18, 2015.[4] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

As part of a regulatory restructuring, NYSE proposes to: (i) Amend the Operating Agreement to establish a Committee for Review (''CFR'') as a subcommittee of the Regulatory Oversight Committee (''ROC'')[5] and make conforming changes to Exchange Rules 475, 476, 476A, 20—Equities, 308—Equities and Sections 1201, 1204, 1205, 1206, 1211, and 1212T of the Company Guide; (ii) delete references to ''NYSE Regulation, Inc.'' and ''NYSE Regulation''[6] in Section 4.05 of the

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 76638 (December 14, 2015), 80 FR 79117 (''Notice'').

[5] The Commission recently approved the Exchange's proposal to establish the ROC as a committee of the Exchange's Board of Directors (''Board'') to be composed solely of directors who satisfy the Exchange's independence requirements, as set forth in the Exchange's Independence Policy of the Board of Directors. *See* Securities Exchange Act Release No. 75148 (June 11, 2015), 80 FR 34751 (June 17, 2015).

[6] NYSE Regulation, Inc. (''NYSE Regulation''), a not-for-profit subsidiary of the Exchange's affiliate New York Stock Exchange LLC (''NYSE''), performs regulatory functions for the Exchange pursuant to an intercompany Regulatory Services Agreement

Continued

Operating Agreement as well as Exchange Rules 0, 1—Equities, 22—Equities, 36—Equities, 48—Equities, 49—Equities, 54—Equities, 70—Equities, 103—Equities, 103A—Equities, 103B—Equities, 422—Equities, 497—Equities, and 902NY; (iii) replace references to the Chief Executive Officer of NYSE Regulation in Exchange Rules 48—Equities, 49—Equities, and 86—Equities with references to the Chief Regulatory Officer of the Exchange; and (iv) make certain technical and non-substantive changes.

The Exchange proposes that these rule revisions would be operative simultaneously with the termination of the Regulatory Services Agreement between the Exchange and NYSE Regulation, but no later than June 30, 2016, on a date to be determined by the Board.[7]

A. Establishing a Committee for Review and Conforming Exchange Rules

The Exchange proposes to establish a Committee for Review (''CFR'') as a subcommittee of the ROC by adding a new subsection (h)(iii) to Section 2.03 of the Operating Agreement and to make conforming changes to Exchange Rules 475, 476, 476A, 20—Equities, 308—Equities and Sections 1201, 1204, 1205, 1206, 1211, and 1212T of the Company Guide.[8] The proposed CFR would be the successor to the current CFR, which is a committee of NYSE Regulation's Board of Directors that reviews appeals of Exchange disciplinary actions, and the Committee on Securities, which is a Board committee that reviews determinations to limit or prohibit the continued listing of an issuer's securities on the Exchange.[9]

Section 2.03(h)(iii) of the Operating Agreement would provide that the Board shall annually appoint a CFR as a subcommittee of the ROC. The Exchange notes that proposed Section 2.03(h)(iii) of the Operating Agreement incorporates member organization association requirements of the current CFR.[10] The proposed CFR would be comprised of both Exchange directors who satisfy the Exchange's independence requirements as well as non-directors.[11] The Exchange notes that, because the majority of the Board would be independent directors, as a functional matter if the Exchange were to have a five-person Board, at least three of the five directors would qualify for CFR membership.[12] Non-directors serving on the proposed CFR would include representatives of member organizations that engage in a business involving substantial direct contact with securities customers (upstairs firms), DMMs or specialists, and floor brokers.[13] The Exchange notes that the proposed CFR, like the current CFR, would be selected after appropriate consultation with those members.[14] The Exchange notes further that, for any CFR vote, a majority of the members of the CFR casting votes would have to be directors of the Exchange.

The proposed CFR would be responsible for reviewing the disciplinary decisions on behalf of the Board and reviewing determinations to limit or prohibit the continued listing of an issuer's securities on the Exchange.[15] Additionally, the Exchange proposes to incorporate the role of the Market Performance and Regulatory Advisory Committees into the proposed CFR.[16] As a result, the proposed CFR would be charged with acting in an advisory capacity to the Board with respect to disciplinary matters, the listing and delisting of securities, regulatory programs, rulemaking and regulatory rules, including trading rules. The Exchange states that the proposed CFR would therefore serve in the same advisory capacity as the Market Performance and Regulatory Advisory Committees.[17]

According to the Exchange, member participation on the proposed CFR would be sufficient to provide for the fair representation of members in the administration of the affairs of the Exchange, including rulemaking and the disciplinary process, consistent with Section 6(b)(3) of the Act.[18]

The Exchange proposes to make conforming amendments to Exchange Rules 475, 476, 476A and 308—Equities and Sections 1201, 1204, 1205, 1206, 1211, and 1212T of the Company Guide by generally replacing references to the current NYSE Regulation CFR with references to the ''Committee for Review.''

The Exchange further proposes to amend Rule 476(f) to provide that the CFR may, but would not be required to, appoint an appeals panel to conduct a review thereunder and make a recommendation to the CFR regarding the disposition of the appeal. The Exchange represents that appeals panels would have no other role in the appellate process.[19] Any proposed appeals panel, as appointed by the CFR, would consist of at least three and no more than five individuals consistent with the composition of appeals panels constituted under the rules of the Exchange's affiliate, NYSE Arca, Inc.[20] The Exchange represents that an appeals panel appointed by the CFR for equity matters would be composed of at least one director and one member or individual associated with an equities member organization. The Exchange further represents that an appeals panel appointed by the CFR for options matters would be composed of at least one director and one member or individual associated with an options member organization. The Exchange also proposes to describe the CFR as a subcommittee of the Exchange's ROC in Sections 1205 and 1212T(g) of the Company Guide.

B. Modifying Exchange Rules To Delete References to NYSE Regulation

The Exchange proposes in connection with the Exchange's termination of the intercompany RSA to amend Section 4.05 of the Operating Agreement as well as Exchange Rules 0 (Regulation of the Exchange and its Member Organizations), 1—Equities (Definitions of Terms), 22—Equities (Disqualification Because of Personal Interest), 36 (Supplementary Material .30)—Equities (Communications Between Exchange and Members' Offices), 46 (Supplementary Material

(''RSA'') that gives the Exchange the contractual right to review NYSE Regulation's performance. *See* Notice, *supra* note 4, at 79117 n.4.

[7] *See id.*

[8] *See id.* at 79118.

[9] *See id.*

[10] *See id.*

[11] *See id.* at 79118 n.8 and accompanying text (citing the Independence Policy of the Board of Directors).

[12] *See id.* at 79118 n.8.

[13] *See id.* at 79118. The Exchange notes that market makers on the Exchange's equity market are called DMMs and on NYSE Amex Options are called specialists. *See id.* at 79918 n.9.

[14] The Exchange does not propose to incorporate from the current CFR the category of a NYSE MKT member that is associated with a NYSE MKT member organization that spends a majority of their time on the trading floor and has a substantial part of their business the execution of transactions on the trading floor for their own account or the account of their member organization but is not registered as a specialist. *See* Notice, *supra* note 4, at 79118 n.9. The Exchange represents that this category of NYSE MKT member no longer exists and, as a result, the Exchange does not propose to require the representation of such member on the proposed CFR. *See id.*

[15] The Exchange notes that these powers are currently set forth in the charter of the NYSE Regulation CFR, which also states that the CFR can provide general advice to the NYSE Regulation's Board of Directors in connection with disciplinary, listing and other regulatory matters. The Exchange proposes to delineate the appellate and advisory powers of the proposed CFR in Section 2.03(h)(iii) of the Operating Agreement. *See id.* at 79118 n.11.

[16] *Id.* at 79118–19. The Exchange notes that the same profile of members who historically have served on these advisory committees would be represented on the proposed CFR. *Id.*

[17] *See id.* at 79118.

[18] *See id.* at 79119 and 15 U.S.C. 78f(b)(3).

[19] *See id.* at 79119.

[20] *See id.*

.10)—Equities (Floor Officials –Appointment), 48—Equities (Exemptive Relief—Extreme Market Volatility Condition), 49—Equities (Emergency Powers), 54—Equities (Dealings on Floor—Persons), 70 (Subparts (1) and (7) of Supplementary Material .40)—Equities (Execution of Floor Broker Interest), 103—Equities (Registration and Capital Requirements of DMMs and DMM Units), 103A—Equities (Member Education), 103B (Policy Note G and Supplementary Material .10)—Equities (Security Allocation and Reallocation), 422—Equities (Loans of and to Directors, etc.), 497—Equities (Additional Requirements for Listed Securities Issued by Intercontinental Exchange, Inc. or its Affiliates), and 902NY (Admission and Conduct on the Options Trading Floor) by deleting references to ''NYSE Regulation, Inc.'' and ''NYSE Regulation'' and where appropriate to replace such references with the ''Exchange'' or the ''Exchange regulatory staff.'' [21]

C. Modifying Exchange Rules To Reference the Exchange's Chief Regulatory Officer

The Exchange proposes to amend Exchange Rules 48—Equities (Exemptive Relief—Extreme Market Volatility Condition), 49—Equities (Emergency Powers), and 86—Equities (NYSE Bonds), to replace references to the Chief Executive Officer of NYSE Regulation with references to the Chief Regulatory Officer of the Exchange.

D. Certain Technical and Non-Substantive Changes

The Exchange proposes to make certain technical and non-substantive changes to amend Exchange Rules 1—Equities (Definitions of Terms), 48—Equities (Exemptive Relief— Extreme Market Volatility Condition), and 103B—Equities (Security Allocation and Reallocation). The Exchange also proposes to make certain technical and non-substantive changes to amend the Exchange's Company Guide Sections 350 (Cancellation Notice), 1204 (The Listing Qualifications Panel), 1205 (Review by the Exchange Committee on Securities), 1206 (Discretionary Review by Board of Directors), 1212T (Temporary Provisions Regarding Legacy Applications for Initial Listing), and the Listing Forms Appendix.

Exchange Rule 1–Equities, which defines the term the ''Exchange,'' would be amended to replace single quotation marks with double quotation marks in the heading and in the first paragraph.

Exchange Rule 48—Equities, which sets forth the procedures for invoking an extreme market volatility condition, would be amended to replace single quotation marks with double quotation marks around the term ''qualified Exchange officer.''

Exchange Rule 103B—Equities, which governs the security allocation and reallocation process, would be amended to replace single quotation marks with double quotation marks around the term ''Allocation Prohibition'' and to remove the comma from ''New York Stock Exchange, LLC.''

The Exchange proposes to update the sample letter set forth in Section 350 of the Exchange's Company Guide. Section 350 provides that a company no longer intending to issue all or some securities for listing should cancel the listing authority by notifying the Exchange by letter, and provides a sample letter for use by listed companies. The Exchange proposes to amend the sample letter in Section 350 by changing the addressee from ''Office of General Counsel'' to ''Legal Department,'' updating the address to ''11 Wall Street,'' and the salutation from ''Dear Sirs'' to ''Ladies and Gentlemen.'' Similarly, the Exchange proposes to make conforming changes in the Exchange's Company Guide Sections 1204, 1205, 1206 and 1212T to replace references to the ''Office of General Counsel'' with ''Legal Department.''

The Exchange also proposes to amend Section 1212T(c) to replace the outdated reference to ''American Stock Exchange'' with ''Exchange.''

Finally, the Exchange proposes to update the Listing Forms Appendix to update the address from ''30 Broad'' to ''11 Wall'' Street.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[22] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(1) of the Act, which requires an exchange to be so organized and have the capacity to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the Act, the rules and regulations thereunder, and the rules of the exchange.[23] The Commission finds that the proposal also is consistent with the requirements of Section 6(b)(3) of the Act, which provides that the rules of an exchange must assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer.[24] In addition, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act, which requires that the rules of the exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[25] Finally, the Commission finds that the proposal is consistent with Section 6(b)(7) of the Act, which requires that the rules of the exchange provide a fair procedure for the disciplining of its members and persons associated with members, the denial of membership to any person seeking membership therein, the barring of any person from becoming associated with a member thereof, and the prohibition or limitation by the exchange with respect to access to services offered by the exchange or a member thereof.[26]

The Exchange represents that the proposed CFR would be a successor to the current CFR, which is a committee of the NYSE Regulation's Board of Directors that reviews appeals of Exchange disciplinary actions, and the Committee on Securities, which is a committee of the Exchange's Board that reviews determinations to limit or prohibit the continued listing of an issuer's securities on the Exchange.[27] The Exchange also proposes to incorporate the responsibilities of the Market Performance Committee and the Regulatory Advisory Committee into the proposed CFR.[28] According to the Exchange, the Market Performance Committee acts in an advisory capacity regarding trading rules and other matters within its charter, and the Regulatory Advisory Committee acts in an advisory capacity regarding disciplinary matters and regulatory

[21] *See id.* at 79119–20.

[22] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[23] 15 U.S.C. 78f(b)(1).

[24] 15 U.S.C. 78f(b)(3).

[25] 15 U.S.C. 78f(b)(5).

[26] 15 U.S.C. 78f(b)(7).

[27] *See* Notice, *supra* note 4, at 79118.

[28] *See id.* at 79118–19.

rules other than trading rules.[29] Therefore, the Exchange proposes to expand the proposed CFR's responsibilities to include acting in an advisory capacity to the Board with respect to disciplinary matters, the listing and delisting of securities, regulatory programs, rulemaking and regulatory rules, including trading rules.[30] The Commission notes that the proposed CFR incorporates the salient features of the current CFR, including the requirement that the CFR be comprised of both Exchange directors who satisfy the Exchange's independence requirements,[31] as well as persons who are not directors, and that a majority of the members of the CFR voting on a matter subject to a vote of the CFR must be directors of the Exchange.[32] As such, the Commission finds that the Exchange's proposed revisions to its appellate procedure for disciplinary matters and for determinations to limit or prohibit the continued listing of an issuer's securities on the Exchange ensures sufficient independence of the appellate function of the Exchange, and therefore helps to ensure that the exchange is organized and has the capacity to carry out the purposes of the Act, as required by Section 6(b)(1) of the Act.[33]

The Commission also finds that the composition of the proposed CFR ensures the fair representation of members in the administration of the Exchange's affairs.[34] Proposed Section 2.03(h)(iii) of the Exchange's Operating Agreement provides that, among the persons on the proposed CFR, who are not directors, at least one individual from each of the following categories must be on the CFR: (i) Individuals who are associated with a Member Organization that engages in a business involving substantial direct contact with securities customers, (ii) individuals who are associated with a Member Organization and registered as a DMM or specialist,[35] and (iii) individuals who are associated with a Member Organization and have as a substantial part of their business the execution of transactions on the trading floor of the Exchange for other than their own account or the account of his or her Member Organization, but are not registered as a DMM or specialist.[36] Because NYSE MKT members will serve on the proposed CFR, which will be charged with acting in an advisory capacity to the Board with respect to disciplinary matters, the listing and delisting of securities, regulatory programs, rulemaking and regulatory rules, including trading rules, the Commission finds that the proposed rule change is consistent with Section 6(b)(3) of the Act.[37]

The Exchange also proposes to amend Exchange Rule 476(f) to permit the CFR to appoint an appeals panel, consisting of at least three and no more than five individuals, which would conduct a review of any disciplinary determination on behalf of the CFR, and make a recommendation to the CFR regarding the disposition of such appeal.[38] According to the Exchange, an appeals panel appointed by the CFR for equity matters would be composed of at least one director and one member or individual associated with an equities member organization, and an appeals panel appointed for options matters would be composed of at least one director and one member or individual associated with an options member organization.[39] The Commission finds that the Exchange's proposal with respect to the proposed composition and the role of an appeals panel is consistent with Sections 6(b)(3) and 6(b)(7) of the Act.[40]

Finally, the Commission finds that it is consistent with Section 6(b)(5) of the Act for the Exchange to make various technical and conforming revisions to its Rules.[41]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NYSEMKT–2015–106) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–02198 Filed 2–4–16; 8:45 am]

BILLING CODE 8011–01–P

[29] *See id.* The Exchange notes that the same categories of NYSE MKT members that were represented on the Market Performance Committee and the Regulatory Advisory Committee would be represented on the proposed CFR. *See id.*

[30] *See id.*

[31] *See* note 11, *supra.*

[32] *See* Notice, *supra* note 4, at 79118.

[33] 15 U.S.C. 78f(b)(1).

[34] 15 U.S.C. 78f(b)(3).

[35] The Exchange notes that market makers on the Exchange's equity market are called DMMs and on NYSE Amex Options are called specialists. *See* Notice, *supra* note 4, at 79118 n.9.

[36] *See id.*

[37] 15 U.S.C. 78f(b)(3).

[38] *See* Notice, *supra* note 4, at 79119. According to the Exchange, any such appeals panel would have no other role in the appellate process. *See id.*

[39] *See id.*

[40] 15 U.S.C. 78f(b)(3) and 15 U.S.C. 78f(b)(7).

[41] 15 U.S.C. 78f(b)(5).

[42] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77007; File No. SR–Phlx–2016–12]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change To Adopt a Limit Order Protection and a Market Order Protection

February 1, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 21, 2016, NASDAQ OMX PHLX LLC (''Phlx'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 NASDAQ OMX PSX Rule 3307, entitled ''Processing of Orders'' to adopt a Limit Order Protection or ''LOP'' and a Market Order Protection for members accessing PSX.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt two new mechanisms to protect against erroneous orders which are entered into PSX. Specifically, these features address risks to market participants of human error in entering Orders at unintended prices. LOP and the Market Order Protection would prevent certain Orders from executing or being placed on the Order Book at prices outside pre-set standard limits. The System would not accept such Orders, rather than executing them automatically.

Background

Today, the National Market System Plan to Address Extraordinary Market Volatility (the ''Plan'') [3] provides a limit up-limit down (''LULD'') mechanism designed to prevent trades in NMS securities from occurring outside of specified price bands. The bands are set at a percentage level above and below the average transaction price of the security over the immediately preceding five-minute period, and are calculated on a continuous basis during regular trading hours.[4] Rule 3100, entitled ''Limit Up-Limit Down Plan and Trading Halts on PSX,'' describes this process for PSX.

The Exchange proposes to adopt two new features, LOP for Limit Orders and Market Order Protection for Market Orders, which would cancel these Orders back to the member when the order exceeds certain defined logic. These two new features would be in addition to the LULD protections, which exist today.[5] Each mechanism is explained further below.

LOP

The Exchange proposes to adopt a new LOP feature on PSX to prevent certain Limit Orders at prices outside of pre-set standard limits (''LOP Limit Table'') from being accepted by the System. LOP shall apply to all Quotes and Orders,[6] including any modified Orders.[7] LOP would not apply to Market Orders. LOP would be operational each trading day, except during opening and closing crosses and trading halts.[8] Since PSX Rules provide controls for the opening and closing processes within the Rulebook, the proposed protections are rendered ineffective for those processes.[9] Members will be subject to certain parameters when submitting Orders into the Order Book.

The Exchange proposes to not accept incoming Limit Orders that exceed the LOP Reference Threshold. The LOP Limit Table contains upper limits and lower limits, for a particular security, across all trading sessions. For example, today, if the NBO is at $50 and a Limit Buy Order was entered into the System at $500, the Limit Buy Order would execute at $50 and then would continue to be executed at other applicable price levels within the Order Book until the Limit Buy Order was canceled or halted. The Exchange proposes LOP to avoid a series of improperly priced aggressive orders transacting in the Order Book.

With respect to Market Maker Peg Orders,[10] the applicable limits shall be two times greater than the limits stated in the LOP Limit Table. A Market Maker Peg Order is a passive Order type which will not otherwise remove liquidity from the Order Book. This Order type was designed to assist Market Makers with meeting their quoting obligations which may require quoting at levels that are not standardized with LULD guidelines. Market Makers have a diverse business model as compared with other market participants. Widening the applicable limits for these market participants serves to promote market making. The Exchange believes that because Market Makers have other risk protections in place to prevent them from quoting outside of their financial means, the risk level for erroneous trades is not the same as with other market participants. Market Makers have more sophisticated infrastructures than other market participants and are able to manage their risk, particularly with quoting, utilizing other tools which may not be available to other market participants.

The Exchange will send an Equity Trader Alert in advance of implementation with the initial LOP Limit Table and, thereafter, to modify the LOP Limit Table. The initial LOP Limit Table utilizes the same limits as LULD to compare against the LOP Reference Threshold. The Exchange believes that utilizing the same tiers and bands will seek to provide additional market protection to PSX members that submit erroneous orders, prior to reaching LULD limits. The initial LOP table is below.

Securities	Time period	Price band percentage
Tier 1 and Tier 2 NMS Securities, Reference Price >$3.00.	Market Hours, excluding Open/Close (9:45 a.m. to 3:35 p.m.).	5% (Tier 1) & 10% (Tier 2).
Tier 1 and Tier 2 NMS Securities, Reference Price equal to $0.75 to and including $3.00.	Market Hours, excluding Open/Close (9:45 a.m. to 3:35 p.m.).	20%.

[3] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (Order Approving, on a Pilot Basis, the National Market System Plan To Address Extraordinary Market Volatility). *See also* Rule 608 of Regulation NMS under the Act.

[4] If the National Best Offer (''NBO'') equals the lower price band without crossing the NBB, or National Best Bid (''NBB'') equals the upper price band without crossing the NBO, then the stock will enter a limit state quotation period of 15 seconds during which no new reference prices or price bands will be calculated. A stock will exit the limit state when the entire size of all limit state quotations are executed or cancelled. If the limit state exists and trading continues to occur at the price band, or no trading occurs within the price band, for more than 15 seconds, then a five minute trading pause will be enacted.

[5] While LULD bands are in place from 9:30 to 4:00 p.m. E.T. each trading day, these new protections will be in place for each trading session.

[6] An Intermarket Sweep or ISO Order, which is an Order that is immediately executable within PSX against Orders against which they are marketable, is subject to LOP. *See* PSX Rule 3401(g).

[7] If an Order is modified, LOP will review the order anew and, if LOP is triggered, such modification will not take effect and the original order will not be accepted.

[8] LOP has the ability to suspend by symbol or system wide. The Exchange would notify market participants of any suspension that may be in place via an alert.

[9] The PSX Rulebook provides specific rules for certain auction mechanisms, such as the opening and closing. The mechanisms contain their own protections with respect to the entry of Orders within those mechanisms. The addition of the proposed protections does not add value in the Exchange's analysis of those structures.

[10] A ''Market Maker Peg Order'' is an Order Type designed to allow a Market Maker to maintain a continuous two-sided quotation at a displayed price that is compliant with the quotation requirements for Market Makers set forth in Rule 3213(a)(2). The displayed price of the Market Maker Peg Order is set with reference to a ''Reference Price'' in order to keep the displayed price of the Market Maker Peg Order within a bounded price range. A Market Maker Peg Order may be entered through RASH or FIX. A Market Maker Peg Order must be entered with a limit price beyond which the Order may not be priced. The Reference Price for a Market Maker Peg Order to buy (sell) is the then-current National Best Bid (National Best Offer) or if no such National Best Bid or National Best Offer, the most recent reported last-sale eligible trade from the responsible single plan processor for that day, or if none, the previous closing price of the security as adjusted to reflect any corporate actions (*e.g.,* dividends or stock splits) in the security. *See* PSX Rule 3301A.

Securities	Time period	Price band percentage
Tier 1 & 2 NMS Securities, Reference Price Less than $0.75.	Market Hours, excluding Open/Close (9:45 a.m. to 3:35 p.m.).	The lesser of $0.15 or 75%.
Tier 1 and Tier 2 NMS Securities, Reference Price >$3.00.	During Market Open/Close: 8:00 a.m. to 9:45 a.m., 3:35 p.m. to 5:00 p.m.	10% & 20%. Note: Band % is doubled during these times.
Tier 1 and Tier 2 NMS Securities, Reference Price equal to $0.75 to and including $3.00.	During Market Open/Close: 8:00 a.m. to 9:45 a.m., 3:35 p.m. to 5:00 p.m. Same as above.	40%. Note: Band % is doubled during these times.
Tier 1 and Tier 2 NMS Securities, Reference Price less than $0.75.	During Market Open/Close: 8:00 a.m. to 9:45 a.m., 3:35 p.m. to 5:00 p.m.	Lesser of $0.30 or 150% (upper band only). Note: Band % is doubled during these times.

LOP will cause Limit Orders to not be accepted if the price of the Limit Order is greater than the LOP Reference Threshold for a buy Limit Order. Limit Orders will also not be accepted if the price of the Limit Order is less than the LOP Reference Threshold for a sell Limit Order. The Exchange believes that doubling the band percentage for pre-open and post-close sessions is reasonable due to the volatility which may occur in the market during those trading sessions. The LULD Plan also doubles the percentages between 9:30 a.m. and 9:45 a.m. ET, and 3:35 p.m. and 4:00 p.m. ET. The Exchange's proposal aligns this protection with the LULD Plan.[11]

The LOP Reference Price shall be the current consolidated national Best Bid or Best Offer (consolidated NBBO), the Bid for sell orders and the Offer for buy orders. If there is no consolidated NBBO for a security, or if there is a one-sided market, the last regular way consolidated sale, adjusted for corporate actions, if any, will be the LOP Reference Price. If there is no last regular way consolidated sale on that trade date, then the prior day's adjusted close will be the LOP Reference Price.

The LOP Reference Threshold for buy orders will be the LOP Reference Price (offer) plus the applicable percentage specified in the LOP Limit Table. The LOP Reference Threshold for sell orders will be the LOP Reference Price (bid) minus the applicable percentage specified in the LOP Limit Table.

Market Order Protection

With respect to Market Orders, these Orders will not be accepted if the security is in an LULD Straddle State.[12] If the offer is in a Straddle State then all buy Market Orders will not be accepted. If the bid is in a Straddle State than all sell market orders will not be accepted. The Exchange believes that this Market Order Protection feature will prevent Participants from executing Market Orders that stray widely from the LULD defined reference price.

The Exchange also notes that both LOP and Market Order Protection will be applicable to all protocols.[13] Both the LOP and Market Order Protection features will be mandatory for all PSX members. The Exchange proposes to implement this rule within ninety (90) days of the implementation date. The Exchange will issue an Equities Trader Alert in advance to inform market participants of such implementation date.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[14] in general, and furthers the objectives of Section 6(b)(5) of the Act[15] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by mitigating risks to market participants of human error in entering Orders at clearly unintended prices. Also, the Market Order Protection feature would protect Market Orders from being executed in very wide markets when those prices are compared to the reference price. The Exchange believes that the proposals are appropriate and reasonable, because they offer protections to both Limit and Market Orders which should encourage price continuity and, in turn, protect investors and the public interest by reducing executions occurring at dislocated prices.

The Exchange believes that the proposed LOP and Market Order Protection features would assist with the maintenance of fair and orderly markets by mitigating the risks associated with errors resulting in executions at prices that are away from the Best Bid or Offer and potentially erroneous. Further the proposal protects investors from potentially receiving executions away from the prevailing prices at any given time.

The Exchange believes that the LOP Limit Table is appropriate because it is based on the current LULD bands. The Exchange believes that the proposed specified percentages are appropriate because LOP is designed to reduce the risk of, and to potentially prevent, the automatic execution of Orders at prices that may be considered clearly erroneous. The System will only execute Limit Orders priced within the LOP Limit Table or within the upper (lower) band of LULD, if the latter is more conservative.

The Exchange believes that the proposal to not accept System Orders that are Market Orders in a Straddle State will prevent Market Orders from being executed by market participants at erroneous prices which the Exchange believes would stray widely from the LULD defined reference price.

The Exchange believes LOP and Market Order Protection will remove impediments to and perfect the mechanisms of a free and open market because these features will operate in tandem with LULD.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the LOP and Market

[11] The LULD Plan provides that between 9:30 a.m. and 9:45 a.m. ET, and 3:35 p.m. and 4:00 p.m. ET, or in the case of an early scheduled close, during the last 25 minutes of trading before the early scheduled close, the Price Bands shall be calculated by applying double the Percentage Parameters set forth in Appendix A. *See* Rule 608 of Regulation NMS under the Act.

[12] The LULD Plan defines a Straddle State as when the National Best Bid (Offer) is below (above) the Lower (Upper) Price Band and the NMS Stock is not in a Limit State. For example, assume the Lower Price Band for an NMS Stock is $9.50 and the Upper Price Band is $10.50, such NMS stock would be in a Straddle State if the National Best Bid were below $9.50, and therefore non-executable, and the National Best Offer were above $9.50 (including a National Best Offer that could be above $10.50). If an NMS Stock is in a Straddle State and trading in that stock deviates from normal trading characteristics, the Primary Listing Exchange may declare a Trading Pause for that NMS Stock. *See* Section VII(A)(2) of the Plan.

[13] PSX maintains several communications protocols for members to use in entering Orders and sending other messages to PSX, such as: OUCH, RASH, FLITE and FIX.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

Order Protection features will provide market participants with additional protection from anomalous executions, in addition to LULD protections. Thus, the Exchange does not believe the proposal creates any significant impact on competition. The Exchange believes that offering these protections to the PSX will not impose any undue burden on intra-market competition, rather, it would permit equities and options members to be protected in a similar manner from erroneous executions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2016–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2016–12. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2016–12 and should be submitted on or before February 26, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–02197 Filed 2–4–16; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31976; File No. 812–14530]

PNC Funds, et al.; Notice of Application

February 1, 2016.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order pursuant to: (a) Section 6(c) of the Investment Company Act of 1940 (''Act'') granting an exemption from sections 18(f) and 21(b) of the Act; (b) section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; (c) sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Act; and (d) section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements and transactions.

SUMMARY OF THE APPLICATION: Applicants request an order that would permit certain registered open-end management investment companies to participate in a joint lending and borrowing facility.

APPLICANTS: PNC Funds and PNC Advantage Funds (each a ''Trust'' and collectively the ''Trusts''); the series thereof, and any registered open-end management investment company or series thereof in the future (each a ''Fund'' and, collectively, the ''Funds''); and PNC Capital Advisors LLC (the ''Adviser'').

FILING DATES: The application was filed on August 10, 2015, and amended on January 11, 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 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 26, 2016 and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the 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: Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: c/o Todd P. Zerega, Esq., Perkins Coie LLP, 700 13th Street NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: James D. McGinnis, Attorney-Advisor, at (202) 551–3025 or Sara Crovitz, Assistant Chief Counsel, at (202) 551–6720 (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. Each Trust is organized as a Delaware statutory trust and is registered under the Act as an open-end, management investment company. Each

Trust has issued one or more series, each of which has shares having a different investment objective and different investment policies. Certain of the Funds [1] either are or may be money market funds that comply with rule 2a–7 under the Act (each a ''Money Market Fund'' and collectively, the ''Money Market Funds''). The Adviser is a Delaware limited liability company that is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). The Adviser is an indirect subsidiary of The PNC Financial Services Group, Inc., a publicly traded company incorporated in Delaware. The Adviser will, to the extent applicable, oversee the activities of any sub-adviser to a Fund (a ''Sub-Adviser'').

2. The Funds may lend cash to banks or other entities by entering into repurchase agreements or purchasing other short-term instruments. The Funds may also need to borrow money from the same or similar banks for temporary purposes, to cover unanticipated cash shortfalls such as a trade ''fail'' or for other temporary purposes. The Funds may in the future establish a line of credit with one or more banks; currently, the Funds are not parties to any credit facilities with banks (''Bank Borrowings'').

3. The Funds seek to enter into a master interfund lending agreement (''Interfund Lending Agreement'') with each other that would permit each Fund [2] to lend money directly to and borrow money directly from other Funds for temporary purposes through the Interfund Lending Program (an ''Interfund Loan''). The Money Market Funds will not participate as borrowers. Applicants state that the requested will relief enable the Funds to access an available source of money and reduce costs incurred by the Funds that need to obtain loans for temporary purposes and permit those Funds that have cash available to: (i) Earn a return on the money that they might not otherwise be able to invest; or (ii) earn a higher rate of interest on investment of their short-term balances. Although the proposed Interfund Lending Program would reduce the Funds' need to draw through custodian drafts, the Funds would be free to establish committed lines of credit or other borrowing arrangements with banks.

4. Applicants anticipate that the proposed Interfund Lending Program would provide a borrowing Fund with significant savings at times when the cash position of the Fund is insufficient to meet temporary cash requirements. This situation could arise when shareholder redemptions exceed anticipated cash volumes and certain Funds have insufficient cash on hand to satisfy such redemptions. When the Funds liquidate portfolio securities to meet redemption requests, they often do not receive payment in settlement for up to three days (or longer for certain foreign transactions and/or fixed income instruments). However, redemption requests normally are effected on the day following the trade date. The proposed Interfund Lending Program would provide a source of immediate, short-term liquidity pending settlement of the sale of portfolio securities.

5. Applicants also anticipate that a Fund could use the Interfund Lending Program when a sale of securities ''fails'' due to circumstances beyond the Fund's control, such as a delay in the delivery of cash to the Fund's custodian or improper delivery instructions by the broker effecting the transaction. ''Sales fails'' may present a cash shortfall if the Fund has undertaken to purchase a security using the proceeds from securities sold. Alternatively, the Fund could: (i) ''fail'' on its intended purchase due to lack of funds from the previous sale, resulting in additional cost to the Fund; or (ii) sell a security on a same-day settlement basis, earning a lower return on the investment. Use of the Interfund Lending Program under these circumstances would enable the Fund to have access to immediate, short-term liquidity.

6. While custodian overdrafts generally could supply Funds with needed cash to cover unanticipated redemptions and sales fails, under the proposed Interfund Lending Program, a borrowing Fund would pay lower interest rates than those that would be typically payable under an overdraft with the custodian. In addition, Funds making short-term cash loans directly to other Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash in overnight repurchase agreements or other substantially equivalent short-term instruments. Thus, applicants assert that the proposed Interfund Lending Program would benefit both borrowing and lending Funds.

7. The interest rate to be charged to the Funds on any Interfund Loan (the ''Interfund Loan Rate'') would be the average of the ''Repo Rate'' and the ''Bank Loan Rate,'' both as defined below. The Repo Rate would be the highest or best (after giving effect to factors such as the credit quality of the counterparty) current overnight repurchase agreement rate available to a lending Fund. The Bank Loan Rate for any day would be calculated by the Interfund Lending Program Team, as defined below, on each day an Interfund Loan is made according to a formula established by each Fund's board of trustees (each a ''Board'') intended to approximate the lowest interest rate at which a bank short-term loan would be available to the Fund. The formula would be based upon a publicly available rate (*e.g.,* Federal funds rate and/or LIBOR) plus an additional spread of basis points and would vary with this rate so as to reflect changing bank loan rates. The initial formula and any subsequent modifications to the formula would be subject to the approval of each Board. In addition, each Board would periodically review the continuing appropriateness of reliance on the formula used to determine the Bank Loan Rate, as well as the relationship between the Bank Loan Rate and current bank loan rates that would be available to the Fund.

8. Certain members of the Adviser's administrative personnel (other than investment advisory personnel) (the ''Interfund Lending Program Team'') would administer the Interfund Lending Program. No portfolio manager of any Fund will serve as a member of the Interfund Lending Program. Under the proposed Interfund Lending Program, the portfolio managers for each participating Fund could provide standing instructions to participate daily as a borrower or lender. The Interfund Lending Program Team on each business day would collect data on the uninvested cash and borrowing requirements of all participating Funds. Once the Interfund Lending Program Team has determined the aggregate amount of cash available for loans and borrowing demand, the Interfund Lending Program Team would allocate loans among borrowing Funds without any further communication from the portfolio managers of the Funds. Applicants anticipate that there typically will be far more available uninvested cash each day than borrowing demand. Therefore, after the Interfund Lending Program Team has

[1] Applicants request that the relief apply to each existing and future series of the Trusts, any other registered open-end investment company or series thereof for which the Adviser, including any successor entity thereto, or a person controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with the Adviser serves as investment adviser. The term ''successor'' is limited to entities that result from a reorganization into another jurisdiction or a change in the type of business organization. All entities that currently intend to rely on the requested relief are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions set forth in the application.

[2] Applicants state that the Interfund Lending Program will be limited to Funds whose investment policies allow participation in the program.

allocated cash for Interfund Loans, the Interfund Lending Program Team will invest any remaining cash in accordance with any standing instruction of the relevant portfolio manager, or such remaining amounts will be invested directly by the portfolio managers of the Funds.

9. The Interfund Lending Program Team would allocate borrowing demand and cash available for lending among the Funds on what the Interfund Lending Program Team believes to be an equitable basis, subject to certain administrative procedures applicable to all Funds, such as the time a Fund files a request to participate, minimum loan lot sizes, and the need to minimize the number of transactions and associated administrative costs. To reduce transaction costs, each Interfund Loan normally would be allocated in a manner intended to minimize the number of participants necessary to complete the loan transaction. The method of allocation and related administrative procedures would be approved by the Boards of the Funds, including a majority of the Board members who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Trustees''), to ensure that both borrowing and lending Funds participate on an equitable basis.

10. The Interfund Lending Program Team would: (i) Monitor the Interfund Loan Rate and the other terms and conditions of the Interfund Loans; (ii) limit the borrowings and loans entered into by each Fund to ensure that they comply with the Fund's investment policies and limitations; (iii) ensure equitable treatment of each Fund; and (iv) make quarterly reports to the Board of each Fund concerning any transactions by the applicable Fund under the Interfund Lending Program and the Interfund Loan Rate charged.

11. The Adviser or Sub-Adviser, as applicable, through the Interfund Lending Program Team, would administer the Interfund Lending Program as a disinterested fiduciary as part of its duties under the investment management and administrative agreements with each Fund and would receive no additional fee as compensation for its services in connection with the administration of the Interfund Lending Program.

12. No Fund may participate in the Interfund Lending Program unless: (i) The Fund has obtained shareholder approval for its participation, if such approval is required by law; (ii) the Fund has fully disclosed all material information concerning the Interfund Lending Program in its registration statement on form N–1A; and (iii) the Fund's participation in the Interfund Lending Program is consistent with its investment objectives, limitations and organizational documents.

13. In connection with the Interfund Lending Program, applicants request an order under section 6(c) of the Act exempting them from the provisions of sections 18(f) and 21(b) of the Act; under section 12(d)(1)(J) of the Act exempting them from section 12(d)(1) of the Act; under sections 6(c) and 17(b) of the Act exempting them from sections 17(a)(1), 17(a)(2), and 17(a)(3) of the Act; and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements and transactions.

Applicants' Legal Analysis

1. Section 17(a)(3) of the Act generally prohibits any affiliated person of a registered investment company, or affiliated person of an affiliated person, from borrowing money or other property from the registered investment company. Section 21(b) of the Act generally prohibits any registered management company from lending money or other property to any person, directly or indirectly, if that person controls or is under common control with that company. Section 2(a)(3)(C) of the Act defines an ''affiliated person'' of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, such other person. Section 2(a)(9) of the Act defines ''control'' as the ''power to exercise a controlling influence over the management or policies of a company,'' but excludes circumstances in which ''such power is solely the result of an official position with such company.'' Applicants state that the Funds may be under common control by virtue of having common investment advisers and/or by having common trustees, managers and/or officers.

2. Section 6(c) of the Act provides that an exemptive order may be granted where an 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. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Applicants believe that the proposed arrangements satisfy these standards for the reasons discussed below.

3. Applicants assert that sections 17(a)(3) and 21(b) of the Act were intended to prevent a party with strong potential adverse interests to, and some influence over the investment decisions of, a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of such party and that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the proposed transactions do not raise these concerns because: (i) The Advisers, through the Interfund Lending Program Team members, would administer the Interfund Lending Program as disinterested fiduciaries as part of their duties under the investment management and administrative agreements with each Fund; (ii) all Interfund Loans would consist only of uninvested cash reserves that the Fund otherwise would invest in short-term repurchase agreements or other short-term investments; (iii) the Interfund Loans would not involve a greater risk than such other investments; (iv) the lending Fund would receive interest at a rate higher than it could otherwise obtain through such other investments; and (v) the borrowing Fund would pay interest at a rate lower than otherwise available to it under its bank loan agreements or through custodian overdrafts. Moreover, applicants assert that the other terms and conditions that applicants propose also would effectively preclude the possibility of any Fund obtaining an undue advantage over any other Fund.

4. Section 17(a)(1) of the Act generally prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, from selling securities or other property to the investment company. Section 17(a)(2) of the Act generally prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, from purchasing securities or other property from the investment company. Section 12(d)(1) of the Act generally prohibits a registered investment company from purchasing or otherwise acquiring any security issued by any other investment company except in accordance with the limitations set forth in that section.

5. Applicants state that the obligation of a borrowing Fund to repay an Interfund Loan could be deemed to constitute a security for the purposes of sections 17(a)(1) and 12(d)(1) of the Act.

Applicants also state that any pledge of securities to secure an Interfund Loan by the borrowing Fund to the lending Fund could constitute a purchase of securities for purposes of section 17(a)(2) of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent that such exemption is consistent with the public interest and the protection of investors. Applicants contend that the standards under sections 6(c), 17(b), and 12(d)(1)(J) are satisfied for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons discussed below. Applicants state that the requested relief from section 17(a)(2) of the Act meets the standards of section 6(c) and 17(b) because any collateral pledged to secure an Interfund Loan would be subject to the same conditions imposed by any other lender to a Fund that imposes conditions on the quality of or access to collateral for a borrowing (if the lender is another Fund) or the same or better conditions (in any other circumstance).

6. Applicants state that section 12(d)(1) was intended to prevent the pyramiding of investment companies in order to avoid imposing on investors additional and duplicative costs and fees attendant upon multiple layers of investment companies. Applicants submit that the proposed Interfund Lending Program does not involve these abuses. Applicants note that there will be no duplicative costs or fees to the Funds or their shareholders, and that each Adviser will receive no additional compensation for its services in administering the Interfund Lending Program. Applicants also note that the purpose of the proposed Interfund Lending Program is to provide economic benefits for all the participating Funds and their shareholders. Section 18(f)(1) of the Act prohibits open-end investment companies from issuing any senior security except that a company is permitted to borrow from any bank, provided, that immediately after the borrowing, there is asset coverage of at least 300 per centum for all borrowings of the company. Under section 18(g) of the Act, the term ''senior security'' generally includes any bond, debenture, note or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request exemptive relief under section 6(c) from section 18(f)(1) to the limited extent necessary to implement the Interfund Lending Program (because the lending Funds are not banks).

7. Applicants believe that granting relief under section 6(c) is appropriate because the Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of a Fund, including combined Interfund Loans and bank borrowings, have at least 300% asset coverage. Based on the conditions and safeguards described in the application, applicants also submit that to allow the Funds to borrow from other Funds pursuant to the proposed Interfund Lending Program is consistent with the purposes and policies of section 18(f)(1).

8. Section 17(d) of the Act and rule 17d–1 under the Act generally prohibit an affiliated person of a registered investment company, or any affiliated person of such a person, when acting as principal, from effecting any joint transaction in which the investment company participates, unless, upon application, the transaction has been approved by the Commission. Rule 17d–1(b) under the Act provides that in passing upon an application filed under the rule, the Commission will consider whether the participation of the registered investment company in a joint enterprise, joint arrangement or profit sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of the other participants.

9. Applicants assert that the purpose of section 17(d) is to avoid overreaching by and unfair advantage to insiders. Applicants assert that the Interfund Lending Program is consistent with the provisions, policies and purposes of the Act in that it offers both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and their shareholders. Applicants note that each Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and fundamental investment limitations. Applicants assert that each Fund's participation in the proposed Interfund Lending Program would be on terms that are no different from or less advantageous than that of other participating Funds.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Interfund Loan Rate will be the average of the Repo Rate and the Bank Loan Rate.

2. On each business day, when an interfund loan is to be made, the Interfund Lending Program Team will compare the Bank Loan Rate with the Repo Rate and will make cash available for Interfund Loans only if the Interfund Loan Rate is: (i) More favorable to the lending Fund than the Repo Rate; and (ii) more favorable to the borrowing Fund than the Bank Loan Rate.

3. If a Fund has outstanding Bank Borrowings, any Interfund Loan to the Fund will: (i) Be at an interest rate equal to or lower than the interest rate of any outstanding bank loan; (ii) be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan that requires collateral; (iii) have a maturity no longer than any outstanding bank loan (and in any event not over seven days); and (iv) provide that, if an event of default occurs under any agreement evidencing an outstanding bank loan to the Fund, that the event of default by the Fund, will automatically (without need for action or notice by the lending Fund) constitute an immediate event of default under the Interfund Lending Agreement which both (aa) entitles the lending Fund to call the Interfund Loan immediately and exercise all rights with respect to any collateral and (bb) causes the call to be made if the lending bank exercises its right to call its loan under its agreement with the borrowing Fund.

4. A Fund may borrow on an unsecured basis through the Interfund Lending Program only if the relevant borrowing Fund's outstanding borrowings from all sources immediately after the interfund borrowing total 10% or less of its total assets, provided that if the borrowing Fund has a secured loan outstanding from any other lender, including but not limited to another, the lending Fund's Interfund Loan will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a borrowing Fund's total outstanding borrowings immediately after an Interfund Loan would be greater than 10% of its total assets, the Fund may borrow through the Interfund Lending Program only on a secured basis. A Fund may not borrow through the Interfund Lending Program or from any other source if its total outstanding borrowings immediately after the borrowing would be more than 33⅓% of its total assets or any lower threshold provided for by a Fund's fundamental restriction or non-fundamental policy.

5. Before any Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% of its total assets, it must

first secure each outstanding Interfund Loan to a Fund by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Fund with outstanding Interfund Loans exceed 10% of its total assets for any other reason (such as a decline in net asset value or because of shareholder redemptions), the Fund will within one business day thereafter either: (i) Repay all its outstanding Interfund Loans to Funds; (ii) reduce its outstanding indebtedness to Funds to 10% or less of its total assets; or (iii) secure each outstanding Interfund Loan to other Funds by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until the Fund's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition 5 shall no longer be required. Until each Interfund Loan that is outstanding at any time that a Fund's total outstanding borrowings exceed 10% of its total assets is repaid or the Fund's total outstanding borrowings cease to exceed 10% of its total assets, the Fund will mark the value of the collateral to market each day and will pledge such additional collateral as is necessary to maintain the market value of the collateral that secures each outstanding Interfund Loan to Funds at least equal to 102% of the outstanding principal value of the Interfund Loans.

6. No Fund may lend to another Fund through the Interfund Lending Program if the loan would cause its aggregate outstanding loans through the Interfund Lending Program to exceed 15% of its current net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund shall not exceed 5% of the lending Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. A Fund's borrowings through the Interfund Lending Program, as measured on the day when the most recent loan was made, will not exceed the greater of 125% of the Fund's total net cash redemptions for the preceding seven calendar days or 102% of the Fund's sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by a lending Fund and may be repaid on any day by a borrowing Fund.

11. A Fund's participation in the Interfund Lending Program must be consistent with its investment objectives, policies, limitations and organizational documents.

12. The Interfund Lending Program Team will calculate total Fund borrowing and lending demand through the Interfund Lending Program, and allocate Interfund Loans on an equitable basis among the Funds, without the intervention of any portfolio manager. The Interfund Lending Program Team will not solicit cash for the Interfund Lending Program from any Fund or prospectively publish or disseminate loan demand data to portfolio managers. The Interfund Lending Program Team will invest all amounts remaining after satisfaction of borrowing demand in accordance with the standing instructions of the relevant portfolio manager or such remaining amounts will be invested directly by the portfolio managers of the Funds.

13. The Interfund Lending Program Team will monitor the Interfund Loan Rate and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Boards concerning the participation of the Funds in the Interfund Lending Program and the terms and other conditions of any extensions of credit under the Interfund Lending Program.

14. Each Board, including a majority of the Independent Trustees, will:

(i) Review, no less frequently than quarterly, the participation of each Fund's it oversees in the Interfund Lending Program during the preceding quarter for compliance with the conditions of any order permitting such participation;

(ii) establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans;

(iii) review, no less frequently than annually, the continuing appropriateness of the Bank Loan Rate formula; and

(iv) review, no less frequently than annually, the continuing appropriateness of the participation in the Interfund Lending Program by each Fund it oversees.

15. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction by it under the Interfund Lending Program occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity and the Interfund Loan Rate, the rate of interest available at the time each Interfund Loan is made on overnight repurchase agreements and Bank Borrowings, and such other information presented to the Boards of the Funds in connection with the review required by conditions 13 and 14.

16. In the event an Interfund Loan is not paid according to its terms and the default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the Interfund Lending Agreement, the Adviser to the lending Fund promptly will refer the loan for arbitration to an independent arbitrator selected by the Board of any Fund involved in the loan who will serve as arbitrator of disputes concerning Interfund Loans. If the dispute involves Funds that do not have a common Board, the Board of each Fund will select an independent arbitrator that is satisfactory to each Fund. The arbitrator will resolve any dispute promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit, at least annually, a written report to the Board of each Fund setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

17. The Adviser will prepare and submit to the Board for review an initial report describing the operations of the Interfund Lending Program and the procedures to be implemented to ensure that all Funds are treated fairly. After the commencement of the Interfund Lending Program, the Adviser will report on the operations of the Interfund Lending Program at the Board's quarterly meetings. Each Fund's chief compliance officer, as defined in rule 38a–1(a)(4) under the Act, shall prepare an annual report for its Board each year that the Fund participates in the Interfund Lending Program, that evaluates the Fund's compliance with the terms and conditions of the application and the procedures established to achieve such compliance. Each Fund's chief compliance officer will also annually file a certification pursuant to Item 77Q3 of Form N–SAR as such Form may be revised, amended or superseded from time to time, for each year that the Fund participates in the Interfund Lending Program, that certifies that the Fund and its Adviser have implemented procedures reasonably designed to achieve compliance with the terms and conditions of the order. In particular, such certification will address procedures designed to achieve the following objectives:

(a) That the Interfund Loan Rate will be higher than the Repo Rate but lower than the Bank Loan Rate;

(b) compliance with the collateral requirements as set forth in the application;

(c) compliance with the percentage limitations on interfund borrowing and lending;

(d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Board; and

(e) that the Interfund Loan Rate does not exceed the interest rate on any third party borrowings of a borrowing Fund at the time of the Interfund Loan.

Additionally, each Fund's independent public accountants, in connection with their audit examination of the Fund, will review the operation of the Interfund Lending Program for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

18. No Fund will participate in the Interfund Lending Program, upon receipt of requisite regulatory approval, unless it has fully disclosed in its registration statement on Form N–1A (or any successor form adopted by the Commission) all material facts about its intended participation.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–02199 Filed 2–4–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31977; 812–14458]

Medallion Financial Corp.; Notice of Application

February 1, 2016.

AGENCY: Securities and Exchange Commission (the ''Commission'').

ACTION: Notice of an application for an order under section 61(a)(3)(B) of the Investment Company Act of 1940 (the ''Act'').

SUMMARY OF APPLICATION: Applicant, Medallion Financial Corp., requests an order approving a proposal to grant certain stock options to directors who are not also employees or officers of Applicant (the ''Eligible Directors'') under its 2015 Non-Employee Director Stock Option Plan (the ''Director Plan'').

FILING DATES: The application was filed on May 12, 2015, and amended on September 25, 2015 and January 14, 2016.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving 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 26, 2016, and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the 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; Applicant, 437 Madison Avenue, 38th Floor, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 551–6876, or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Chief Counsel).

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.

Applicant's Representations

1. Applicant, a Delaware corporation, is a business development company (''BDC'') within the meaning of section 2(a)(48) of the Act.[1] Applicant is a specialty finance company that has a leading position in originating, acquiring and servicing loans that finance taxicab medallions and various types of commercial businesses. Applicant operates its businesses through four wholly-owned subsidiaries, Medallion Funding LLC, Medallion Capital, Inc., Freshstart Venture Capital Corp., and Medallion Bank.[2] Applicant is managed by its executive officers under the supervision of its board of directors (''Board''). Applicant's investment decisions are made by its executive officers under authority delegated by the Board. Applicant does not have an external investment adviser within the meaning of section 2(a)(20) of the Act. Applicant's common stock is listed on the NASDAQ Global Select Market.

2. Applicant requests an order under section 61(a)(3)(B) of the Act approving its proposal to grant certain stock options under the Director Plan to its Eligible Directors.[3] Applicant has an eight member Board, six of whom are Eligible Directors. Five of the six Eligible Directors on the Board are not ''interested persons'' (as defined in section 2(a)(19) of the Act) of Applicant. The Board approved the Director Plan at a meeting held on March 12, 2015, and Applicant's stockholders approved the Director Plan at the annual meeting of stockholders held on June 5, 2015. The Director Plan will become effective on the date on which the Commission issues an order on the application (the ''Order Date'').[4]

3. Applicant's Eligible Directors currently are eligible to receive stock options under the 2006 Amended Director Plan and will be eligible to receive options under the Director Plan on the Order Date. Under the Director Plan, a maximum of 300,000 shares of Applicant's common stock, in the aggregate, may be issued to Eligible Directors and there is no limit on the number of shares of Applicant's common stock that may be issued to any one Eligible Director. The Director Plan provides for automatic grants of stock options to Eligible Directors. At each annual meeting of Applicant's stockholders after the Order Date, each Eligible Director elected or re-elected at such meeting to a three-year term will automatically be granted an option to purchase 12,000 shares of Applicant's common stock. Upon the election, reelection or appointment of an Eligible Director to the Board other than at the

[1] Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[2] Applicant also conducts business through its asset-based lending division, Medallion Business Credit, an originator of loans to small businesses for the purpose of financing inventory and receivables.

[3] The Eligible Directors receive a $39,655 per year retainer payment, $3,965 for each Board meeting attended, $1,130 for each telephonic Board meeting, from $1,700 to $3,965 for each committee meeting attended, and reimbursement for related expenses.

[4] Applicant previously obtained similar relief for its Amended and Restated 1996 Non-Employee Director Stock Option Plan (the ''1996 Director Plan''), the 2006 Non-Employee Director Stock Option Plan (the ''2006 Director Plan''), and the First Amended and Restated 2006 Non-Employee Director Stock Option Plan (the ''2006 Amended Director Plan'').

annual stockholders' meeting, that Eligible Director will be granted an option to purchase that number of shares of common stock determined by multiplying 12,000 by a fraction, the numerator of which is equal to the number of whole months remaining in the new director's term and the denominator of which is 36. The options granted under the Director Plan will vest and become exercisable with respect to one-third of the number of shares covered by such option on each of the first three anniversaries of the date of the grant.

4. Under the terms of the Director Plan, the exercise price of an option will be the ''Fair Market Value'' of Applicant's common stock, which is the closing price of the common stock as reported in the Wall Street Journal, Northeast Edition, as quoted on the NASDAQ Global Select Market on the date of grant, or if no such market value exists, the fair market value of a share of common stock as determined by the Board pursuant to a reasonable method adopted in good faith for such purpose. Options granted under the Director Plan will expire ten years from the date of grant and may not be transferred other than by will or the laws of descent and distribution. Any Eligible Director holding exercisable options under the Director Plan who ceases to be an Eligible Director for any reason, other than permanent disability, death or removal for cause, may exercise the rights the director had under the options on the date the director ceased to be an Eligible Director for a period of up to three months following that date. No additional options held by the director will become exercisable after the three month period. In the event of removal of an Eligible Director for cause, all outstanding options held by such director shall terminate as of the date of the director's removal. Upon the permanent disability or death of an Eligible Director, those entitled to do so under the director's will or the laws of descent and distribution will have the right, at any time within twelve months after the date of permanent disability or death, to exercise in whole or in part any rights which were available to the director at the time of the director's permanent disability or death.

5. Applicant's officers and employees, including employee directors, are currently eligible to receive options under Applicant's Amended and Restated 2006 Employee Stock Option Plan (the ''2006 Employee Plan''), which replaced the Amended and Restated 1996 Stock Option Plan (the ''1996 Employee Plan''), which expired on May 21, 2006. Applicant's employees are also eligible to receive grants of restricted stock under its 2009 Employee Restricted Stock Plan (the ''2009 Restricted Stock Plan'').[5] Eligible Directors are not eligible to receive restricted stock under the 2009 Restricted Stock Plan or stock options under the 2006 Employee Plan and are only eligible to receive stock options under the 2006 Amended Director Plan currently and under the Director Plan on the Order Date.

6. Under the Director Plan, the 2015 Restricted Stock Plan, the 2009 Restricted Stock Plan, the 2006 Amended Director Plan and the 2006 Employee Plan, an aggregate of 2,545,909 shares of Applicant's common stock have been reserved for issuance to Applicant's directors, officers and employees (300,000 shares are reserved for issuance under the Director Plan, 700,000 shares are reserved for issuance under the 2015 Restricted Stock Plan, 545,909 shares are reserved for issuance under the 2009 Restricted Stock Plan,[6] 200,000 shares are reserved for issuance under the 2006 Amended Director Plan, and 800,000 shares are reserved for issuance under the 2006 Employee Plan). Applicant has no restricted stock, warrants, options or rights to purchase its outstanding voting securities other than those granted or to be granted to its directors, officers and employees pursuant to the 2015 Restricted Stock Plan, the 2009 Restricted Stock Plan, the Director Plan, the 2006 Amended Director Plan, the 2006 Employee Plan and the 1996 Employee Plan.[7]

7. The amount of voting securities of Applicant that would, on the Order Date, result from the grant of all restricted stock issued or issuable under the 2009 Restricted Stock Plan and 2015 Restricted Stock Plan is 1,245,909 shares; from the exercise of all options issued or issuable to Applicant's directors under the Director Plan is 300,000 shares; from the exercise of all options issued or issuable to Applicant's directors under the 2006 Amended Director Plan is 153,000 shares; from the exercise of all options issued or issuable to Applicant's officers and employees under the 2006 Employee Plan is 422,520 shares; and from the exercise of all options issued or issuable to Applicant's officers and employees under the 1996 Employee Plan is 58,442 shares, which totals approximately 5.12%, 1.23%, 0.63%, 1.74%, and 0.24%, respectively, of the 24,346,693 shares of Applicant's common stock outstanding on December 31, 2015. This totals 2,179,871 shares in the aggregate, or approximately 8.95% of the 24,346,693 shares of Applicant's common stock outstanding on December 31, 2015.

Applicant's Legal Analysis

1. Section 63(3) of the Act permits a BDC to sell its common stock at a price below current net asset value upon the exercise of any option issued in accordance with section 61(a)(3). Section 61(a)(3)(B) of the Act provides, in pertinent part, that a BDC may issue to its non-employee directors options to purchase its voting securities pursuant to an executive compensation plan, provided that: (a) The options expire by their terms within ten years; (b) the exercise price of the options is not less than the current market value of the underlying securities at the date of the issuance of the options, or if no market exists, the current net asset value of the voting securities; (c) the proposal to issue the options is authorized by the BDC's shareholders, and is approved by order of the Commission upon application; (d) the options are not transferable except for disposition by gift, will or intestacy; (e) no investment adviser of the BDC receives any compensation described in section 205(a)(1) of the Investment Advisers Act of 1940, except to the extent permitted by paragraph (b)(1) or (b)(2) of that section; and (f) the BDC does not have a profit-sharing plan as described in section 57(n) of the Act.

2. In addition, section 61(a)(3) provides that the amount of the BDC's voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance may not exceed 25% of the BDC's outstanding voting securities, except that if the amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights issued to the BDC's directors, officers, and employees pursuant to any executive compensation plan would exceed 15% of the BDC's outstanding voting securities, then the total amount of voting securities that would result from the exercise of all

[5] The 2009 Restricted Stock Plan provides for the periodic grant of shares of restricted stock (*i.e.,* stock that, at the time of issuance, is subject to certain forfeiture restrictions and thus is restricted as to its transferability until such forfeiture restrictions have lapsed) to employees. On February 13, 2015 the Board approved the 2015 Employee Restricted Stock Plan (the ''2015 Restricted Stock Plan''), providing for the periodic grants of shares of restricted stock for its employees, which will become effective when approved by both Applicant's stockholders and the Commission.

[6] Under the 2009 Restricted Stock Plan, 800,000 shares were initially reserved for issuance, but as of June 11, 2015, no future issuances of grants are permitted under the 2009 Restricted Stock Plan.

[7] No options remain issued, issuable or exercisable under the 1996 Director Plan or the 2006 Director Plan.

outstanding warrants, options, and rights at the time of issuance will not exceed 20% of the outstanding voting securities of the BDC.

3. Applicant represents that its proposal to grant certain stock options to Eligible Directors under the Director Plan meets all the requirements of section 61(a)(3) of the Act. Applicant states that the Board is actively involved in the oversight of Applicant's affairs and that it relies extensively on the judgment and experience of its Board. In addition to their duties as Board members generally, Applicant states that the Eligible Directors provide guidance and advice on financial and operational issues, credit and loan policies, asset valuation and strategic direction, as well as serving on committees. Applicant believes that the availability of options under the Director Plan will provide significant at-risk incentives to Eligible Directors to remain on the Board and devote their best efforts to ensure Applicant's success. Applicant states that the options will provide a means for the Eligible Directors to increase their ownership interests in Applicant, thereby ensuring close alignment of their interests with those of Applicant and its stockholders. Applicant asserts that by providing incentives such as options, Applicant will be better able to maintain continuity in the Board's membership and to attract and retain the highly experienced, successful and motivated business and professional people who are critical to Applicant's success as a BDC.

4. As noted above, Applicant states that the amount of voting securities that would on the Order Date result from the grant of all restricted stock issued or issuable under the 2009 Restricted Stock Plan and 2015 Restricted Stock Plan and the exercise of all outstanding options issued or issuable to the directors, officers, and employees under the Director Plan, 2006 Amended Director Plan, the 2006 Employee Plan and the 1996 Employee Plan would be 2,179,871 shares of Applicant's common stock, or approximately 8.95% of Applicant's shares of common stock outstanding on December 31, 2015, which is below the percentage limitations in the Act. Applicant asserts that, given the relatively small amount of common stock issuable to Eligible Directors upon their exercise of options under the Director Plan, the exercise of such options would not, absent extraordinary circumstances, have a substantial dilutive effect on the net asset value of Applicant's common stock.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–02222 Filed 2–4–16; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 9435]

Advisory Committee on Private International Law: Public Meeting on Online Dispute Resolution

The Office of the Assistant Legal Adviser for Private International Law, Department of State, hereby gives notice that the Online Dispute Resolution (ODR) Study Group of the Advisory Committee on Private International Law (ACPIL) will hold a public meeting. The ACPIL ODR Study Group will meet to discuss the next session of the UNCITRAL Online Dispute Resolution (ODR) Working Group, scheduled for February 29 to March 4 in New York. This is not a meeting of the full Advisory Committee.

At the July 2015 plenary session of UNCITRAL, the ODR Working Group was instructed ''to continue its work towards elaborating a non-binding descriptive document reflecting elements of an ODR process, on which elements the Working Group had previously reached consensus, excluding the question of the final stage of the ODR process (arbitration/non-arbitration).'' Report of the United Nations Commission on International Trade Law, 48th Session (29 June–16 July 2015), A/70/17, para. 352. At its November 2015 session, the Working Group based its deliberations on a proposal for Technical Notes on Online Dispute Resolution submitted by Colombia and the United States. A/CN.9/WG.III/XXXII/CRP.3. The proposal by Colombia and the United States, as well as the documents for the upcoming session of the Working Group are available at the following link: *http://www.uncitral.org/uncitral/commission/working_groups/3Online_Dispute_Resolution.html.* The reports of the earlier sessions of the Working Group are available at the same link.

Time and Place: The meeting of the ACPIL ODR Study Group will take place on Friday February 23 from 10 a.m. to 12 noon EST at 2430 E Street NW., South Building (SA 4S) (Navy Hill), Room 240. Participants should arrive at Navy Hill before 9:45 a.m. for visitor screening. Participants will be met at the Navy Hill gate at 23rd and D Streets NW., and will be escorted to the South Building. Persons arriving later will need to make arrangements for entry using the contact information provided below. If you are unable to attend the public meeting and would like to participate from a remote location, teleconferencing will be available.

Public Participation: This meeting is open to the public, subject to the capacity of the meeting room. Access to the building is strictly controlled. For pre-clearance purposes, those planning to attend should email *pil@state.gov* providing full name, address, date of birth, citizenship, driver's license or passport number, and email address. This information will greatly facilitate entry into the building. A member of the public needing reasonable accommodation should email *pil@state.gov* not later than February 12. Requests made after that date will be considered, but might not be able to be fulfilled. If you would like to participate by telephone, please email *pil@state.gov* to obtain the call-in number and other information.

Data from the public is requested pursuant to Public Law 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and E.O. 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities.

The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Security Records System of Records Notice (State-36) at *https://foia.state.gov/_docs/SORN/State-36.pdf* for additional information.

Dated: January 28, 2016.

Michael J. Dennis,

Attorney-Adviser, Office of Private International Law, Office of the Legal Adviser, U.S. Department of State.

[FR Doc. 2016–02304 Filed 2–4–16; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice: 9434]

60-Day Notice of Proposed Information Collection: Office of Language Services Contractor Application

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork

Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to April 5, 2016.

ADDRESSES: You may submit comments by any of the following methods:

- *Web:* Persons with access to the Internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2016–0002'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: LSApplications@state.gov.*
- *Regular Mail:* Send written comments to: Department of State, Office of Language Services SA–1, Fourteenth Floor, 2401 E Street NW., Washington, DC 20522.

You must include the DS form number, information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to David Record at 2401 E Street NW., Fourteenth Floor, Washington, DC 20522, who may be reached on 202–261–8800 or at *RecordDM1@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Office of Language Services Contractor Application
- *OMB Control Number:* 1405–0191
- *Type of Request:* Revision of a Currently Approved Collection
- *Originating Office:* Bureau of Administration (A/OPR/LS)
- *Form Number:* DS–7651
- *Respondents:* General Public Applying for Translator and/or Interpreter Contract Positions
- *Estimated Number of Respondents:* 700
- *Estimated Number of Responses:* 700
- *Average Time per Response:* 30 minutes
- *Total Estimated Burden Time:* 350 hours
- *Frequency:* On Occasion
- *Obligation To Respond:* Voluntary

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: The information collected is needed to ascertain whether respondents are valid interpreting and/or translating candidates, based on their work history and legal work status in the United States. If candidates successfully become contractors for the U.S. Department of State, Office of Language Services, the information collected is used to initiate security clearance background checks and for processing payment vouchers. Respondents are typically members of the general public with varying degrees of experience in the fields of interpreting and/or translating.

Methodology: OLS makes the ''Office of Language Services Contractor Application Form'' available via the OLS Internet site. Respondents can submit it via email.

Dated: January 20, 2016.

Thomas F. Hufford,

Director, Office of Language Services, Department of State.

[FR Doc. 2016–02307 Filed 2–4–16; 8:45 am]

BILLING CODE 4710–24–P

SURFACE TRANSPORTATION BOARD

Release of Waybill Data

The Surface Transportation Board has received a request from the Association of American Railroads. (WB463–18–1/15/16) for permission to use certain data from the Board's 2014 Carload Waybill Sample. A copy of this request may be obtained from the Office of Economics.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Alexander Dusenberry, (202) 245–0319.

Brendetta S. Jones,

Clearance Clerk.

[FR Doc. 2016–02251 Filed 2–4–16; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 35983]

Louisiana Southern Railroad, L.L.C.—Lease Exemption Containing Interchange Commitment—The Kansas City Southern Railway Company

Louisiana Southern Railroad, L.L.C. (LAS), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to continue to lease from The Kansas City Southern Railway Company (KCS), and to operate, approximately 165.8 miles of rail line between: (1) A point 1,600 feet south of Highway 80 crossing, near Gibsland, La., and milepost B–192, near Pineville, La.; (2) milepost 83.5, at Sibley, La., and milepost 78.8, at Minden, La., on the Sibley Branch; (3) milepost 49.6, near Cullen, La., and milepost 78.8, at Minden on the Hope Subdivision; and (4) milepost 78.8, at Minden, and milepost B–102, near Bossier, La. on the Hope Subdivision.[1]

In the verified notice, LAS states that LAS and KCS have recently entered into two amended and restated lease agreements[2] (Amended Agreements) which, among other things, extend the term of the original lease agreement to October 31, 2025. As required under 49 CFR 1150.43(h)(1), LAS has disclosed in its verified notice that the Amended Agreements contain an interchange commitment that affects the interchange points in Sibley, Gibsland, and Pineville, La. In addition, LAS has provided additional information regarding the interchange commitment as required by 49 CFR 1150.43(h). LAS states that it will continue to be the operator of the rail lines.

LAS has certified that its projected annual revenues as a result of this

[1] LAS was granted authority to lease and operate portions of the rail lines in *Louisiana Southern Railroad, Inc.—Lease and Operation Exemption—The Kansas City Southern Railway Company,* FD 34751 (STB served Oct. 7, 2005). In a letter filed on January 29, 2016, LAS clarified the locations of the rail lines being leased.

[2] LAS filed a confidential, complete version of the Amended Agreements with its notice of exemption to be kept confidential by the Board under 49 CFR 1104.14(a) without need for the filing of an accompanying motion for protective order under 49 CFR 1104.14(b).

transaction will not result in LAS' becoming a Class II or Class I rail carrier, but that its projected annual revenues would exceed $5 million. Accordingly, LAS is required, at least 60 days before this exemption is to become effective, to send notice of the transaction to the national offices of the labor unions with employees on the affected lines, post a copy of the notice at the workplace of the employees on the affected lines, and certify to the Board that it has done so. 49 CFR 1150.42(e).

LAS has also filed a petition for waiver of the 60-day advance labor notice requirement under 1150.42(e), asserting that: (1) No KCS employees will be affected because no KCS employees have performed operations or maintenance on the lines since 2005; and (2) no LAS employees will be affected because LAS will continue to provide the same service and perform the same maintenance as it has since 2005. LAS' waiver request will be addressed in a separate decision.

LAS states that the transaction is expected to be consummated on or shortly after the effective date of this notice. The Board will establish in the decision on the waiver request the earliest date this transaction may be consummated.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than February 12, 2016.

An original and ten copies of all pleadings, referring to Docket No. FD 35983, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on applicant's representative, Karl Morell, Karl Morell & Associates, 655 Fifteenth Street, Suite 225, NW., Washington, DC 20005.

According to LAS, this action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: February 2, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2016–02263 Filed 2–4–16; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Seventeenth Meeting: RTCA NextGen Advisory Committee (NAC)

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

ACTION: Notice of Seventeenth RTCA NextGen Advisory Committee (NAC) Meeting.

SUMMARY: The FAA is issuing this notice to advise the public of the Seventeenth RTCA NextGen Advisory Committee (NAC) meeting.

DATES: The meeting will be held February 25, 2016 from 9:00 a.m.–3:00 p.m.

ADDRESSES: The meeting will be held at Delta Air Lines, Inc., New York City Room, 1010 Delta Blvd., Atlanta, GA 30354, Tel: (202) 330–0652.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Andy Cebula, NAC Secretary, RTCA, Inc., *acebula@rtca.org,* (202) 330–0652.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of RTCA NextGen Advisory Committee (NAC). The agenda will include the following:

Thursday, February 25, 2016

1. Opening of Meeting/Introduction of NAC Members—Chairman Richard Anderson, Chief Executive Officer, Delta Air Lines, Inc.
2. Official Statement of Designated Federal Official—The Honorable Mike Whitaker, FAA Deputy Administrator
3. Review and Approval of October 8, 2015 Meeting Summary
4. Chairman's Report—Chairman Anderson
5. FAA Report—Mr. Whitaker
6. PBN Strategy Task Group—Dan Allen/Steve Fulton
7. NextGen Integration Working Group (NIWG): Exec Team Update and NextGen Priorities Beyond the Four
8. Reports & Discussion (Approval of Interim Recommendations): DataComm, Multiple Runway Operations, Performance Based Navigation (PBN), Surface & Data Sharing
9. PBN JFK Implementation
10. Joint Analysis Team—Dave Knorr/Ilhan Ince: Update on FAA-Industry Metrics Project and Timing and expectations on analysis
11. PBN Blueprint Community Outreach Task Group—Jim Crites/Brian Townsend
12. ADS–B: Equip 2020, Status of implementation, Air Carrier Fleet Equipage
13. NextGen Vision—Michelle Merkle/Bruce DeCleene
14. Summary of meeting and next steps; DFO and NAC Chairman Closing Comments
15. Other business
16. Adjourn

Attendance is open to the interested public but limited to space availability and registration is required. Please email *bteel@rtca.org* with name and company to pre-register. For those driving to Delta facilities, please email *bteel@rtca.org* no later than Friday, February 19, 2016. Upon arrival to the NAC meeting, please be prepared to show photo id. With the approval of the chairman, members of the public may present oral statements at the meeting. Plenary information will be provided upon request. Persons who wish to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 1, 2016.

Latasha Robinson,

Management & Program Analyst, NextGen, Enterprise Support Services Division, Federal Aviation Administration.

[FR Doc. 2016–02171 Filed 2–4–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2015–0336]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA confirms its decision to exempt 54 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions were effective on December 15, 2015. The exemptions expire on December 15, 2017.

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On November 12, 2015, FMCSA published a notice of receipt of Federal diabetes exemption applications from 54 individuals and requested comments from the public (80 FR 70067). The public comment period closed on December 14, 2015, and one comment was received.

FMCSA has evaluated the eligibility of the 54 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 54 applicants have had ITDM over a range of 1 to 41 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the November 12, 2015, **Federal Register** notice and they will not be repeated in this notice.

III. Discussion of Comments

FMCSA received one comment in this proceeding. Latu Anitoni stated that, in her opinion, drivers using insulin are safer due to the monitoring the condition requires, and believes the exemptions should be granted.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Conclusion

Based upon its evaluation of the 54 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 949 CFR 391.64(b)):

Ramon Becerra (IN)
Harry L. Blakely (MN)
Steven J. Bloemker (OH)
Billy J. Bookout (OK)
David M. Brady (NE)
William G. Bush (IL)
Gene D. Carey, Jr. (PA)
James C. Decker (CA)
Richard D. Doherty (MA)
Richard N. Dunn (KS)
Thomas C. Eklund (OR)
Rodney L. Forrister, Jr. (MI)
Ronald J. Gasper (SD)
Jeremy J. Giesbrecht (IN)

David F. Goehring (WI)
Robert J. Golding (ME)
Ethan T. Heideman (MN)
Benjamin R. Hickerson (CA)
Timothy J. Hrinak (PA)
Kevin M. Hunt (MI)
David T. Issler (NY)
Todd D. Jacquin (NC)
Bruce E. Kerr (KY)
Mark C. Kucharski (CO)
Philip M. LaPierre (ME)
Mary J. Martin (PA)
Peter J. Meier (WA)
Terry J. Miller (WI)
Michael E. Morel (NH)
Marvin K. Mosley (SC)
Eric Nieves, Jr. (NY)
Jerry D. Pearce (NM)
George W. Pottle, IV (ME)
Kenneth A. Prine (WA)
Charles R. Ratcliff, Jr. (VA)
Joseph B. Ribitzki (AR)
Roger D. Richey (IN)
Michael G. Sanchez (CA)
Guido J. Scarafoni (MA)
Jeffrey M. Schleisman (IA)
Scott J. Schmidt (NE)
Lori A. Shaffnit (IA)
Sanampreet Singh (CA)
Joshua A. Snyder (WV)
Christophe M. Stephens (TN)
Michael A. Stille (GA)
Leonard Tawahongva (AZ)
Edward M. Taylor (NE)
Donald L. Trogdon (ID)
Gregory S. Van Hal (MN)
Lazario R. Watkins (NC)
Eric J. Watson (NY)
William T. White (WA)
J. Ryan Wolf (IN)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: January 19, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–02299 Filed 2–4–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0488]

Qualification of Drivers; Exemption Applications; Narcolepsy

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

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from two individuals for exemptions from the following two Federal Motor Carrier Safety Regulations (FMCSRs) which prohibit operating a commercial motor vehicle (CMV) in interstate commerce. Section 391.41(b)(8) of the FMCSRs prohibit operation of a commercial motor vehicle by persons with either a clinical diagnosis of a condition that is likely to cause a loss of consciousness or any loss of ability to operate a CMV safely. Section 391.41(b)(9) of the FMCSRs prohibit operation of a commercial motor vehicle by persons with a mental, nervous, organic, functional disease, or psychiatric disorder likely to interfere with his/her ability to drive a commercial motor vehicle safely. If granted, the exemption would enable these individuals who have been diagnosed with narcolepsy and are receiving medical treatment to operate CMVs for 2 years in interstate commerce.

DATES: Comments must be received on or before March 7, 2016.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2012–0081 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket ID for this Notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov,* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Christine Hydock, Chief, Medical Programs Division, (202) 366–4001, or via email at *fmcsamedical@dot.gov,* or by letter to FMCSA, Room W64–113, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** [49 CFR 381.315(a)]. The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency may grant an exemption subject to specified terms and conditions. The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of

the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

FMCSA provides medical advisory criteria in the Medical Examination Report at 49 CFR 391.43 for use by medical examiners in determining whether drivers with certain medical conditions should be certified to operate commercial motor vehicles in interstate commerce. The advisory criteria for 49 CFR 391.41(b)(8), indicates that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the medical examiner in consultation with the treating physician.

In those individual cases where a driver had a seizure or an episode of loss of consciousness that resulted from a known medical condition (*e.g.,* drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has fully recovered from that condition, has no existing residual complications, and is not taking anti-seizure medication.

The advisory criteria for 49 CFR 391.41(b)(9), indicates that a variety of functional disorders can cause drowsiness, dizziness, confusion, weakness or paralysis that may lead to incoordination, inattention, loss of functional control and susceptibility to accidents while driving.

Summary of Applications

Jeremy Joseph Mertens

Mr. Mertens is a 26 year old Class B CDL holder in Pennsylvania. An October 6, 2015 report from his sleep medicine physician says (Mr. Martens) was diagnosed with narcolepsy in 2011. His physician report further states that Mr. Mertens is treated with Nuvigil daily and has no problems with daytime somnolence. He has never had any history of sleepiness while driving, cataplexy or loss of consciousness. He understands that he has to continue to have adequate total sleep time and take his Nuvigil as prescribed every single day. His employer provided a letter stating that throughout his eight years of employment he has never had any problem performing his job duties because of his narcolepsy.

Michael Vaughn

Mr. Vaughn is a 31 year old non-CDL holder from Georgia. An August 27, 2015 letter from his neurologist reports that as recently as July 13, 2015, Mr. Vaugh's sleep apnea is managed on CPAP and he is on medication to help him maintain wakefulness during the daytime. His neurologist supports Mr. Vaughn's request for an exemption which would allow him to operate commercial motor vehicles as he is on medication. Mr. Vaughn reports that he takes the medication Nuvigil.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the applications for exemption described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in the notice.

Issued on: January 19, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–02275 Filed 2–4–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2015–0069]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA confirms its decision to exempt 41 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions were effective on November 17, 2015. The exemptions expire on November 17, 2017.

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On October 15, 2015, FMCSA published a notice of receipt of Federal diabetes exemption applications from 41 individuals and requested comments from the public (80 FR 632155). The public comment period closed on November 16, 2015, and no comments were received.

FMCSA has evaluated the eligibility of the 41 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded

that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 41 applicants have had ITDM over a range of 1 to 39 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the October 15, 2015, **Federal Register** notice and they will not be repeated in this notice.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Conclusion

Based upon its evaluation of the 41 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 949 CFR 391.64(b)):

David V. Bartel (MN)
Derwin M. Beckles (NJ)
John H. Bell Jr. (FL)
Robert G. Chadwick (UT)
Brian D. Correll (PA)
Stephen V. Danczak (OH)
Thomas W. Freeley (NY)
Jeffrey S. Gurcik (NJ)
Robert Hackney, Jr. (NJ)
Lawrence D. Hastings (WI)
Michael P. Haun (RI)
Anthony G. Hill (GA)
Charles H. Hillman (OR)
Alan L. Hodge (MN)
Hans G. Horschig (NM)
Nicholas C. Huber (IA)
Joseph S. Hurlburt (NY)
Robert J. Johnson (WA)
Christopher E. Jones (NY)
Roger L. Killion (NC)
Robert L. Lawson (SC)
Leroy Madison (SC)
Mark L. Martin (WA)
Wendell J. Matthews (MO)
Peter G. Mattos (VT)
Randy G. Moody (TN)
Michael J. Murray, Jr. (CA)
Joseph K. Neisen (IL)
Manuel Pereira (CT)
Herman Powell, Jr. (TX)
William H. Riley, Jr. (IL)
James W. Smith (SC)
Thomas H. Smith (WI)
Michael J. Swanson (IL)
Patrick J. Sweeney (NJ)
Richard T. Tabeling (KY)
David Tellez (MT)
Mark A. Turley (PA)
Kristi L. Turner (TX)
Jon T. Webster (MN)
Owen E. Whetzel (WV)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: January 19, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–02301 Filed 2–4–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2015–0068]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA confirms its decision to exempt 44 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions were effective on November 21, 2015. The exemptions expire on November 21, 2017.

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200

New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On October 21, 2015, FMCSA published a notice of receipt of Federal diabetes exemption applications from 44 individuals and requested comments from the public (80 FR 63863). The public comment period closed on November 20, 2015, and no comments were received.

FMCSA has evaluated the eligibility of the 44 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 44 applicants have had ITDM over a range of 1 to 34 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the October 21, 2015, **Federal Register** notice and they will not be repeated in this notice.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Conclusion

Based upon its evaluation of the 44 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 949 CFR 391.64(b)):

Raul L. Armenta (CA)
Leonel Barrera, Jr. (TX)
James R. Barry, II (WV)
Alfred T. Benelli (PA)
Oliver T. Bridges (MO)
Rickie J. Burgess (NC)
Edson M. Chick (VT)
Jerome E. Collins (LA)
Jean K. Cyr, Sr. (ME)
Alvah R. Daniel, Jr. (WY)
Clarence P. Finch, Jr. (NJ)
John M. Fisher (VA)
Kent E. Fry (IL)
Stanley M. Garrison (AR)
Eric T. Herron (NV)
Lyle E. Hinspeter, Jr. (IA)
Burton W. Holliday (AL)
Justin L. Howe (IL)
Walter J. Leaders (MN)
Robert M. Manko (NY)
Raul D. Martinez (NY)
Roy T. McLeran (TX)
Clarance McNeill (NC)
Joe R. Minga (MS)

William H. Mowery (IA)
Tyna M. Murphy (PA)
Ojuang Okello (MN)
Jose A. Ortega (IL)
Troy D. Ostrowski (MN)
Terry G. Parker (OR)
Anthony T. Quaglieri (NJ)
Antonio Ramos (RI)
Robert G. Rosenbaum (IN)
Robert N. Ruhs (IA)
Louis A. Scandurro (LA)
Casey C. Small (CA)
Michael J. Soto (MI)
Ralph L. Staples (NY)
Ford J. stevens, Jr. (MA)
Donald T. Streich (WA)
Dale A. Stydinger (PA)
Raymond E. Thomason (CA)
Robert M. Wright (PA)
Joe L. Zamora (TX)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: January 19, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–02300 Filed 2–4–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2015–0337]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA confirms its decision to exempt 44 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions were effective on December 29, 2015. The exemptions expire on December 29, 2017.

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–113, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On November 27, 2015, FMCSA published a notice of receipt of Federal diabetes exemption applications from 44 individuals and requested comments from the public (80 FR 74190). The public comment period closed on December 28, 2015, and no comments were received.

FMCSA has evaluated the eligibility of the 44 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 44 applicants have had ITDM over a range of 1 to 32 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the November 27, 2015, **Federal Register** notice and they will not be repeated in this notice.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of

the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Conclusion

Based upon its evaluation of the 44 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 949 CFR 391.64(b)):

Michael E. Adrieansen (IL)
David A. August (CO)
Samuel M. Balis (PA)
Dwight J. Banks (IL)
David R. Bauman, III (MI)
George E. Britt (PA)
Cris A. Brown (MI)
Dustin D. Brown (WI)
Thomas W. Camp (VA)
Nathan G. Carnes (OR)
Vincenzo A. Cortese (CT)
Vernon L. Davidson (NE)
Damian DiFlorio (NJ)
Matthew D. Fox (IN)
Sammy N. Fox (PA)
Chadwick E. Gainey (FL)
Jamal A. George (OH)
John M. Halm (WA)
William R. Hardy (MI)
Craig A. Hendrickson (IL)
William D. Hoopes (OH)
Jeffrey L. Jones (AR)
Brent S. LaBree, II (VT)
Michael C. Landers (MA)
Duane F. Light (CT)
Darold W. Mahlstedt (IA)
Robert L. McConnell (PA)
Mark R.S. McMillan (NY)
Keith R. Miller (WV)
Randall T. Mitchell (AL)
Ernest Nez, Sr. (AZ)
Shawn P. O'Malley (WA)
Felipe N. Perez (FL)
Kenneth W. Phillips (IN)
Tony L. Prouty (IA)
Jim T. Repass (IN)
Jakob K. Siler (OK)
Darren G. Steil (IA)
Steven P. Stokke (WI)
Richard E. Wagner (MN)
Harold W. Welch (NE)
John F. Wesoloski, Jr. (ND)
Levon Wright, Sr. (FL)
Tadeusz S. Wrzesinski (PA)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: January 19, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–02298 Filed 2–4–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice To Rescind Notice of Intent To Prepare an Environmental Impact Statement Virginia Beach Transit Extension Study, Virginia

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Rescind Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS).

SUMMARY: FTA in cooperation with Hampton Roads Transit (HRT) is issuing this notice to advise the public that the NOI to prepare an EIS for the Virginia Beach Transit Extension Study (VBTES) is being rescinded.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Long, Community Planner, Federal Transit Administration Region III, 1760 Market St, Suite 500 Philadelphia, PA 19103, phone 215–656–7051, email *ryan.long@dot.gov.*

SUPPLEMENTARY INFORMATION: FTA, as the lead Federal agency, and HRT, as the project sponsor, published an NOI in the **Federal Register** on August 14, 2013 (FR Volume 78, Number 157) to prepare an EIS for the VBTES. The VBTES EIS evaluated extending transit service from the eastern terminus of HRT's existing Light Rail Transit (LRT) system, ''The Tide,'' at Newtown Road in Norfolk to the Virginia Beach oceanfront. The extension would travel either along the former Norfolk Southern Railroad right-of-way (NSRR ROW) that runs from Newtown Road to Birdneck Road, or along the NSRR ROW to Laskin Road then onto Birdneck Road and terminating at the Virginia Beach oceanfront.

HRT was intending to seek Capital Investment Grant Program (CIG) funding from FTA for one or more of the alternatives that were examined in the Draft EIS. The CIG program, more commonly known as the New Starts, Small Starts, and Core Capacity program, involves a multi-year, multi-step process that project sponsors must complete before a project is eligible for funding. The steps in the process and the basic requirements of the program can be found on FTA's Web site at *www.fta.dot.gov.*

Since FTA approval of the Draft EIS on March 3, 2015, HRT has re-examined funding options and elected to not pursue the CIG program or other Federal transportation funding. Therefore, FTA is rescinding the August 14, 2013 NOI.

Comments and questions concerning this notice should be directed to FTA at the address provided above.

Terry Garcia Crews,

Regional Administrator, FTA Region III.

[FR Doc. 2016–02200 Filed 2–4–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2016–0016]

Pipeline Safety: Safe Operations of Underground Storage Facilities for Natural Gas

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice; issuance of advisory bulletin.

SUMMARY: PHMSA is issuing this advisory bulletin to remind all owners and operators of underground storage facilities used for the storage of natural gas, as defined in 49 CFR part 192, to consider the overall integrity of the facilities to ensure the safety of the public and operating personnel and to protect the environment. Operators are reminded to review their operations to identify the potential of facility leaks and failures caused by corrosion, chemical damage, mechanical damage, or other material deficiencies in piping, tubing, casing, valves, and associated facilities and the importance of reviewing the location and operations of shut-off and isolation systems and reviewing and updating emergency plans as necessary.

FOR FURTHER INFORMATION CONTACT: Operators of pipelines subject to regulation by PHMSA should contact Mr. Kenneth Lee at 202–366–2694 or email to: *kenneth.lee@dot.gov.*

Intrastate gas pipeline and underground storage facility operators should contact the appropriate state pipeline safety authority. A list of state pipeline safety authorities is provided at: *www.napsr.org.*

SUPPLEMENTARY INFORMATION:

I. Background

On October 23, 2015, Southern California Gas Company's (SoCal Gas) Aliso Canyon Well SS25 failed, causing a sustained and uncontrolled natural gas leak in an area known as Porter Ranch in Los Angeles, California. At the present time, the well leak is believed to be from the subsurface (downhole) well casing. The well was drilled in 1953 and was later converted to natural gas storage well in 1972. Over 4,400 households (families) have been relocated due to the natural gas odorant (mercaptans) according to the Aliso Canyon Incident Command briefing report issued on February 1, 2016. On January 6, 2016, California Governor Jerry Brown issued a proclamation declaring the Aliso Canyon incident a state emergency. After repeated unsuccessful attempts to contain the leak, a relief well is being drilled to plug the leaking well. The Aliso Canyon underground storage field, which can store up to 86 billion cubic feet of natural gas, has 115 storage wells, and is the second largest storage facility of its kind in the United States. The root cause of this failure is the subject of ongoing investigations and assessments and the root cause analysis is being conducted by an independent third party expert firm. PHMSA is working closely with the State of California to provide technical assistance and to support State regulatory agencies related to their response and oversight activities.

Since 2001 several accidents involving underground gas storage facilities have occurred and two of the more extensive accidents that occurred in Texas and Kansas are highlighted below. On August 19, 2004, the Market Hub Partners Moss Bluff storage facility located in Liberty County, Texas, had a well control incident and natural gas fire at Cavern #1. Over a period of six and one-half days, approximately 6 billion cubic feet of natural gas in the cavern was released and burned. The fire eventually self-extinguished, and late on August 26, 2004, installation of a blowout prevention valve was completed, effectively placing the well back under control. The Moss Bluff storage facility was comprised of three separated underground caverns leached out of a salt formation beneath the surface; a compressor station to help move natural gas into and out of the caverns; well head assemblies on each of the caverns for operational control purposes; and natural gas, fresh water and salt water (brine) piping and related facilities to facilitate transportation and/or holding of those materials A detailed investigation by company personnel and outside consultants determined the accident was caused by a separation of the 8⅝-inch well string inside the cavern; a breach of the 8-inch brine piping above ground; and the separation of the wellhead assembly above the cavern.

On January 17 and 18, 2001, another accident occurred at the Yaggy underground natural gas storage field operated by Kansas Gas Service, where a wellbore failure which led to a series of gas explosions in Hutchinson, Kansas. The storage field injected natural gas at a depth of 600 to 900 feet underground into salt caverns. Gas leaked from the storage field well production casing, migrated approximately nine miles underground, and then traveled to the surface through old brine, or salt wells, in the Hutchinson, Kansas area. An explosion in downtown Hutchinson destroyed two businesses, damaged 26 other businesses, and killed two persons in a mobile home park. Approximately 143 million cubic feet of natural gas leaked from the storage field.

In this Advisory Bulletin, PHMSA recommends that all operators of underground storage facilities used for the storage of natural gas, as defined in 49 CFR parts 192, have processes, procedures, mitigation measures, periodic assessments and reassessments, and emergency plans to maintain the safety and integrity of all wells and associated storage facilities whether operating, idled, or plugged. These processes and procedures should take into consideration the age, construction, maximum operating pressures, operating and maintenance history, product, corrosion, casing and tubing condition (including chemical and mechanical damage), cement condition and depths or heights, safety valves (surface and subsurface), operation of each well, and the amount of time elapsed since the most recent assessment.

II. Advisory Bulletin (ADB–2016–02)

To: Owners and Operators of Underground Pipeline and Storage Facilities.

Subject: Safe Operation of Underground Storage Facilities for Natural Gas

Advisory: Operators of underground storage facilities used for the storage of natural gas, as defined in 49 CFR part 192, should review their operating, maintenance, and emergency response activities to ensure the integrity of underground storage facilities are properly maintained. This bulletin is intended to inform operators about recommended practices and to urge operators to take all necessary actions, including but not limited to those set forth in this bulletin, to prevent and mitigate breach of integrity, leaks, or failures at their underground storage facilities and to ensure the safety of the public and operating personnel and to protect the environment.

Operators should have comprehensive and up-to-date processes, procedures, mitigation measures, periodic assessments and reassessments, and emergency plans in place to maintain the safety and integrity of all underground storage wells and associated facilities whether operating, idled, or plugged. Operators must adhere to applicable State regulations for the permitting, drilling, completion, and operation of storage wells. In

developing, implementing, and updating their safety and integrity programs, we encourage underground gas storage facility operators to reference PHMSA Advisory Bulletin 97–04, dated July 10, 1997, and to voluntarily implement American Petroleum Institute (API) Recommended Practices (RP) 1170, ''Design and Operation of Solution-mined Salt Caverns Used for Natural Gas Storage, First Edition, July 2015,'' API RP 1171 ''Functional Integrity of Natural Gas Storage in Depleted Hydrocarbon Reservoirs and Aquifer Reservoirs, First Edition, September 2015,'' and Interstate Oil and Gas Compact Commission (IOGCC) standards entitled ''Natural Gas Storage in Salt Caverns—A Guide for State Regulators'' (IOGCC Guide), as applicable. The IOGCC Guide provides safety standards for the design, construction, and operation of gas storage caverns. Copies of the API recommended practices can be obtained at *http://www.api.org/Publications-Standards-and-Statistics/Publications/Government-cited-Safety-Documents.* Copies of the IOGCC Guide can be obtained from the Interstate Oil and Gas Compact Commission, 900 NE 23rd Street, Oklahoma City, Oklahoma 73152–3127 (phone: 405/525–3556; email: *iogcc@oklaosf.state.ok.us*). API has an accredited process to develop recommended practices and standards that involves industry, manufacturers, engineering firms, construction contractors, the public, academia, and government.

In addition, operator's operating and maintenance (O&M) processes and procedures should be reviewed and updated at least annually, unless operational inspections for integrity warrant shorter review periods. O&M processes and procedures should include data collection and integration, risk assessments, monitoring, operational limits, mitigation measures, and record keeping for any underground storage facility threat that could impact public safety, operating personnel, or the environment due to leakage, failure, or abnormal operating conditions whether above ground or underground. At a minimum, operator actions should include, but not be limited to, the following:

1. Operators should verify that the pressure required to inject intended natural gas volumes, including any maximum treating and stimulation pressures for the underground storage well, does not exceed the design pressure limits of the reservoir, wells, wellheads, piping, casing, tubing, or associated facilities, and document such verification.

2. The operator should monitor all wells for the presence of annular gas or liquids by measuring and recording annular pressure, including between casing and tubing strings at the wellhead, and any known annular flow on a periodic basis.

3. The operator should inspect the wellhead assembly and attached pipelines for each of the wells used in an underground storage facility on a periodic basis, with the frequency of the inspections defined by the operator's risk assessment. This inspection should include leak detection technology and monitoring of casing pressure changes at the wellhead. The operator's selection and usage of leak detection technology should take into consideration detection limits for natural gas or any liquids, response time, reproducibility, accuracy, distance from source, background lighting conditions, geography, and meteorology.

4. The operator should conduct periodic functional tests of all surface and subsurface safety valve systems and wellhead pipeline isolation valve(s) for proper function and ability to shut-off or isolate the well as required for operational and emergency situations. Deficiencies, test failures, and equipment that do not meet functional specifications should be repaired or replaced promptly in order to assure the well's ability to control and isolate natural gas flows from the reservoir and well. Inoperable surface and subsurface safety valves on storage well(s) should be either repaired, removed or replaced, the well temporarily plugged, or alternative equivalent safety measures implemented.

5. When evaluating the need for subsurface safety valves on new, removed, or replaced tubing strings or production casing, operators should perform risk assessments in a manner that reviews at a minimum the API RP 1171 criteria. Where subsurface safety valves are not installed on wells, risk assessments should be used to inform decisions on integrity inspection frequencies and reassessment intervals, and mitigation criteria and procedures for the well production casing and tubing should be evaluated and implemented as necessary.

6. Operators should conduct ongoing assessments for the verification and demonstration of the mechanical integrity of each well and related piping and equipment used in the underground storage facility. The relevant factors to consider in verifying and demonstrating well integrity should include as a minimum: Well service life history; design; construction; maximum operating pressures (injection, withdrawal, maximum treating and stimulation); product, corrosion, casing and tubing condition; cement condition and depths or heights; safety valves (surface and subsurface); operation of each well; and the time interval since the most recent assessment and past assessment findings.

7. Operators should have a corrosion monitoring and integrity evaluation program that includes the following:

(i) Evaluation of casing and tubular integrity and identification of defects caused by corrosion or other chemical or mechanical damage;

(ii) Corrosion potential of wellbore-produced fluids and solids, including the impact of operating pressure on the corrosion potential of wellbore fluids and analysis of partial pressures;

(iii) Corrosion potential of annular and any packer fluid;

(iv) Corrosion potential of current flows associated with cathodic protection systems;

(v) Corrosion potential of all formation fluids, including fluids in formations above the storage zone;

(vi) Corrosion potential of un-cemented casing annuli, including static liquid levels;

(vii) Corrosion potential of pipelines and other production facilities attendant to the underground storage facility including the corrosion potential of adverse-current flows associated with their cathodic protection systems; and

(viii) Periodic usage of the appropriate well log evaluations (such as corrosion, cement bond, temperature, noise, caliper and other appropriate assessment logs for integrity evaluations of the production casing and tubing strings) to determine well integrity, mitigation measures, and reassessment intervals to maintain the pressure rating and flow isolation characteristics of the well for all downhole pipe, cement, and any other isolation equipment.

8. Procedures for the evaluation of well and attendant storage facilities should include analysis of facility flow erosion, hydrate potential, individual facility component capacity and fluid disposal capability at intended gas flow rates and pressures, and analysis of the specific impacts that the intended operating pressure range could have on the corrosive potential of fluids in the system.

9. Identification of potential threats and hazards associated with operation of the underground storage facility should include the following:

(i) Evaluation of risk (likelihood of events and consequences related to the events);

(ii) Determination of a risk ranking to develop and implement preventive and mitigative measures;

(iii) Documentation of risk evaluation and decision basis for preventive and mitigative measures implemented;

(iv) Provision for data feedback and validation; and

(v) Regular, periodic risk assessment reviews to update information, and evaluate risk management effectiveness.

10. For ongoing verification and demonstration of the integrity of the underground storage reservoir or cavern, operators should use appropriate monitoring techniques such as the monitoring of pressure and periodic pressure surveys, inventory (injection & withdrawal of all products), product levels, cavern subsidence, and the findings from adjacent production and water wells, and observation wells used to monitor underground storage including any integrity changes.

11. Emergency procedures should identify the types of emergencies for which the operator should notify public emergency response officials, personnel training, periodic communication with local emergency response officials, identification of the local area impacted, notices to the public, and identification of any third-party service providers or technical experts needed in the event of an emergency. Emergency procedures should be reviewed, conducted, and updated at least annually.

12. Records of the processes, procedures, assessments, reassessments, and mitigation measures required should be maintained for the life of the storage well.

Issued in Washington, DC, on February 2, 2016, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Deputy Associate Administrator for Policy and Programs.

[FR Doc. 2016–02228 Filed 2–4–16; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Revision of an Approved Information Collection; Submission for OMB Review; Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions With Total Consolidated Assets of $50 Billion or More Under the Dodd-Frank Wall Street Reform and Consumer Protection Act

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to comment on a revision to this information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is finalizing revisions to a regulatory reporting requirement for national banks and federal savings associations titled, ''Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of $50 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act.'' The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Comments must be received by March 7, 2016.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0319, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, [1557–0319], U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503, or by email to: *oira_submission_@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt or Mary H. Gottlieb, OCC Clearance Officers, (202) 649–5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th St. SW., Washington, DC 20219. In addition, copies of the templates referenced in this notice can be found on the OCC's Web site under News and Issuances (*http://www.occ.treas.gov/tools-forms/forms/bank-operations/stress-test-reporting.html*).

SUPPLEMENTARY INFORMATION: The OCC is requesting comment on the following revision to an approved information collection:

Title: Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of $50 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

OMB Control No.: 1557–0319.

Description: Section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act [1] (Dodd-Frank Act) requires certain financial companies, including national banks and federal savings associations, to conduct annual stress tests [2] and requires the primary financial regulatory agency [3] of those financial companies to issue regulations implementing the stress test requirements.[4] A national bank or Federal savings association is a ''covered institution'' and therefore subject to the stress test requirements if its total consolidated assets are more than $10 billion. Under section 165(i)(2), a covered institution is

[1] Public Law 111–203, 124 Stat. 1376, July 2010.

[2] 12 U.S.C. 5365(i)(2)(A).

[3] 12 U.S.C. 5301(12).

[4] 12 U.S.C. 5365(i)(2)(C).

required to submit to the Board of Governors of the Federal Reserve System (Board) and to its primary financial regulatory agency a report at such time, in such form, and containing such information as the primary financial regulatory agency may require.[5] On October 9, 2012, the OCC published in the **Federal Register** a final rule implementing the section 165(i)(2) annual stress test requirement.[6] This rule describes the reports and information collections required to meet the reporting requirements under section 165(i)(2). These information collections will be given confidential treatment (5 U.S.C. 552(b)(4)).

In 2012, the OCC first implemented the reporting templates referenced in the final rule. *See* 77 FR 49485 (August 16, 2012) and 77 FR 66663 (November 6, 2012). The OCC proposed revisions to these templates on November 17, 2015.[7] No comments were received on those proposed revisions, and the OCC is now finalizing those revisions, as described below.

The OCC intends to use the data collected to assess the reasonableness of the stress test results of covered institutions and to provide forward-looking information to the OCC regarding a covered institution's capital adequacy. The OCC also may use the results of the stress tests to determine whether additional analytical techniques and exercises could be appropriate to identify, measure, and monitor risks at the covered institution. The stress test results are expected to support ongoing improvement in a covered institution's stress testing practices with respect to its internal assessments of capital adequacy and overall capital planning.

The OCC recognizes that many covered institutions with total consolidated assets of $50 billion or more are required to submit reports using Comprehensive Capital Analysis and Review (CCAR) reporting form FR Y–14A.[8] The OCC also recognizes the Board has recently modified the FR Y–14A, and, to the extent practical, the OCC has kept its reporting requirements consistent with the Board's FR Y–14A in order to minimize burden on covered institutions.[9] The OCC has also revised the Scenario Schedule, which collects information on scenario variables beyond those provided by the OCC. The purpose of this revision is to require further clarity on the definitions of the additional scenario variables.

Revisions To Reporting Templates for Institutions With $50 Billion or More in Assets

The revisions to the DFAST–14A reporting templates consist of the following:

- Bank-specific scenario: Covered institutions would be required to submit bank-specific baseline and stress scenarios and projections for 2017 and will have the option to do so for 2016;
- Largest counterparty default: For the largest trading covered institutions that also submit the Global Market Shock scenario, they would be required to assume the default of their largest counterparty in the supervisory severely adverse and adverse scenarios for 2017 and will have the option to do so for 2016;
- Advanced approaches banks: (1) Delay incorporation of the supplemental leverage ratio for one year and (2) indefinitely defer the use of the advance approaches for stress testing projections;
- Reporting Template and Supporting Documentation Changes: Clarifying instructions, adding data items, deleting data items, and redefining existing data items. This includes an expansion of the information collected in the scenario schedule. The proposed revisions also include a shift of the as-of date in accordance with modifications to the OCC's stress testing rule.[10]
- These revisions also reflect the implementation of the final Basel III regulatory capital rule. On July 9, 2013, the OCC approved a joint final rule that will revise and replace the OCC's risk-based and leverage capital requirements to be consistent with agreements reached by the Basel Committee on Banking Supervision in ''Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems'' (Basel III).[11] Accordingly, the revisions reflect the fact that institutions will no longer report items based on the pre-Basel III capital rules.

Bank-Specific Scenarios

Covered institutions are required to submit bank-specific baseline and bank-specific stress scenarios and associated projections for the 2017 annual stress testing submission and may do so optionally for the 2016 annual stress testing submission. While supervisory scenarios provide a homogeneous scenario and a consistent market-wide view of the condition of the banking sector, these prescribed scenarios may not fully capture all of the risks that may be associated with a particular institution. The revisions require covered institutions to provide bank-specific baseline and bank-specific stress scenarios.

The OCC recognizes that the Board requires bank holding companies (BHCs) to submit BHC-specific baseline and stress scenarios and projections. Where OCC-covered institutions also submit BHC-specific scenarios, the OCC requires that bank-specific scenarios be consistent with the BHC-specific scenarios.

Largest Counterparty Default

Covered institutions that currently complete the Global Market Shock will also be required to complete the Largest Counterparty Default component for the 2017 submission and have the option to do so for the 2016 submission. This is currently required by the Board, and the OCC is adopting a similar requirement to enhance consistency.

Supplemental Leverage Ratio

The supplementary leverage ratio requirement applies only to covered institutions that use the advanced approaches to calculate their minimum regulatory capital requirements. For these covered institutions, the revisions delay the incorporation of the supplementary leverage ratio in stress testing projections for one year. Under the revisions, these covered institutions are not required to include an estimate of the supplementary leverage ratio for the stress test cycle beginning on January 1, 2016. The Board has adopted a similar delay.

Advanced Approaches

Covered institutions have noted that the use of advanced approaches in stress test rules would require significant resources and would introduce complexity and opacity. In light of the concerns raised by these covered institutions, and pending a review of how the stress test rules interact with the regulatory capital rules as described above, the revisions delay until further notice the use of the advanced approaches for calculating risk-based capital requirements for purposes of the capital plan and stress test rule.

Other Reporting Template and Instruction Changes

The revisions to the DFAST–14A consist of clarifying instructions, adding and removing schedules, adding, deleting, and modifying existing data items, and altering the as-of dates. These

[5] 12 U.S.C. 5365(i)(2)(B).

[6] 77 FR 61238 (October 9, 2012) (codified at 12 CFR 46).

[7] 80 FR 71915 (November 17, 2015).

[8] *http://www.federalreserve.gov/reportforms.*

[9] 80 FR 55631 (September 16, 2015).

[10] See 79 FR 71630 (December 3, 2014) (shifting the dates of the annual stress testing cycle).

[11] *http://www.occ.gov/news-issuances/news-releases/2013/nr-occ-2013-110.html.*

changes (1) increase consistency between the DFAST–14A with the FR Y–14A, Call Report, FFIEC 101, and FFIEC 102; (2) remove the requirement to calculate tier 1 common capital and the tier 1 common ratio; (3) shift the as-of dates by one quarter in accordance with the modifications to the stress test rules; (4) modify and expand the supporting documentation requirements; and (5) increase the historical information collected in the scenario schedule in order to facilitate comparisons of the data. Furthermore, the Board is currently collecting information for the Summary Schedule via XML scheme technology, and the OCC will use a similar format to enhance consistency and reduce regulatory burden. Technical details on these forms can be found under technical instructions at *http://www.occ.gov/tools-forms/forms/bank-operations/stress-test-reporting.html.*

Schedule A (Summary, General RWA)—Deletion

This schedule has been removed in accordance with the elimination of the use of the tier 1 common ratio, effective for the 2016 DFAST submission. However, in order to mitigate operational issues and allow for appropriate time to adjust internal systems to accommodate changes this schedule remains part of the technical XML instructions for the 2016 DFAST submission.

Schedule A (Summary, Standardized RWA)—Revisions

This schedule has been modified to increase consistency with the FFIEC 102. Specifically, the items of the existing market risk-weighted asset portion have been replaced with the appropriate items from the FFIEC 102. There are also a number of other technical changes; some will be required for the 2016 DFAST submission and others will be required for the 2017 submission. See the final instructions for specific details.

Schedule A (Summary, Capital)—Revisions

The OCC has removed certain items related to tier 1 common capital, effective for the 2016 DFAST submission. However, in order to mitigate operational issues and allow for appropriate time to adjust internal systems to accommodate changes, this schedule remains part of the technical XML instructions for the DFAST 2016 submission. Additionally, effective for the 2017 DFAST submission (previously proposed to be effective for the 2016 DFAST submission), the OCC has added one item that captures the aggregate non-significant investments in the capital of unconsolidated financial institutions in the form of common stock and separating two items related to deferred tax assets into the amount before valuation allowances and the associated valuation allowance. The additional information from these changes results in two existing items converting to derived items based on the additional information.

Schedule A (Summary, Re-Purchase)—Revisions

This schedule has been removed to reduce reporting burden, effective for the 2017 DFAST submission.

Schedule A (Summary, ASC 310–30)—Deletion

This schedule has been removed to reduce reporting burden, effective for the 2017 DFAST submission.

Schedule A (Summary, PPNR Metrics)—Revisions

In order to fully align the schedule with the stress scenarios, the beta information will be collected according to the scenario instead of the current ''normal environment'' requirement, effective for the 2016 DFAST submission. The Board has delayed implementation of this change, and in order to maintain consistency between the DFAST–14A and the FR Y–14A, the effective date of all modifications to the PPNR Metrics schedule will be delayed until the 2017 DFAST submission.

Business Plan Changes Schedule—Addition

The OCC has added a requirement to use the existing summary schedule to collect the net effects of an intended business plan change on a respondent's asset, liability, and capital projections.

Counterparty Credit Risk Schedule—Deletion

This schedule has been removed to reduce reporting burden effective for the 2016 DFAST submission. Aggregate counterparty credit risk information will continue to be obtained through the Summary Schedule (Schedule A).

Scenario Schedule—Revisions

Information about additional scenarios that are used by covered institutions is currently submitted in a format with limited structure, which makes it difficult for the OCC to evaluate. As such, the revisions require that covered institutions provide three more historical quarters in addition to the currently required most recent historical quarter of actual data values for each additional variable submitted. The revisions also provide additional instructions on variable naming conventions and other appropriate standardizations in order to facilitate more streamlined electronic processing of the data. In addition to the proposed schedule, the OCC is adding three new items to this final schedule in order to provide further standardized classification system for each variable submitted.

Regulatory Capital Transitions Schedule—Revisions

The OCC has modified this schedule by removing projected year six from the projection period.

Regulatory Capital Instruments Schedule—Revisions

The OCC has modified this schedule by removing line items corresponding to the general risk-based capital rules.

Type of Review: Revision.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 22.

Estimated Total Annual Burden: 12,254 hours.

The OCC believes that the systems covered institutions use to prepare the FR Y–14 reporting templates to submit to the Board will also be used to prepare the reporting templates described in this notice. Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: February 1, 2016.

Stuart Feldstein,

Director, Legislative and Regulatory Activities Division.

[FR Doc. 2016–02212 Filed 2–4–16; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Fiduciary Activities

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number.

The OCC is soliciting comment concerning the renewal of its information collection titled, ''Fiduciary Activities.'' The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: You should submit written comments by March 7, 2016.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0140, 400 7th Street SW., Suite 3E–218, mail stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–0140, U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503, or by email to: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Pursuant to the PRA (44 U.S.C. 3501–3520), the OCC is requesting that OMB extend its approval of the following information collection:

Title: Fiduciary Activities.

OMB Control No.: 1557–0140.

Description: The OCC regulates the fiduciary activities of national banks and federal savings associations (FSAs), including the administration of collective investment funds (CIFs), pursuant to 12 U.S.C. 92a and 12 U.S.C. 1464(n), respectively. Twelve CFR part 9 contains the regulations that national banks must follow when conducting fiduciary activities, and 12 CFR part 150 contains the regulations that FSAs must follow when conducting fiduciary activities. Regulations adopted by the former Office of Thrift Supervision, now recodified as OCC rules pursuant to Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act,[1] have long required FSAs to comply with the requirements of the OCC's CIF regulation.[2] Thus, 12 CFR 9.18 governs CIFs managed by both national banks and FSAs.

Twelve CFR 9.8 and 150.410–150.430 require that national banks and FSAs document the establishment and termination of each fiduciary account and maintain adequate records. Records must be retained for a period of three years from the later of the termination of the account or the termination of any litigation. The records must be separate and distinct from other records of the institution.

Twelve CFR 9.9 and 12 CFR 150.480 require national banks and FSAs to note the results of an audit (including significant actions taken as a result of the audit) in the minutes of the board of directors. National banks and FSAs that adopt a continuous audit system must note the results of all discrete audits performed since the last audit report (including significant actions taken as a result of the audits) in the minutes of the board of directors at least once during each calendar year.

Twelve CFR 9.17(a) and 150.530 require that a national bank or FSA seeking to surrender its fiduciary powers file with the OCC a certified copy of the resolution of its board of directors evidencing that intent.

Twelve CFR 9.18(b)(1) (and 12 CFR 150.260 by cross-reference) require national banks and FSAs to establish and maintain each CIF in accordance with a written plan approved by the board of directors or a committee authorized by the board. The plan must include provisions relating to:

- Investment powers and policies with respect to the fund;
- Allocation of income, profits, and losses;
- Fees and expenses that will be charged to the fund and to participating accounts;
- Terms and conditions regarding admission and withdrawal of participating accounts;
- Audits of participating accounts;
- Basis and method of valuing assets in the fund;
- Expected frequency for income distribution to participating accounts;
- Minimum frequency for valuation of fund assets;
- Amount of time following a valuation date during which the valuation must be made;
- Bases upon which the institution may terminate the fund; and
- Any other matters necessary to define clearly the rights of participating accounts.

Twelve CFR 9.18(b)(1) (and 150.260 by cross-reference) require that a national bank or FSA make a copy of any CIF plan available for public inspection at its main office and provide a copy of the plan to any person who requests it.

Twelve CFR 9.18(b)(4)(iii)(E) (and 150.260 by cross-reference) require that national banks and FSAs adopt portfolio and issuer qualitative standards and concentration restrictions for short-term investment funds (STIFs), a type of CIF.

Twelve CFR 9.18(b)(4)(iii)(F) (and 150.260 by cross-reference) require that national banks and FSAs adopt liquidity standards and include provisions that address contingency funding needs for STIFs.

Twelve CFR 9.18(b)(4)(iii)(G) (and 150.260 by cross-reference) require that national banks and FSAs adopt shadow pricing procedures for STIFs that calculate the extent of difference, if any, of the mark-to-market net asset value

[1] 76 FR 48950 (August 9, 2011).

[2] *See* 12 CFR 150.260(b)(3).

per participating interest from the STIF's amortized cost per participating interest, and to take certain actions if that difference exceeds $0.005 per participating interest.

Twelve CFR 9.18(b)(4)(iii)(H) (and 150.260 by cross-reference) require that national banks and FSAs adopt, for STIFs, procedures for stress testing the STIF's ability to maintain a stable net asset value per participating interest and provide for reporting the results.

Twelve CFR 9.18(b)(4)(iii)(I) (and 150.260 by cross-reference) require that national banks and FSAs adopt, for STIFs, procedures that require a national bank or FSA to disclose to the OCC and to STIF participants within five business days after each calendar month-end the following information about the fund: total assets under management; mark-to-market and amortized cost net asset values; dollar-weighted average portfolio maturity; dollar-weighted average portfolio life maturity as of the last business day of the prior calendar month; and certain other security-level information for each security held.

Twelve CFR 9.18(b)(4)(iii)(J) (and 150.260 by cross-reference) require that national banks and FSAs adopt, for STIFs, procedures that require a national bank or FSA that manages a STIF to notify the OCC prior to or within one business day thereafter of certain events.

Twelve CFR 9.18(b)(4)(iii)(K) (and 150.260 by cross-reference) require that national banks and FSAs adopt, for STIFs, certain procedures in the event that the STIF has repriced its net asset value below $0.995 per participating interest.

Twelve CFR 9.18(b)(4)(iii)(L) (and 150.260 by cross-reference) require that national banks and FSAs adopt, for STIFs, procedures for initiating liquidation of a STIF upon the suspension or limitation of withdrawals as a result of redemptions.

Twelve CFR 9.18(b)(6)(ii) (and 150.260 by cross-reference) require, for CIFs, that national banks and FSAs, at least once during each 12-month period, prepare a financial report of the fund based on the audit required by 12 CFR 9.18(b)(6)(i). The report must disclose the fund's fees and expenses in a manner consistent with applicable state law in the state in which the national bank or FSA maintains the fund and must contain:

- A list of investments in the fund showing the cost and current market value of each investment;
- A statement covering the period after the previous report showing the following (organized by type of investment):
  - A summary of purchases (with costs);
  - A summary of sales (with profit or loss and any investment change);
  - Income and disbursements; and
  - An appropriate notation of any investments in default.

Twelve CFR 9.18(b)(6)(iv) (and 150.260 by cross-reference) require that a national bank or FSA managing a CIF provide a copy of the financial report, or provide notice that a copy of the report is available upon request without charge, to each person who ordinarily would receive a regular periodic accounting with respect to each participating account. The national bank or FSA may provide a copy to prospective customers. In addition, the national bank or FSA must provide a copy of the report upon request to any person for a reasonable charge.

Twelve CFR 9.18(c)(5) (and 150.260 by cross-reference) require that, for special exemption CIFs, national banks and FSAs must submit to the OCC a written plan that sets forth:

- The reason the proposed fund requires a special exemption;
- The provisions of the fund that are inconsistent with 12 CFR 9.18(a) and (b);
- The provisions of 12 CFR 9.18(b) for which the national bank or FSA seeks an exemption; and
- The manner in which the proposed fund addresses the rights and interests of participating accounts.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 398.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 109,320 hours.

The OCC published a notice for 60 days of comment regarding the collection on November 20, 2015, 80 FR 72784. No comments were received. Comments continue to be solicited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: February 1, 2016.

Mary H. Gottlieb,

Regulatory Specialist, Legislative and Regulatory Activities Division.

[FR Doc. 2016–02207 Filed 2–4–16; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Identity Theft Red Flags and Address Discrepancies Under the Fair and Accurate Credit Transactions Act of 2003

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number.

The OCC is soliciting comment concerning the renewal of its information collection titled, ''Identity Theft Red Flags and Address Discrepancies under the Fair and Accurate Credit Transactions Act of 2003.'' The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Comments must be received by March 7, 2016.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0237, 400 7th Street SW., Suite 3E–218, mail stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219.

For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–0237, U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503, or by email to: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Pursuant to the PRA (44 U.S.C. 3501–3520), the OCC is requesting that OMB extend its approval of the following information collection:

Title: Identity Theft Red Flags and Address Discrepancies under the Fair and Accurate Credit Transactions Act of 2003.

OMB Control No.: 1557–0237.

Description: Section 114 of the FACT Act amended section 615 of the Fair Credit Reporting Act (FCRA) to require the Agencies [1] to issue jointly:

- Guidelines for financial institutions and creditors regarding identity theft with respect to their account holders and customers; (in developing the guidelines, the Agencies are required to identify patterns, practices, and specific forms of activity that indicate the possible existence of identity theft; the guidelines must be updated as often as necessary and must be consistent with the policies and procedures required under section 326 of the USA PATRIOT Act, 31 U.S.C. 5318(l));
- Regulations that require each financial institution and each creditor to establish reasonable policies and procedures for implementing the guidelines in order to identify possible risks to account holders or customers or to the safety and soundness of the institution or creditor; and
- Regulations generally requiring credit and debit card issuers to assess the validity of change of address requests under certain circumstances.

Section 315 of the FACT Act also amended section 605 of the FCRA to require the Agencies to issue regulations providing guidance regarding what reasonable policies and procedures a user of consumer reports must have in place and employ when a user receives a notice of address discrepancy from a consumer reporting agency (CRA).[2] These regulations are required to describe reasonable policies and procedures for users of consumer reports to:

- Enable a user to form a reasonable belief that it knows the identity of the person for whom it has obtained a consumer report; and
- Reconcile the address of the consumer with the CRA, if the user establishes a continuing relationship with the consumer and regularly and, in the ordinary course of business, furnishes information to the CRA.

As required by section 114 of the FACT Act, appendix J to 12 CFR part 41 contains guidelines for financial institutions and creditors to use in identifying patterns, practices, and specific forms of activity that may indicate the existence of identity theft. In addition, 12 CFR 41.90 requires each financial institution or creditor that is a national bank, Federal savings association, Federal branch or agency of a foreign bank, and any of their operating subsidiaries that are not functionally regulated, to establish an Identity Theft Prevention Program (Program) designed to detect, prevent, and mitigate identity theft in connection with accounts. Pursuant to § 41.91, credit card and debit card issuers must implement reasonable policies and procedures to assess the validity of a request for a change of address under certain circumstances.

Section 41.90 requires each OCC-regulated financial institution or creditor that offers or maintains one or more covered accounts to develop and implement a Program. In developing the Program, financial institutions and creditors are required to consider the guidelines in appendix J and include the suggested provisions, as appropriate. The initial Program must be approved by the institution's board of directors or by an appropriate committee thereof. The board, an appropriate committee thereof, or a designated employee at the level of senior management must be involved in the oversight of the Program. In addition, staff members must be trained to carry out the Program. Pursuant to § 41.91, each credit and debit card issuer is required to establish and implement policies and procedures to assess the validity of a change of address request if it is followed by a request for an additional or replacement card. Before issuing the additional or replacement card, the card issuer must notify the cardholder of the request and provide the cardholder a reasonable means to report incorrect address changes or use another means to assess the validity of the change of address.

As required by section 315 of the FACT Act, § 1022.82 requires users of consumer reports to have in place reasonable policies and procedures that must be followed when a user receives a notice of address discrepancy from a credit reporting agency (CRA).

Section 1022.82 requires each user of consumer reports to develop and implement reasonable policies and procedures designed to enable the user to form a reasonable belief that a consumer report relates to the consumer about whom it requested the report when it receives a notice of address discrepancy from a CRA. A user of consumer reports also must develop and implement reasonable policies and procedures for furnishing a customer address that the user has reasonably confirmed to be accurate to the CRA from which it receives a notice of address discrepancy when the user can: (1) Form a reasonable belief that the consumer report relates to the consumer about whom the user has requested the report; (2) establish a continuing relationship with the consumer; and (3) establish that it regularly and, in the ordinary course of business, furnishes information to the CRA from which it received the notice of address discrepancy.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 1,444.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 161,034 hours.

[1] Section 114 required the guidelines and regulations to be issued jointly by the Federal banking agencies (OCC, Board of Governors of the Federal Reserve System, and Federal Deposit Insurance Corporation), the National Credit Union Administration, and the Federal Trade Commission. Therefore, for purposes of this filing, ''Agencies'' refers to these entities. Note that Section 1088(a)(8) of the Dodd-Frank Act further amended section 615 of FCRA to also require the Securities and Exchange Commission and the Commodity Futures Trading Commission to issue Red Flags guidelines and regulations.

[2] These regulations have been transferred to the Consumer Financial Protection Bureau.

The OCC published a notice concerning this collection for 60 days of comment on November 20, 2015, 80 FR72783. No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: February 1, 2016.

Mary H. Gottlieb,

Regulatory Specialist, Legislative and Regulatory Activities Division.

[FR Doc. 2016–02206 Filed 2–4–16; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0609]

Agency Information Collection (VA Survey of Veteran Enrollees' Health and Use of Health Care (Survey of Enrollees)) Activity Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 7, 2016.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0609'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0609.''

SUPPLEMENTARY INFORMATION:

Title: Survey of Veteran Enrollees' Health and Use of Health Care (Survey of Enrollees).

OMB Control Number: 2900–0609.

Type of Review: Revision of a currently approved collection.

Abstract: The Department of Veterans Affairs (VA) Survey of Veteran Enrollees' Health and Use of Health Care (Survey of Enrollees) gathers information from Veterans enrolled in the VA Health Care System regarding factors which influence their health care utilization choices. Data collected are used to gain insights into Veteran preferences and to provide VA and VHA management guidance in preparing for future Veteran needs. In addition to factors influencing health care choices, the data collected include enrollees' perceived health status and need for caregiver support, available insurances, self-reported utilization of VA services versus other health care services, reasons for using VA, barriers to seeking care, ability and comfort level with accessing virtual care, as well as general demographics and family characteristics that may influence utilization but cannot be accessed elsewhere.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 80 FR 72786 on November 20, 2015.

Affected Public: Individuals or households.

Estimated Annual Burden: 14,700 hours.

Estimated Average Burden per Respondent: 21 minutes.

Frequency of Response: Annually.

Estimated Annual Responses: 42,000.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer,Department of Veterans Affairs.

[FR Doc. 2016–02178 Filed 2–4–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Commission on Care

ACTION: Notice of meeting.

In accordance with the Federal Advisory Committee Act, 5 U.S.C., App. 2, the Commission on Care gives amended notice that it will meet Monday, February 8, 2016 at the Washington Marriott at Metro Center, 775 12th St. NW., Washington, DC 20005. The meeting will convene at 12:00 p.m. and end no later than 8:00 p.m. The meeting is open to the public.

The purpose of the Commission, as described in section 202 of the Veterans Access, Choice, and Accountability Act of 2014, is to examine the access of veterans to health care from the Department of Veterans Affairs and strategically examine how best to organize the Veterans Health Administration, locate health care resources, and deliver health care to veterans during the next 20 years.

No time will be allocated at this meeting for receiving oral presentations from the public. The public may submit written statements for the Commission's review to *commissononcare@va.gov.* Any member of the public wanting to attend may also register their intention to attend by emailing the same address.

Dated: February 1, 2016.

John Goodrich,

Designated Federal Officer, Commission on Care.

[FR Doc. 2016–02177 Filed 2–4–16; 8:45 am]

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Part II

Department of Transportation

Federal Transit Administration

49 CFR Part 673

Public Transportation Agency Safety Plan; National Public Transportation Safety Plan; Availability; Proposed Rule and Notice

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 673

[Docket No. FTA–2015–0021]

RIN 2132–AB23

Public Transportation Agency Safety Plan

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM): request for comments.

SUMMARY: The Federal Transit Administration (FTA) is proposing requirements for Public Transportation Agency Safety Plans as authorized by Section 20021 of the Moving Ahead for Progress in the 21st Century Act (MAP–21). This proposed rule would require operators of public transportation systems that receive Federal financial assistance under 49 U.S.C. Chapter 53 to develop and implement Public Transportation Agency Safety Plans based on the Safety Management System approach. Development and implementation of agency safety plans will help ensure that public transportation systems are safe nationwide. FTA seeks public comments on all aspects of this proposed rule, including information related to its benefits and costs, as well as alternative approaches that may more cost-effectively satisfy the statutory requirements and help ensure the safety of the nation's public transportation system.

DATES: Comments must be received by April 5, 2016. Any comments filed after this deadline will be considered to the extent practicable.

FTA will hold webinars to explain the proposed rule. Interested stakeholders should check FTA's Web site for days and times of webinars: *http://www.fta.dot.gov/calendar.html.* Additionally, FTA will hold a listening session on Wednesday, March 16, 2016, in conjunction with the American Public Transportation Association's Legislative Conference. The listening session will be held at the JW Marriott, 1331 Pennsylvania Avenue NW., Washington, DC 20004 at 9:30 a.m.

ADDRESSES: Please submit your comments by only one of the following methods, identifying your submission by Docket Number (FTA–2015–0021) or Regulatory Identification Number (RIN) (2132–AB23).

- *Federal eRulemaking Portal:* Submit electronic comments and other data to *http://www.regulations.gov.*
- *U.S. Mail:* Send comments to Docket Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building, Ground Floor, at 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations, U.S. Department of Transportation, at (202) 493–2251.

Instructions: You must include the agency name (Federal Transit Administration) and Docket Number (FTA–2015–0021 for this notice or Regulation Identifier Number (RIN) 2132–AB23), at the beginning of your comments. If sent by mail, submit two copies of your comments. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties submitting comments should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. If you wish to receive confirmation that FTA received your comments, you must include a self-addressed stamped postcard. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Anyone is able to search the electronic form for 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 the United States Department of Transportation's (DOT) Privacy Act system of records notice for the DOT Federal Docket Management System (FDMS) in the **Federal Register** published on December 29, 2010 (75 FR 82132) at *http://www.gpo.gov/fdsys/pkg/FR-2010-12-29/pdf/2010-32876.pdf.*

FOR FURTHER INFORMATION CONTACT: For program matters, contact Brian Alberts, Office of Transit Safety and Oversight, (202) 366–1783 or *Brian.Alberts@dot.gov.* For legal matters, contact Michael Culotta, Office of Chief Counsel, (212) 668–2178 or *Michael.Culotta@dot.gov.*

Office hours are from 8:30 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

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I. Executive Summary

A. Purpose of Regulatory Action

The public transportation industry remains among the safest surface transportation modes in terms of total reported safety events, fatalities, and injuries.[1] Nonetheless, given the complexity of public transportation service, the condition and performance of transit equipment and facilities, turnover in the transit workforce, and the quality of procedures, training, and supervision, the public transportation industry remains vulnerable to catastrophic accidents.

This Notice of Proposed Rulemaking (NPRM) proposes requirements for Public Transportation Agency Safety Plans that would carry out explicit statutory mandates in the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141; July 6, 2012) (MAP–21), which recently was reauthorized by the Fixing America's Surface Transportation Act (Pub. L. 114–94; December 4, 2015) and codified at 49 U.S.C. 5329(d), to strengthen the safety of public transportation systems that receive Federal financial assistance under Chapter 53. This NPRM proposes requirements for the adoption of Safety Management Systems (SMS) principles and methods; the development,

[1] See United States Department of Transportation, Bureau of Transportation Statistics, ''Table 2–1: Transportation Fatalities by Mode 1960–2013,'' at *http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/publications/national_transportation_statistics/html/table_02_01.html_mfd;* and ''Table 1–40: U.S. Passenger Miles (Millions) 1960–2013,'' at *http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/publications/national_transportation_statistics/html/table_01_40.html.*

certification, and update of Public Transportation Agency Safety Plans; and the coordination of Public Transportation Agency Safety Plan elements with other FTA programs and proposed rules, as specified in 49 U.S.C. 5329.

B. Statutory Authority

In Section 20021 of MAP–21, Congress directed FTA to establish a comprehensive Public Transportation Safety Program, one element of which is the requirement for Public Transportation Agency Safety Plans. Pursuant to 49 U.S.C. 5329(d), FTA must issue a final rule requiring operators of public transportation systems that receive financial assistance under Chapter 53 to develop and certify Public Transportation Agency Safety Plans. FTA also is required to issue a rule designating certain Urbanized Area Formula Program recipients under 49 U.S.C. 5307 that may have their Public Transportation Agency Safety Plans drafted or certified by a State. 49 U.S.C. 5329(d)(3)(B). Further, FTA must allow States to draft and certify Public Transportation Agency Safety Plans for Rural Area Formula Program recipients and subrecipients under 49 U.S.C. 5311. 49 U.S.C. 5329(d)(3)(A).

C. Summary of Major Provisions

The proposed rule would add a new Part 673, ''Public Transportation Agency Safety Plans,'' to Title 49 of the Code of Federal Regulations. The rule would implement the requirements of 49 U.S.C. 5329(d).

One year after FTA issues a final rule to carry out Section 5329(d), each State, local governmental authority, and other operator of a public transportation system that receives Federal financial assistance under 49 U.S.C. Chapter 53, must certify that it has established and implemented a comprehensive Public Transportation Agency Safety Plan. 49 U.S.C. 5329(d)(1). FTA proposes that large transit providers that are direct recipients of Section 5307 funds would develop their own plans, have the plans approved by their Boards of Directors (or equivalent authority), and certify to FTA that those plans are in place. FTA also proposes that transit providers which receive funds under the Enhanced Mobility of Seniors and Individuals with Disabilities Program authorized by 49 U.S.C. 5310 (which tend to be much smaller transit providers) and transit providers that receive funds under the Rural Area Formula Program authorized by 49 U.S.C. 5311, as well as small public transportation providers as defined in this NPRM, may have their plans drafted or certified by the State in which they operate.

At a minimum, and consistent with 49 U.S.C. 5329(d), FTA proposes that each Public Transportation Agency Safety Plan must:

- Include a Safety Management System consisting of four main pillars: (1) Safety Management Policy, (2) Safety Risk Management, (3) Safety Assurance, and (4) Safety Promotion, as discussed in more detail below (49 CFR 673.11(a)(2));
- Include performance targets based on the safety performance criteria established under the National Public Transportation Safety Plan, and the state of good repair standards established in the regulations that implement the National Transit Asset Management System and are included in the National Public Transportation Safety Plan (49 CFR 673.11(a)(3));
- Address all applicable requirements and standards as set forth in FTA's Public Transportation Safety Program and National Public Transportation Safety Plan (49 CFR 673.11(a)(4)); and
- Establish a process and timeline for conducting an annual review and update of the Public Transportation Agency Safety Plan (49 CFR 673.11(a)(5)).

FTA proposes that each rail transit agency must include in its Public Transportation Agency Safety Plan an emergency preparedness and response plan, as historically required by FTA under its State Safety Oversight Rule at 49 CFR part 659. 49 CFR 673.11(a)(6).

A transit agency would be able to develop one Public Transportation Agency Safety Plan for all modes of service, or it may develop a Public Transportation Agency Safety Plan for each mode of service not subject to safety regulation by another Federal entity. 49 CFR 673.11(b). A transit agency would be required to maintain records associated with its Public Transportation Agency Safety Plan. 49 CFR 673 subpart D. Any rail fixed guideway public transportation system that had a System Safety Program Plan compliant with 49 CFR part 659 as of October 1, 2012, would be able to keep that plan in effect until one year after the effective date of the final rule. 49 CFR 673.11(e). Agencies that operate passenger ferries regulated by the United States Coast Guard (USCG) or commuter rail service regulated by the Federal Railroad Administration (FRA) would not be required to develop agency safety plans for those modes of service. 49 CFR 673.11(f).

A State or transit agency would be required to make its safety performance targets available to States and Metropolitan Planning Organizations to aid in the planning process, and to the maximum extent practicable, a State or transit agency would be required to coordinate with States and Metropolitan Planning Organizations in the selection of State and MPO safety performance targets. 49 CFR 673.15.

On an annual basis, a transit agency or State would be required to certify its compliance with this rule. 49 CFR 673.13.

D. Costs and Benefits (Table)

FTA has determined that this proposed rule likely is ''economically significant'' under Executive Order 12866, in that it may lead to transit agencies making investment and prioritization decisions related to mitigation of safety risks that would result in economic impacts that could exceed $100 million in a year. However, as discussed in greater detail below, FTA was unable to quantify the potential impacts of this rule beyond the costs for transit agencies to develop and implement Public Transportation Agency Safety Plans. FTA was able to estimate costs of approximately $86 million in the first year, and $70 million per year thereafter. These costs result from developing and certifying safety plans, documenting the SMS approach, implementing SMS, and associated recordkeeping. The estimated costs do not include the costs of actions that transit agencies would be required to take to mitigate risk as a result of implementing this rule, such as vehicle modifications, additional training, technology investments, or changes to operating procedures. The annualized cost of proposed requirements is estimated to be approximately $71 million.

FTA could not estimate the benefits of the proposed rule. To estimate safety benefits, one would need to understand the exact causes of the accidents and the factors that may cause future accidents. This information is generally unknown in this sector, given the infrequency and diversity of the type of safety incidents that occur. In addition, one would need information about the safety problems that agencies are likely to find through implementation of their safety plans and the actions agencies are likely to take to address those problems. Instead, FTA conducted a breakeven analysis that compares the estimated costs (absent the cost of mitigations beyond those specifically required by the rule such as training) to a pool of potential safety benefits. The pool of potential safety benefits is an estimate of the cost of all bus and rail incidents over a future 20-year period. The estimate is an

extrapolation of the total cost of bus and rail incidents that occurred from 2010 to 2014.

As Table 1 below shows, the amount of incident reduction needed to breakeven with estimated costs is low. However, benefits of SMS will primarily result from mitigating actions, which are largely not accounted for in this analysis. FTA has not estimated the benefits of implementing SMS without mitigating actions, but expects they are unlikely to be large. Estimated costs for agencies' safety plans include certain activities that could yield safety improvements, such as improved communication, identification of hazards, and greater employee awareness. It is plausible that these activities alone could produce accident reductions that surpass the breakeven level, though even greater reductions could be achieved in concert with other mitigating actions.

This analysis assumes that benefits are realized from reducing both rail and bus incidents after adjusting for the estimated breakeven threshold for the proposed State Safety Oversight and Safety Training Rules (RINs 2132–AB19 and 2132–AB25 respectively), to which the rail agencies also will be subject when finalized.

TABLE 1—SUMMARY OF BREAKEVEN ANALYSIS [2]

	Current dollar value	7% Discounted value	3% Discounted value
Bus Incidents (20-Year Estimate)	$86,999,489,120	$40,894,178,605	$58,084,884,054.
Rail Incidents (20-Year Estimate)	$37,680,410,444	$17,711,706,703	$25,157,185,334.
Total Pool of Benefits (20-Year Estimate)	$124,679,899,564	$58,605,885,309	$83,242,069,388.
Estimated Costs (20-Year Estimate)	$1,407,680,883	$752,319,890	$1,050,876,643.
Benefits and Costs of Mitigating Actions	Not Estimated	Not Estimated	Not Estimated.
Estimated Cost (Annualized)		$71,013,675	$70,635,417.
Breakeven Threshold Including Bus and Rail		1.28%	1.26%.

II. Background

On July 6, 2012,the President signed into law MAP–21 (Pub. L. 112–141). MAP–21 authorized a number of fundamental changes to the Federal transit programs at 49 U.S.C. Chapter 53. This NPRM addresses the Public Transportation Agency Safety Plan within the Public Transportation Safety Program authorized under 49 U.S.C. 5329.

The Public Transportation Safety Program consists of several key elements: the National Public Transportation Safety Plan, authorized by 49 U.S.C. 5329(b); the Public Transportation Safety Certification Training Program, authorized by 49 U.S.C. 5329(c); the Public Transportation Agency Safety Plans, authorized by 49 U.S.C. 5329(d); and the State Safety Oversight Program, authorized by 49 U.S.C. 5329(e). FTA will issue rules and guidance to carry out all of these plans and programs under the rulemaking authority of 49 U.S.C. 5329 and 5334(a)(11).

On October 3, 2013, FTA issued an Advance Notice of Proposed Rulemaking (ANPRM) for the National Public Transportation Safety Plan, the Safety Certification Training Program, and the Public Transportation Agency Safety Plans. 78 FR 61251. Through the ANPRM, FTA also sought public comment on transit asset management, given FTA's statutory directive to develop and implement a Transit Asset Management System under 49 U.S.C. 5326. FTA is addressing the National Public Transportation Safety Plan, the Safety Certification Training Program, and the Transit Asset Management System through separate rulemakings and guidance documents. Each of these programs will contribute to the establishment of a comprehensive framework that will help to ensure public transportation systems are safe nationwide.

In most instances, the requirements of the Public Transportation Agency Safety Plans will apply to each recipient and subrecipient of FTA funding, regardless of the mode(s) of transit provided. However, two provisions limit FTA's regulatory jurisdiction. First, FTA is prohibited from establishing safety performance standards for rolling stock that is already regulated by another Federal agency. 49 U.S.C. 5329(b)(2)(C)(i). Second, the requirements of the Public Transportation Agency Safety Plans will not apply to rail transit systems to the extent that they are already subject to regulation by FRA. 49 U.S.C. 5329(e)(1) and (e)(2). Further, to the extent that any other Federal agency already regulates the safety of a particular mode of public transportation, FTA does not intend to publish duplicative, inconsistent, or conflicting regulations.

Today's proposed rule for establishing and certifying Public Transportation Agency Safety Plans takes into account the size, complexity, and operating environments of applicable recipients. FTA proposes the incorporation of SMS principles and methods to support Public Transportation Agency Safety Plan development and implementation. SMS provides transit agencies flexibility in establishing processes and activities to address safety risks within their agencies in a scalable manner.

Until FTA issues a final rule to carry out Section 5329(d), existing system safety and security program plans required of rail fixed guideway systems under 49 CFR part 659 will remain in effect. 49 U.S.C. 5329(d)(2). Within one year of the Public Transportation Agency Safety Plan final rule's effective date, all operators of public transportation systems that receive Chapter 53 funds would be required to draft and certify their Public Transportation Agency Safety Plans, unless a State is otherwise required to do so on behalf of the public transportation provider, in which case, the State also would have one year after the rule's effective date to draft and certify its Public Transportation Agency Safety Plans. Public transportation providers that operate multiple modes of transit service would have the option of preparing separate Public Transportation Agency Safety Plans for each mode, or preparing one Public Transportation Agency Safety Plan for all modes operated by the provider. If separate safety plans are developed for multiple modes under FTA's jurisdiction, each Public Transportation Agency Safety Plan (for example, one for bus service and one for rail transit service) must comply with the final rule.

A. History

Prior to MAP–21, FTA's authority to require safety plans was limited to rail transit agencies subject to FTA's State Safety Oversight Rule. Under existing 49 CFR part 659, any State that has a rail

[2] The costs in this table and the breakeven threshold do not account for actions by agencies to mitigate or eliminate safety risks identified through implementation of their safety plans (beyond those specifically required by the rule, such as training).

fixed guideway system not subject to FRA regulation is required to establish a state safety oversight agency, and each state safety oversight agency must require each rail fixed guideway system within its jurisdiction to develop a system safety and a system security program plan. These plans are reviewed and approved by state safety oversight agencies. 49 CFR 659.17. MAP–21 authorized significant changes to FTA's State Safety Oversight Program, and FTA is undergoing a rulemaking to effectuate those changes. The history of 49 CFR part 659, and its relationship to the Public Transportation Safety Program and today's notice, can be viewed in the NPRM for 49 CFR part 674, which is the proposed new location for the State Safety Oversight Rule in the Code of Federal Regulations. See 80 FR 11002, Feb. 27, 2015 (*http://www.gpo.gov/fdsys/pkg/FR-2015-02-27/pdf/2015-03841.pdf*).

In addition to requiring safety and security plans for rail fixed guideway systems, FTA established and currently manages a voluntary Bus Safety Program that has encouraged bus transit agencies to develop system safety program plans to implement safety program activities. The voluntary program has been very well received and has promoted coordination among FTA, the Community Transportation Association of America (CTAA), and the American Public Transportation Association (APTA) to provide technical assistance to bus transit agencies to support system safety program plan development and implementation. Through FTA's Bus Safety Program, more States have recommended that their bus transit agencies develop safety plans using templates provided by FTA through its safety Web site. In addition, a number of States require both rail and bus transit agencies to develop system safety program plans.

The aforementioned efforts demonstrate that many transit agencies embrace the concept and benefits of developing safety plans in order to document their safety program activities, as well as ensure commitment from agency executives who often review and sign the safety plan or policy statement.

Pursuant to 49 U.S.C. 5329(d), Public Transportation Agency Safety Plans must be drafted and certified by each transit agency regardless of mode, with the exception of transit providers that receive funds under 49 U.S.C. 5311 (Section 5311) and small public transportation providers as defined in this NPRM, which may have their plans drafted and certified by the State. In addition to this statutory requirement, FTA is proposing that the State must draft and certify Public Transportation Agency Safety Plans for operators of public transportation that receive funds under 49 U.S.C. 5310 (Section 5310), in an effort to alleviate the regulatory, administrative, and financial burdens on the small recipients in this program. FTA proposes that a Section 5310, Section 5311, or small public transportation provider may opt to draft and certify their own plan. Today's proposed rule helps advance the regulatory steps taken by FTA and States previously and the voluntary efforts taken by industry associations, States, and transit providers to improve transit safety.

B. General Requirements

Pursuant to 49 U. S.C. 5329(d)(1), each Public Transportation Agency Safety Plan must include, at minimum:

- A requirement that the board of directors, or equivalent entity, approve the plan and any updates;
- Methods for identifying and evaluating safety risks throughout all elements of the recipient's public transportation system;
- Strategies to minimize the exposure of the public, personnel, and property to hazards and unsafe conditions;
- A process and timeline for conducting an annual review and update of the plan;
- Performance targets based on the safety performance criteria and state of good repair standards set out in the National Public Transportation Safety Plan;
- Assignment of an adequately trained Safety Officer who reports directly to the general manager, president, or equivalent officer of the recipient; and
- A comprehensive staff training program for operations personnel and personnel directly responsible for safety that includes the completion of a safety training program and continuing safety education and training.

C. The Safety Management Systems (SMS) Approach

Public transportation is one of the safest modes of travel.[3] However, public transportation incidents occur, and the potential for catastrophic events remains. In recent years, there have been several major transit accidents that resulted in fatalities, injuries, and significant property damage. From 2004 to 2013, the National Transportation Safety Board (NTSB) reported on nine transit accidents that, collectively, resulted in 15 fatalities, 297 injuries, and over $30 million in property damages. During that same period, transit agencies reported over 40,000 incidents, approximately 2,000 fatalities, and over 76,000 injuries to FTA's National Transit Database.[4]

The NTSB has investigated a number of these accidents and has issued reports identifying the probable causes and contributing factors, including deficiencies in the training and supervision of employees;[5] deficiencies in the maintenance of equipment and infrastructure;[6] and deficiencies in safety management and oversight, such as weaknesses in transit agencies' safety rules and procedures,[7] lack of safety cultures within transit agencies,[8] and lack of adequate oversight by State and Federal agencies.[9] The deficiencies identified by NTSB will continue to plague the transit industry as infrastructure ages, skilled employees retire, and transit agencies continue to endure financial stresses. Through implementation of the Public Transportation Safety Program, including today's Public Transportation Agency Safety Plan proposed rulemaking, FTA's goal is to address these deficiencies and improve the safety of public transportation.

[3] See United States Department of Transportation, Bureau of Transportation Statistics, ''Table 2–1: Transportation Fatalities by Mode 1960–2013,'' available at *http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/publications/national_transportation_statistics/html/table_02_01.html_mfd;* and ''Table 1–40: U.S. Passenger Miles (Millions) 1960–2013,'' available at *http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/publications/national_transportation_statistics/html/table_01_40.html.*

[4] National Transit Database, Major-Only Time Series, *http://www.ntdprogram.gov/ntdprogram/data.htm.*

[5] For example, the National Transportation Safety Board (NTSB) issued Safety Recommendation R–15–010 for the Washington Metropolitan Area Transit Authority's (WMATA) Metrorail incident on January 12, 2015, and NTSB issued Safety Recommendations R–15–20 and R–15–021 for the Chicago Transit Authority's (CTA) incident on March 24, 2015. NTSB's reports for these recommendations are pending.

[6] NTSB issued Safety Recommendation R–15–008 for the WMATA Metrorail incident on January 12, 2015; NTSB's report for this incident is pending. NTSB also issued several Safety Recommendations in Report RAR–10/02.

[7] NTSB issued Safety Recommendations R–15–009 and R–15–011 for the WMATA Metrorail incident on January 12, 2015; NTSB's report for these recommendations is pending. NTSB also issued several Safety Recommendations in Reports RAB–15–02, RAR–12/04, and RAR–10/02.

[8] NTSB cited safety culture concerns in Reports SIR–14/03 and RAR–07/02.

[9] NTSB issued Safety Recommendation R–15–007 for the WMATA Metrorail incident on January 12, 2015, and Safety Recommendations R–15–018 and R–15–019 for the CTA incident on March 24, 2015. NTSB's reports for these recommendations are pending. NTSB also issued several safety recommendations in Reports RAR–12/04, RAR–11/01, and RAR–10/02.

In order to advance a comprehensive approach to safety decision-making, FTA is proposing to adopt an SMS approach to developing and implementing the Public Transportation Safety Program, and specifically the Public Transportation Agency Safety Plans. Following a recommendation from FTA's designated Federal Advisory Committee—the Transit Advisory Committee for Safety (TRACS)[10]—on May 13, 2013, the FTA Administrator issued a Dear Colleague Letter[11] and answers to Frequently Asked Questions (FAQs)[12] to the transit industry stating FTA's intention to adopt the SMS approach as the basis for its initiatives to improve the safety of public transportation. This NPRM seeks comment on proposed SMS processes and activities and their documentation in the Public Transportation Agency Safety Plans. This NPRM also seeks public comments on alternatives to requiring adoption of SMS, such as promoting adoption of SMS through guidance or technical assistance (while also promulgating regulations that satisfy the statutory requirements of 49 U.S.C. 5329(d)).

Safety management is based on the fact that safety is not an absolute condition—there always will be hazards and risks in public transportation. However, an approach of primarily reacting to accidents and incidents by prescribing measures to prevent recurrence alone will not contribute to sustaining and improving public transportation safety.

Modern SMS practices that systematically and proactively identify the factors that contribute to unsafe events, and prevent or minimize the likelihood of their occurrence, have proven effective in other transportation sectors. Such practices call for setting safety goals and objectives, defining clear levels of accountability and responsibility for safety, establishing proactive approaches to identifying hazards and managing safety risks in day-to-day activities, establishing safety risk-based resource allocation, monitoring and evaluating performance towards goals, and continuous learning and improvement. SMS is a significant improvement over more ''reactive'' safety activities, which tend to focus on discovering and mitigating the cause of an accident only after that accident has occurred.

SMS integrates safety into all aspects of a transit system's activities, from planning to design, to construction, to operations, and to maintenance. SMS builds on the public transportation industry's three decades of experience with system safety by bringing management processes, integrated data analysis, and organizational culture more squarely into the industry's overall risk management framework. SMS is a management approach that provides processes that ensure each public transportation agency, no matter its size or service environment, has the necessary organizational structures, accountabilities, policies, and procedures in place to direct and control resources to manage safety optimally. When fully applied, the SMS approach provides a set of decision-making tools that allow transit agencies to prioritize safety when making informed operating and capital investment decisions.

SMS is comprised of four essential components: (1) Safety Management Policy, (2) Safety Risk Management, (3) Safety Assurance, and (4) Safety Promotion. Each of these components, or ''pillars,'' is consistent with 49 U.S.C. 5329(d). The table below illustrates the connection between each of the statutory requirements for safety plans and the pillars of SMS.

TABLE 2—CROSSWALK BETWEEN THE STATUTORY REQUIREMENTS FOR SAFETY PLANS AND THE PILLARS OF SMS

Statutory provision	Safety plan must include:	SMS Pillar
49 U.S.C. 5329(d)(1)(A)	''a requirement that the board of directors (or equivalent entity) of the recipient approve the agency safety plan and any updates to the agency safety plan''.	Safety Management Policy.
49 U.S.C. 5329(d)(1)(B)	''methods for identifying and evaluating safety risks throughout all elements of the public transportation system of the recipient''.	Safety Risk Management.
49 U.S.C. 5329(d)(1)(C)	''strategies to minimize exposure of the public, personnel, and property to hazards and unsafe conditions''.	Safety Risk Management.
49 U.S.C. 5329(d)(1)(D)	''a process and timeline for conducting an annual review and update of the safety plan of the recipient''.	Safety Assurance.
49 U.S.C. 5329(d)(1)(E)	''performance targets based on the safety performance criteria and state of good repair standards''.	Safety Management Policy.
49 U.S.C. 5329(d)(1)(F)	''assignment of an adequately trained safety officer who reports directly to the general manager, president, or equivalent officer of the recipient''.	Safety Management Policy.
49 U.S.C. 5329(d)(1)(G)	''a comprehensive staff training program for the operations personnel directly responsible for safety of the recipient''.	Safety Promotion.

Safety Management Policy is the foundation of the organization's SMS. The safety management policy statement clearly states the organization's safety objectives and sets forth the policies, procedures, and organizational structures necessary to accomplish the safety objectives. It clearly delineates management and employee responsibilities for safety throughout the organization. It also ensures that management is actively engaged in the oversight of the organization's safety performance by requiring regular review of the safety policy by a designated Accountable Executive (general manager, president, or other person with similar authority). Within the context of the Public Transportation Agency Safety Plan, an organization's safety objectives will be articulated through the setting of performance targets based on, at a minimum, the safety performance criteria established in the National Public Transportation Safety Plan, and state of good repair standards based on the definition of that term established under the National Transit Asset Management System Rule. See 49 U.S.C. 5329(d)(1)(E).

Pursuant to the statutory requirements at 49 U.S.C. 5329(d)(1)(B) and (C), each agency's Public Transportation Agency Safety Plan must include ''methods for identifying and evaluating safety risks

[10] Implementing Safety Management System Principles in Rail Transit Agencies, available at *http://www.fta.dot.gov/documents/TRACS_Ltr_Rpt_SMS_fnl.pdf.*

[11] The Dear Colleague Letter is available at *http://www.fta.dot.gov/newsroom/12910_15391.html.*

[12] The SMS FAQs are available at *http://www.fta.dot.gov/tso_15177.html.*

throughout all elements of the public transportation system,'' and ''strategies to minimize the exposure of the public, personnel, and property to hazards and unsafe conditions.'' Each of these requirements is consistent with the second component of SMS—Safety Risk Management—which requires the development of processes and activities to help the organization better identify hazards associated with its operational systems. Once identified, a transit agency would evaluate the safety risk associated with the potential consequences of these hazards, and then institute mitigations, as necessary, to control the consequences or minimize the safety risk. Additionally, FTA proposes to require a transit agency to perform hazard identification activities on those assets that do not meet the state of good repair standards established under the National Transit Asset Management System.

The statutory requirements at 49 U.S.C. 5329(d)(1)(B), (C), and (D) also encompass the requirements of the third component of SMS—Safety Assurance. Safety Assurance requires an organization to monitor the effectiveness of safety risk mitigations established under Safety Risk Management. Safety Assurance is also designed to ensure that the organization meets or exceeds its safety objectives through the collection, analysis, and assessment of data about the organization's performance. One of the keys elements of Safety Assurance is a regular review and update of a transit agency's SMS and overall safety plan to ensure their effectiveness.

The fourth component of SMS—Safety Promotion—involves the training, awareness, and communication that support safety. The training aspect of SMS is consistent with the statutory requirement for a comprehensive staff training program for operations personnel and personnel directly responsible for safety. 49 U.S.C. 5329(d)(1)(G).

Service providers within the public transportation industry can vary greatly based on size, complexity, and operating characteristics. Transit agencies need safety processes, activities, and tools that scale to size, complexity, and uniqueness of the transit system. SMS provides such an approach. SMS is flexible, and can be scaled to the mode, size, and complexity of any transit operator, in any environment—urban, suburban, or rural. The extent to which the transit agency's SMS processes, activities, and tools are used and documented will vary from agency to agency. For a small bus operation, SMS is going to be simple and straightforward. For a larger transit agency with hundreds or thousands of employees and multiple modes, SMS is going to be more complex.

SMS scales itself to reflect the size and complexity of the operation, but the fundamental accountability remains the same. SMS establishes the accountabilities, processes and activities necessary to ensure that appropriate information rises to the highest levels of the organization to support decision-making related to safety risk. However, each transit agency will determine the level of detail necessary to identify and evaluate its own unique safety risks and target its resources to manage those safety risks.

Other modes of transportation, such as the aviation and rail industries, have adopted SMS as the foundation and framework for their safety systems given the success of SMS in preventing and mitigation safety outcomes. For example, the Federal Aviation Administration (FAA) recently adopted SMS and promulgated a regulation which requires certain air carriers to develop safety plans based on the principles of SMS.[13] In the rail industry, FRA is proposing to adopt SMS in its rulemaking which would require railroads to develop system safety program plans, largely based on the principles of SMS, under 49 CFR part 270.

There is also preliminary evidence of the success of SMS as an effective method of mitigating and preventing safety outcomes in other modes of transportation in other parts of the world. For example, Transport Canada has noted that, in the area of rail safety:

> [N]ot only have qualitative benefits been identified, but statistics reflect a correlation between the introduction of the safety management system approach in 2001 and improved safety statistics. Statistical analysis . . . indicates a downward trend in accident rates . . . over the past 10 years. Moreover, since 2007, train accidents have decreased by 23% and passenger train accidents have decreased by 19%. This decrease can be linked to increased levels of consultation and communication between the three largest railway companies and Transport Canada, enhanced focus on safety management systems, and a variety of new safety initiatives related to operations and infrastructure. It is therefore expected that updates to safety management systems would help further reduce the number of accidents, fatalities and injuries, and property damage.[14]

In short, FTA believes that SMS is the most effective way of preventing and mitigating safety events in the transit industry. Notwithstanding the above, FTA seeks comments from the public on alternative regulatory requirements, potentially in combination with non-mandatory guidance, that would satisfy the statutory requirements of 49 U.S.C. 5329(d) and that may more cost-effectively improve the safety of the nation's public transportation systems. FTA specifically invites the public to provide information to allow the comparison of the benefits and costs of FTA's proposed requirements to alternative approaches.

D. The Role of the Accountable Executive With Public Transportation Agency Safety Plans and Transit Asset Management Plans

Each transit agency has a process by which it budgets, allocates funds, and plans for the future. In most cases, this decision-making process is led by a President, General Manager, or Chief Executive Officer who formulates and proposes capital and operating budgets. For purposes of the Public Transportation Agency Safety Plan and Transit Asset Management Plan rules, FTA is proposing to require transit agencies to identify these individuals as the ''Accountable Executives'' for those agencies. The Accountable Executive would be responsible approving the transit agency's Public Transportation Agency Safety Plan, and any updates thereto. The Accountable Executive would be responsible for the implementation and maintenance of the SMS. This Accountable Executive also would be responsible for making decisions over the human and capital resources needed to develop and maintain the agency's Transit Asset Management Plan required by 49 U.S.C. 5326. FTA intends that the individual who is responsible for making decisions related to the condition of the agency's capital assets, particularly whether those assets are in a state of good repair, is also responsible for implementing the agency's SMS and determining whether those assets are presenting any safety risks. This individual must have the ability to make budgetary, operational, and capital program decisions to address these competing needs and issues.

Ultimately, the decisions made by the Accountable Executive regarding the proposed capital and operating budgets typically are presented for approval to the transit agency's Board of Directors or equivalent entity. An Accountable Executive and members of the transit agency's Board of Directors must make

[13] *See* FAA's Final Rule, ''Safety Management Systems for Domestic, Flag, and Supplemental Operations Certificate Holders,'' 14 CFR parts 5 and 119, 80 FR 1308, Jan. 8, 2015.

[14] *See http://gazette.gc.ca/rp-pr/p2/2015/2015-02-25/html/sor-dors26-eng.php.*

strategic decisions regarding operational and service demands, capital investments, and the safety resource needs of the system. This often can be challenging due to budget constraints and service demand pressures. It is important that safety receives appropriate attention by the Accountable Executive and Board of Directors as they make decisions regarding operating and capital budgets. Within an SMS environment, the Accountable Executive would rely on outputs of SMS processes and activities to ensure that a transit agency's strategic planning is informed and transparent with regard to the role of safety in decision-making.

III. Advance Notice of Proposed Rulemaking and Response to Relevant Comments

As discussed above, FTA issued an ANPRM on October 3, 2013. 78 FR 61251 (*http://www.gpo.gov/fdsys/pkg/FR-2013-10-03/pdf/2013-23921.pdf*). The comment period closed on January 2, 2014. The ANPRM sought comment on 123 questions related to the implementation of the public transportation safety program and transit asset management. In response to the ANPRM, FTA received comments from 167 entities, including States, transit agencies, trade associations, and individuals. FTA received and reviewed approximately 2,500 pages of comments. Throughout the ANPRM, FTA expressed its intention to adopt a comprehensive approach to safety that would be scalable and flexible.

Of the 123 questions presented in the ANPRM, FTA is addressing 42 questions in this notice related to Public Transportation Agency Safety Plans. Specifically, FTA addresses the following questions in this notice: 8–10, 17–31, 33–44, 47, 107–110, 112, and 116–121.

To reduce the burden on readers, where applicable and possible, FTA provides a summation and/or reference to the State Safety Oversight Program, or Public Transportation Safety Program NPRMs as a way to direct the reader to the appropriate discussion and limit redundancy.

FTA took relevant comments into consideration when developing this proposed rule. Below, the ANPRM comments and responses are subdivided by subject and corresponding question numbers.

A. Scope and Applicability of Public Transportation Agency Safety Plans
B. Safety Management Systems
C. Public Transportation Agency Safety Plan Development, Certification, and Oversight
D. Role of the Board of Directors (or Equivalent Authority) and the Chief Safety Officer
E. Coordination of Public Transportation Agency Safety Plan with Other MAP–21 Programs and Rules

A. Scope and Applicability of Public Transportation Agency Safety Plans (Questions 22, 31, 33 and 43)

In the Plan Requirements section of the ANPRM, FTA sought input on the costs and benefits of including rail, bus, and other public transportation modes under one Public Transportation Agency Safety Plan for those agencies that operate multiple modes of public transportation. The State's Role section of the ANPRM sought comment on the applicability of Public Transportation Agency Safety Plan requirements to recipients of Section 5311 Tribal Transit Formula and Tribal Transit Discretionary Program funds. The ANPRM also sought comment on how to define small public transportation providers under 49 U.S.C. 5307 (Section 5307) and whether or not the scope of Public Transportation Agency Safety Plan requirements should be less stringent for smaller public transit providers.

Comments: Commenters were evenly split on whether multiple modes should be combined into one agency-wide safety plan or whether multi-modal agencies should develop separate safety plans for each of their modes. Many commenters felt strongly that a single plan should be adopted in order to maintain agency-wide consistency and uniformity in overall safety culture. Other commenters suggested that rail and bus modes require separate safety plans due to inherent differences in safety concerns and focus. Additional respondents requested that FTA allow flexibility on this matter, leaving it up to each individual agency as to whether to adopt separate safety plans by mode or to combine all modes into one agency-wide safety plan.

In regards to 49 U.S.C. 5311 Tribal recipients, some commenters stated that FTA should decide how best to apply safety plan provisions to these recipients. Other commenters suggested that Section 5311 Tribal recipients should report directly to FTA, and others stated that Tribal recipients should be included in standard statewide safety plans. Additionally, a few commenters suggested that 49 U.S.C. 5329(d) does not apply to State subrecipients or Tribal Transit recipients. One commenter recommended that Public Transportation Agency Safety Plan requirements should apply equally to all recipients, including those receiving funds through the Tribal Transit Formula and Tribal Transit Discretionary Programs.

In terms of whether or not requirements should be less stringent for smaller public transit providers, several commenters suggested that, while there should be consistency in the approach to safety, smaller transit providers should not be subjected to overly burdensome requirements and should be allowed to implement less stringent approaches to safety management. These and other commenters also suggested that, if possible, smaller transit providers should be able to pool resources with States or other transit providers for expenses associated with acquiring safety training, if possible. To this point, a few commenters recommended that FTA adopt CTAA's Certified Safety and Security Officer Certification Program as a way to minimize additional training cost for small transit providers. In general, many commenters recommended that the scope of FTA's requirement should be scalable and flexible enough to recognize that smaller transit operations may contain fewer safety risks than those of larger transit agencies.

With respect to FTA's question as to how it should define small Section 5307 public transportation providers, several commenters recommended that the definition should be based on either the population of the urbanized area (UZA) that the transit agency serves or by the number of vehicles in operation during peak service. Specifically, commenters stated that either a population between 50,000 and 200,000, or a population of 200,000 or less, should be used as the threshold to define a small Section 5307 public transportation provider. Other commenters stated that 100 buses or fewer in peak service should be the threshold set for a small Section 5307 public transportation provider, as it is a measure familiar throughout the entire public transportation industry and less subject to variation than other similar measures. A few commenters recommended that the definition used for waivers in the National Transit Database (NTD)—thirty or fewer vehicles across all modes and types of service—should be used as the measure to define a small Section 5307 public transportation provider. Other commenters suggested that FTA define these agencies by size of area served, revenue miles, or passenger counts. Finally, a few commenters suggested that the States should have no role in

overseeing the safety of small Section 5307 public transportation providers.

Response: In today's NPRM, FTA proposes that a transit agency may include more than one mode of service in a single plan, or may have individual safety plans for each mode of service. FTA agrees that flexibility is important on this matter, and that each agency should have discretion in deciding which approach is appropriate for its particular operations. FTA does not intend to promulgate safety regulations that will apply to either commuter rail systems that are regulated by the FRA or to ferry systems that are regulated by the United States Coast Guard (USCG). FTA invites additional comments on how FTA could support the development of Public Transportation Agency Safety Plans for transit agencies of different sizes and modes.

Although FTA is proposing to provide flexibility to transit agencies so that they can determine for themselves whether they will develop a single safety plan for all modes of transit, or whether they will develop individual safety plans for each mode, FTA is not proposing to allow transit agencies to utilize their FRA-required commuter railroad safety plans for other modes of transit regulated by FTA. FTA notes that on September 7, 2012, FRA issued an NPRM related to its System Safety Program. 77 FR 55406. In this NPRM, FRA proposes to require any railroad that operates intercity or commuter passenger train service and any railroad that provides commuter or other short-haul rail passenger train service to develop a System Safety Program Plan. FRA proposes to protect from discovery, evidence, and Federal and State court proceedings any information compiled or collected solely for the purpose of developing, implementing, or evaluating a System Safety Program Plan, including a railroad's analysis of its safety risks and its identification of safety risk mitigation measures. Given FRA's proposal and given the fact that FTA does not have similar statutory authority to protect data, an operator of a public transportation system which provides commuter rail service regulated by FRA would not be able to use its System Safety Program Plan for other modes of public transportation. The public transportation provider would be required to develop a separate plan or plans for its other modes of public transportation subject to FTA's safety regulation.

In today's NPRM, FTA proposes, consistent with the statutory mandate, that requirements of Part 673 would apply to all operators of public transportation systems that receive Federal financial assistance under 49 U.S.C. Chapter 53. FTA proposes to define an operator of a public transportation system to mean a provider of public transportation as defined under 49 U.S.C. 5302(14). This definition generally includes regular, continuing shared ride surface transportation that is open to the public, and which does not provide service that is closed to the general public and only available for particular clientele, such as Section 5310-funded service that is not open to the general public and only available for a particular clientele. FTA invites comments from the public regarding the definition of the term, ''operator of a public transportation system.''

While Congress did not specify that Section 5310 providers could have their plans drafted or certified by a State, FTA notes that 49 U.S.C. 5329 applies to all operators of public transportation systems that receive Chapter 53 funds. The definition of public transportation in 49 U.S.C. 5302 includes services that ''are open to a segment of the general public defined by age, disability, or low income.'' The Section 5310 program historically has funded vehicles for non-profit agencies that serve these segments of the general public, either in open door service or closed door service available only to clients of a particular agency or agencies. Importantly, not every entity that receives Section 5310 funds is a small non-profit agency with one or two FTA-funded vehicles. Many Section 5310 providers operate substantial fixed route or demand response service, including ADA complementary paratransit service, and in many cases these entities also receive urbanized (Section 5307) or rural area (Section 5311) formula funds.

FTA therefore is proposing that the type of service, rather than the source of FTA funds, be the deciding factor in determining whether a Section 5310 recipient must have a Public Transportation Agency Safety Plan. In the case when a Section 5310 provider operates service that is open door service (open to a segment of the general public), FTA proposes that the Section 5310 provider must have its Public Transportation Agency Safety Plan drafted and certified by a State, unless the Section 5310 provider opts to draft and certify its own plan. Most of these Section 5310 providers are smaller operators of public transportation systems, and through this requirement, FTA intends to alleviate the administrative and financial burdens placed on Section 5310 providers in complying with this part. In the case when a Section 5310 provider operates service that is closed to the general public and only available for a particular clientele, FTA proposes that neither the State nor the Section 5310 provider would be required to develop and certify a Public Transportation Agency Safety Plan. In other words, nonprofit and other community service organizations that receive Section 5310 funds and provide closed door service would not be required to draft and certify Public Transportation Agency Safety Plans.

FTA seeks comments from the public on these proposals, particularly as to whether a Section 5310 provider operating a public transportation system should be required to develop and implement a Public Transportation Agency Safety Plan, whether or not the entity also receives Section 5307 or Section 5311 funds, and if so, whether that plan should be drafted and certified by a State. FTA also seeks comment as to whether a designated recipient under 49 U.S.C. 5310 should draft and certify Public Transportation Agency Safety Plans on behalf of Section 5310 providers in large urbanized areas instead of the State, or if the States should draft and certify those plans.

FTA anticipates scalability and flexibility in agency plan development, and FTA will provide substantial technical assistance and guidance to all recipients and subrecipients. Proposed requirements in today's NPRM recognize the variance in size, complexity, and operating characteristics of the public transportation industry.

Because 49 U.S.C. 5329(d) provides that States may draft and certify Public Transportation Agency Safety Plans for Section 5311 providers (most of which are smaller transit agencies) and small public transportation providers under Section 5307, and because SMS implementation is inherently scalable, FTA believes that today's proposal provides sufficient flexibility for States and small transit providers, such that they would not be expected to incur expenses for safety management equal to those of a large transit agency. While FTA proposes that 49 CFR part 673 would apply to all Chapter 53 operators of public transportation systems, the proposed requirements may be scaled to address variances in transit agency size, complexity, and operating environment.

In today's NPRM, FTA proposes to define small public transportation providers under Section 5307 based on vehicles operating in revenue service. Any public transportation provider that does not operate rail fixed guideway service and operates 100 or fewer vehicles in revenue service, including

fixed route, general public paratransit, and Americans with Disabilities Act complementary paratransit, would be considered a small Section 5307 public transportation provider for purposes of Public Transportation Agency Safety Plan development and certification.

FTA considered various alternatives suggested by commenters, such as using a lower vehicles operating in revenue service threshold or UZA population. FTA evaluated each alternative, assessing safety performance, resource burden, and consistency with other FTA programs and definitions. Ultimately, FTA agreed with commenters that recommended the 100 or fewer vehicles operating in revenue service option because it results in a lower degree of burden placed on individual Section 5307 public transportation providers and it creates alignment with FTA's Transit Asset Management Program proposed rule. By using this number, FTA is trying to ensure that the lowest administrative, financial, and regulatory burdens are placed on the transit industry, including small transit providers. This is a number that the industry commonly uses to define small Section 5307 bus agencies, particularly in regards to FTA operating assistance. *See* 49 U.S.C. 5307(a)(2)(B). FTA also is proposing to use this number as a benchmark in its Transit Asset Management NPRM, so FTA is proposing to use the 100-bus threshold here for consistency.

B. Safety Management Systems (Questions 17–21, 27–28)

Section I of the ANPRM highlighted FTA's intention to propose the SMS approach as the foundation for the development, implementation, oversight, and enforcement of the new Public Transportation Safety Program.

The ANPRM posed several questions related to SMS, including questions related to: (1) Barriers to SMS adoption; (2) the need for technical assistance; (3) the current use of SMS in the transit industry and alternative approaches; and (4) the current practices and challenges with the management of safety risks. These ANPRM questions also related to the adoption of SMS by FTA and the use of SMS to inform Public Transportation Agency Safety Plans.

1. Barriers to SMS Adoption and Need for Technical Assistance

Comments: Several commenters suggested that the SMS approach may be burdensome for smaller transit agencies to implement, and identified or listed barriers or challenges to adopting SMS principles. Specifically, these commenters suggested the following as barriers to adoption: A lack of financial resources, inconsistent or insufficient training on SMS (both classroom and online), limited staffing for development and implementation of SMS, the burden of additional data collection and documentation, and concern that SMS is a departure from tried and true safety practices. Many respondents requested that training programs be scalable based on agency size; several responders pointed out that attendance at off-site training programs would be practically impossible for small agencies, where a single employee is often the only person capable of fulfilling critical agency functions. There were many requests for FTA to provide training programs online to ease this burden on already taxed agencies and employees. Other commenters noted the challenges for agencies with boards of directors consisting of local politicians whose decisions are subject to political pressure; the importance of distinguishing between the FRA-required model and the SMS model for agencies that operate in a shared rail corridor; and the ability of FTA to provide clear guidance on defining how SMS principles are to be interpreted and applied. Additionally, a few commenters suggested that SMS might be challenging to implement within the current management/labor collective bargaining agreement process. Other commenters suggested that, for a system that contracts for some or all of its service, implementing SMS would be challenging and difficult. A few commenters stated that the practical benefit from a fully-implemented SMS far outweighs the effort needed to overcome potential challenges. Conversely, a few other commenters were opposed to any adoption of SMS by Federal regulation whatsoever.

Response: FTA proposes to adopt SMS as the framework for managing safety risks in the transit industry because SMS is flexible and scalable, and also provides a level of implementation that is commensurate with the size and complexity of transit agencies. For additional information on SMS, FTA recommends readers review Appendix A to FTA's NPRM on State Safety Oversight Programs (see 80 FR 11002, Feb. 27, 2015; *http://www.gpo.gov/;fdsys/pkg/FR-2015-02-27/pdf/2015-03841.pdf*), FTA's SMS Framework guidance document (see *http://www.fta.dot.gov/documents/FTA_SMS_Framework.pdf*), and FTA's forthcoming National Public Transportation Safety Plan. Today's proposal reflects key elements of the law that are consistent with SMS principles and methods. Each element of 49 U.S.C. 5329(d)(1) sets forth requirements for transit agency safety management that are critical to an effective SMS, namely: Executive management accountability, the identification of hazards, the evaluation of safety risks, the strategies to mitigate these safety risks, regular reviews of a transit agency's safety system, direct lines of safety reporting, and a commitment to safety training.

SMS processes and activities can assist transit agencies in identifying safety concerns and issues, evaluating these concerns for their potential impact on transit safety, and developing cost-effective mitigations to address safety concerns so that an accident or safety event can be prevented. FTA does not agree that SMS is a departure from tried and true safety practices. SMS, as a management system, embraces current safety practices and activities, and ensures that transit agency executive management is presented with timely information to act on safety risks in a proactive manner.

Today's rulemaking proposes that each transit agency would be required to implement SMS. FTA believes that it is critical for each transit agency to work through the process of identifying and managing safety risks that may be unique to its size, operations, and operating environment. Because SMS processes, activities and tools can be adapted to the size, complexity, and uniqueness of the transit agency, FTA believes it is the best approach to address the requirements set forth in 49 U.S.C. 5329(d)(1). For example, the safety reporting program of a large agency might require rather important and robust IT support for data management and several safety data analysts, whereas the same program for a small agency might be administered with a spreadsheet for data management and a part-time safety analyst or a staff person who analyzes safety data as an ancillary duty.

To reduce the administrative, financial, and regulatory burdens on small public transportation providers, the proposed rule requires States to draft and certify Public Transportation Agency Safety Plans—and documentation of SMS processes therein—for Section 5310, Section 5311, and small public transportation providers, unless those providers opt to draft and certify their own safety plans. Although FTA proposes to require States to draft and certify Public Transportation Agency Safety Plans, FTA proposes that each recipient which operates a public transportation system implement its own safety plan,

regardless of the size of the agency. In other words, States will lend their resources and technical expertise to smaller operators of public transportation by drafting the safety plans and by certifying to FTA that the plans they drafted satisfy all of FTA's requirements. The plans will include various elements, such as processes for identifying safety hazards and risks, processes for evaluating those safety hazards and risks, and processes for mitigating those safety hazards and risks, as appropriate. The transit agencies will have to perform those activities themselves—not the States—thus, the individual transit agencies are responsible for ''implementing'' and ''carrying out'' the plans that are drafted by the States, but the States will be ultimately responsible for drafting and certification functions (unless a small transit agency opts to draft and certify its own agency safety plan). Additionally, each transit agency would be responsible for implementing SMS that scales to the size and complexity of the organization. As a result, FTA expects that the Public Transportation Agency Safety Plan also will scale for smaller organizations.

In an effort to further reduce the administrative, financial, and regulatory burdens on recipients and other public transportation operators, FTA will develop and issue templates for Public Transportation Agency Safety Plans for agencies of different sizes. FTA also will develop and issue guidance and other tools, and provide technical assistance, to support SMS development and implementation.

Some commenters suggested that a need for SMS training exists, and that transit agencies may experience challenges with the development and implementation of SMS. To address these concerns, FTA will continue to develop and provide safety training for the industry, and FTA also will collect and provide information on other sources of outside SMS training. Currently, FTA provides a number of courses to support transit agency safety training needs. FTA intends to expand these offerings, including online courses, to support general safety training, as well as training on SMS principles and methods. FTA is piloting SMS training courses. Additionally, FTA will launch an Agency SMS Implementation Pilot Program to help reduce the burden on transit agencies for developing SMS by identifying effective safety practices, including training that will be shared with the industry. These efforts, coupled with technical guidance, will directly assist those agencies for which a lack of training and guidance may be a barrier to SMS implementation. Recently, FTA issued Final Interim Safety Certification Training Provisions which set forth the safety training requirements for Federal and State Safety Oversight Agency personnel and their contractors who conduct safety oversight audits and examinations of public transportation systems not otherwise regulated by another Federal agency. See 80 FR 10619 (Feb. 27, 2015) (*http://www.gpo.gov/fdsys/pkg/FR-2015-02-27/pdf/2015-03842.pdf*). Consistent with the statutory provisions of 49 U.S.C. 5329(d)(1)(G), FTA's proposed training requirements and technical assistance discussed in this NPRM are intended to address the training needs of those individuals directly responsible for safety, and they are intended to complement the requirements and technical assistance for safety oversight personnel as discussed in the Final Interim Safety Certification Training Provisions.

FTA disagrees with commenters who suggested that there might be additional challenges with SMS adoption because of political and legal issues with Boards of Directors and local politics. Just as a Board of Directors is responsible for the service levels provided to the community and budgets adopted, they are also accountable for safety outcomes. FTA believes that SMS provides greater transparency in the prioritization of, and decision-making regarding, a transit agency's safety risks. Today's notice mirrors statutory language in 49 U.S.C. 5329(d) with respect to executive level accountability and would require that a transit agency's Board of Directors (or equivalent authority) review and approve the Public Transportation Agency Safety Plan.

One commenter suggested that a challenge to SMS adoption may be the difficulty in distinguishing between the FRA-required safety model and the SMS model. FTA believes that SMS implementation encourages coordination in Safety Risk Management for all modes operated by a transit agency. However, and in response to this comment, FTA notes that it has different statutory authority than FRA for regulating safety, and to the extent another Federal agency already regulates safety of a particular mode of transportation, FTA does not intend to promulgate duplicative, inconsistent, or conflicting regulations. Therefore, agencies that operate passenger ferries regulated by the United States Coast Guard or commuter rail service regulated by FRA would not have to develop FTA safety plans for those modes of service. FTA seeks public comments on whether any aspect of this proposed rule is duplicative, inconsistent, or conflicts with other Federal agency regulations.

With respect to comments related to perceived challenges in SMS implementation due to management/labor collective bargaining agreements or for systems that contract for service, today's proposed rule does not include requirements regarding collective bargaining, and FTA anticipates that each transit agency would benefit from increased information on safety issues and performance.

2. Current Use of SMS in the Transit Industry and Alternative Approaches

Comments: Several commenters suggested that they currently practice SMS-related activities, and provided detailed responses. Commenters identified, in part, the following list of activities and practices: Data-driven safety performance management; employee safety reporting programs; committee structures to support safety communication and safety risk evaluation; safety management policy statements; senior management accountability; safety audits and inspections; designated Safety Officers and staff; safety accountabilities and responsibilities; proactive hazard identification and analysis; accident investigation to determine probable cause; safety promotion and communication; and safety training. One commenter indicated that his agency has reorganized its safety department to reflect the four major components of SMS.

Some commenters indicated that they provide alternative safety management approaches. Some suggested that FTA adopt a centralized, State or regional, safety management or other approach that would lessen the burden for States. One commenter suggested that FTA provide an option for transit agencies that operate fewer than 100 vehicles, or other small transit agencies, to participate in insurance risk pools (and be exempted from any requirement to develop and implement SMS), while other commenters expressed their opposition to any rulemaking by FTA on SMS because they did not want to be subject to Federal regulations on safety. Finally, several commenters indicated that they were in agreement with FTA's adoption of SMS.

Response: FTA believes that SMS builds on industry safety practices, which is evidenced by the number of SMS-related activities currently being practiced by several of the commenters. FTA proposes to adopt SMS to guide the

advancement of FTA's safety rulemakings, and therefore, today's rule proposes that Public Transportation Agency Safety Plans must address the basic four components of SMS: (1) Safety Management Policy, (2) Safety Risk Management, (3) Safety Assurance, and (4) Safety Promotion (explained in more detail in the Section-by-Section Analysis of Subpart C of the Public Transportation Agency Safety Plan, below).

Recipients may utilize additional safety management practices, but recipients would be required to meet the basic requirements as set forth in today's proposed rule. Based on comments received, FTA is confident that the transit industry already has some elements of SMS in place.

With respect to commenters who suggested a more centralized State management approach, today's proposal requires States to draft and certify Public Transportation Agency Safety Plans on behalf of Section 5310, Section 5311, and small public transportation providers (as defined in this NPRM). FTA disagrees with the commenter who proposed that transit agencies operating fewer than 100 vehicles be exempt from SMS requirements in favor of insurance risk pools. While insurance risk pools may take into account safety risk, FTA does not believe that they meet all elements of an SMS, nor do they satisfy all of the statutory requirements of Public Transportation Agency Safety Plans. Nothing in today's proposal would prevent transit agencies from participating in insurance risk pools in addition to implementing a Public Transportation Agency Safety Plan with SMS.

3. Current Practices and Challenges With the Management of Safety Risk Related to Human Factors

Comments: Many commenters stated they currently apply some type of risk-based approach in managing safety risks related to human factors. These approaches included drug and alcohol program testing, post-incident testing, commercial driver's license physical examination requirements, fitness for duty physical examinations, medical evaluations, application of the Federal Motor Carrier Safety Administration's hours of service regulations, fatigue awareness training, medication reporting, sleep disorder screening, and evaluating the ability of employees to comply with procedures and rules.

One commenter suggested that another potential issue with adopting a risk-based approach to human factors relates to transit employees' rights to health privacy. A few commenters recommended that FTA take a statistical sample approach to gather data on this subject, which could inform and guide further formulation of agency safety plan requirements.

Response: FTA is encouraged that many transit agencies already take a risk-based approach in managing safety risks related to human factors, and are doing so through a number of different methods, including those listed above. This is a positive step towards implementing the Safety Risk Management component of SMS, and FTA encourages agencies to continue to conduct these risk-based approaches to managing safety risks related to human factors. FTA also encourages agencies to take into account bicycle and pedestrian safety concerns, along with other factors, as agencies are conducting Safety Risk Management.[15] As discussed above, FTA intends to provide additional guidance, technical assistance, and training regarding SMS.

C. Public Transportation Agency Safety Plan Development, Certification, and Oversight (Questions 25–26, 30, 34–42, 44–47, 107–110, 112)

The ANPRM posed several questions related to the development, certification, and oversight of Public Transportation Agency Safety Plans. Specifically, FTA sought comments in the following areas: (1) Plan drafting and updating, (2) plan certification, (3) the role of the State, and (4) oversight of the plan. Questions regarding the drafting, certification, or oversight of a Public Transportation Agency Safety Plan that included reference to the role of the State are addressed in Section 3: Role of the State, below.

1. Plan Drafting and Updating

Comments: Many commenters suggested that FTA can reduce the administrative burden of drafting Public Transportation Agency Safety Plans by providing transit agencies with templates, models, and assistance to support agency safety plan development. Some commenters stated that FTA should provide the safety plan templates and a few others stated that State Departments of Transportation (State DOTs) should provide the templates. Other commenters stated that FTA could reduce the burden by not requiring annual safety plan updates. A few commenters recommended that either FTA not promulgate or reduce the requirements for small transit providers. Finally, a few commenters suggested that FTA utilize only the current level of NTD reporting requirements, and not expand safety data reporting, as it would add unnecessary burdens.

Response: As mentioned previously, FTA intends to provide States and the industry with templates to guide and support Public Transportation Agency Safety Plan development. FTA does not anticipate that a small transit provider (or its State in the case of Section 5310, Section 5311, and small public transportation providers) would require as complex of a Public Transportation Agency Safety Plan as a larger transit provider. One of the key elements of Public Transportation Agency Safety Plans would be the development and implementation of SMS principles, and inherent to SMS is its scalability and flexibility. FTA anticipates the scalability and flexibility in plan development will not unduly burden any particular recipient, and to reduce any burdens, FTA intends to develop and issue to the industry electronic templates, guidance, and training.

FTA is proposing that recipients and other operators of public transportation systems update their Public Transportation Agency Safety Plans annually so that they remain current to meet evolving needs and so that they capture any new best practices in the industry. Readers should note that reviews and updates to a Public Transportation Agency Safety Plan developed by rail fixed guideway systems must adhere to the requirements that are codified at 49 CFR part 659, until FTA issues a final rule for State Safety Oversight at 49 CFR part 674.

2. Plan Certification and Review

FTA sought comment on the mechanics of Public Transportation Agency Safety Plan certification, including the certification for subrecipients; whether a self-assessment, or set of procedures, should be followed prior to certification; and the role of FTA in reviewing plans and certifications.

Comments: Many commenters responded that they preferred the use of FTA's annual Certifications and Assurances process for certifying that Public Transportation Agency Safety Plans comply with FTA's statutory and regulatory requirements, particularly given the industry's familiarity with this process as it is used currently for FTA's standard grant programs. Several of these same commenters suggested that subrecipient certification should be a

[15] Secretary Anthony Foxx recently issued a bicycle and pedestrian safety initiative, and FTA encourages transit agencies to consider that initiative when developing their safety plans (see *http://www.dot.gov/sites/dot.gov/files/docs/safer_people_safer_streets_summary_doc_acc_v1-11-9.pdf).*

separate process between the subrecipient agency and the designated recipient (or State). In addition, a few commenters stated that certification should not be through FTA's annual Certification and Assurance process, and a few commenters stated that recipients should self-certify. Several commenters also suggested that FTA should review the safety plans as part of FTA's Triennial and State Management Review (SMR) oversight processes, and not as part of the grant approval process.

Many commenters indicated that they do not support FTA's review of Public Transportation Agency Safety Plan certifications on the basis of a weighted random sample. A few commenters suggested that Public Transportation Agency Safety Plan certifications be reviewed on the basis of a weighted random sample, as a suitable alternative to reviewing all plans. Some commenters also indicated that, although a weighted random sample could be appropriate, it is important that the system is not overly burdensome.

Some commenters suggested that FTA establish self-assessment procedures, but only one commenter indicated that FTA should establish procedures for recipients to follow before certifying their Public Transportation Agency Safety Plans. Many commenters suggested that it would be helpful if FTA established a self-assessment checklist, or a tool for recipients to utilize, to assist with the certification of their Public Transportation Agency Safety Plans. Many of these same commenters added that the self-assessment tool should make clear which components of the plans are required by law, and which components are at the recipient's discretion. A few commenters indicated that an FTA self-assessment tool would not be helpful because agencies differ substantially in their plans and practices.

Response: In keeping with the statutory requirements of 49 U.S.C. 5329(d), and many of the comments, FTA proposes that each transit agency self-certify that it has established a Public Transportation Agency Safety Plan that complies with all of FTA's statutory and regulatory requirements through FTA's annual Certification and Assurances process. FTA proposes that States are required to certify on behalf of subrecipients, which is discussed in greater detail below. FTA is not proposing that it review safety plans prior to grant approval, but FTA intends to review the plans through its Triennial Review and SMR oversight processes. FTA intends to conduct additional oversight of Public Transportation Agency Safety Plans and SMS programs, outside of the standing Triennial Review and SMR processes, at its discretion. FTA will consider developing a self-assessment tool, although this notice does not propose the use of a self-assessment tool prior to agency safety plan certification. In addition, FTA intends to provide the industry with technical assistance, as needed.

3. Role of the State

The ANPRM posed several questions related to the role of States in regards to Public Transportation Agency Safety Plans. In the State's Role section of the ANPRM, FTA sought comments with respect to States and Section 5311 and small Section 5307 public transportation providers, including: (1) The drafting and updating of Public Transportation Agency Safety Plans, (2) certifying Public Transportation Agency Safety Plans, and (3) overseeing and reviewing the implementation of Public Transportation Agency Safety Plans (covered in the subsequent ''Oversight of Public Transportation Agency Safety Plans'' section).

a. Role of the State in Drafting Public Transportation Agency Safety Plans

Comments: Many commenters recommended that FTA should allow States to draft State safety plans for subrecipients. Many commenters indicated their support for a national and/or statewide template to support States' development of Public Transportation Agency Safety Plans, as it would relieve the burden on States and bring more consistency to the plans. A subset of these commenters recommended that FTA work closely with industry associations such as CTAA and APTA in the development of the national or statewide Public Transportation Agency Safety Plan templates, including those that could be modified to reflect individual transit agency operating needs.

Given the significant degree of variance in transit agencies' size, complexity, and operating environments, several commenters suggested that FTA should not allow States to develop statewide plans applicable to subrecipients and small public transportation providers. These commenters recommended that FTA require transit agencies to develop their own Public Transportation Agency Safety Plans. Other commenters agreed, stating that Public Transportation Agency Safety Plans should reflect local safety implementation and that a statewide plan may not provide sufficient detail for the management of safety from agency to agency. Other commenters responded with concern that States may not have sufficient resources and technical capacity to develop Public Transportation Agency Safety Plans. Finally, a few commenters suggested that it would be too great of an administrative burden on States to develop Public Transportation Agency Safety Plans.

Many commenters indicated that the ability to modify the statewide safety plan template would be important because safety risks can vary from agency to agency. Several commenters believed that there would be utility with FTA or State-generated templates to support Public Transportation Agency Safety Plan development. A few commenters suggested that FTA allow States to have the option of developing statewide plans, and these commenters recommended that FTA should not require States to develop statewide plans.

In terms of the number of safety plans that a State might be expected to draft, many commenters stated that this number could vary from state-to-state and range anywhere from 20 to 70 plans. Another set of commenters stated that the number of safety plans a State might be expected to draft should be determined by the State.

Response: In this NPRM, FTA proposes to require States to draft Public Transportation Agency Safety Plans on behalf of Section 5310, Section 5311, and small public transportation providers. FTA agrees with commenters who recommended that FTA should require States to develop plans on behalf of these providers. As discussed above, this proposal is consistent with the statutory provisions of 49 U.S.C. 5329(d)(3), and it reduces the administrative, financial, and regulatory burden on smaller transit agencies that may not have the resources or technical expertise to draft and certify Public Transportation Agency Safety Plans. The number of safety plans that a State may prepare will vary from state-to-state, and although FTA is requiring the State to develop the plan, FTA is not instructing States on how to develop those plans. For example, a State may draft a single statewide plan or it may draft individual plans on behalf of each Section 5310, Section 5311, and small public transportation provider. FTA proposes that each Section 5310, Section 5311, and small public transportation provider may opt to draft their own plan if they choose to do so.

In addition, FTA seeks comments from the public regarding the following questions: If a State was to draft a statewide plan, how would the plan

respond to the SMS component of Safety Risk Management (*i.e.* identification of individual agency risks and hazards)? Should FTA require drafting of single statewide plans or individual safety plans on behalf of Section 5310, Section 5311, and small public transportation providers in that State? Or should FTA defer to the State's preference on this requirement?

With respect to the potential burden of plan development, FTA agrees with commenters that templates and guidance would be beneficial. FTA plans to provide technical assistance, training, and templates to support plan development. Similar to the variety of safety plan templates that FTA has provided in the past as part of its Bus Safety Program, FTA will provide safety plan templates for states and transit agencies, keeping in consideration differences in size, complexity and operating characteristics.

b. Role of State in Certifying Public Transportation Agency Safety Plans

In its ANPRM, FTA sought comments with respect to the type of assistance that should be provided to States that choose to certify to FTA the Public Transportation Agency Safety Plans on behalf of small operators. FTA also sought comments on the types of requirements and procedures that FTA should establish for State certification of safety plans.

Comments: Many commenters suggested that a significant burden would be imposed upon States if FTA required them to certify each and every Public Transportation Agency Safety Plan. These commenters expressed that, in part, the burden would be due to a lack of staff resources at States and the amount of time that staff would need to review and certify individual safety plans. A number of commenters suggested that FTA should allow maximum flexibility for States. A few commenters suggested that the burden would be minimal since they already have a role in monitoring agency safety plans. Many commenters suggested that FTA could reduce the overall administrative burden if it provides technical assistance and sample templates. Many commenters stated that FTA should not establish any requirements or procedures for States that draft and certify Public Transportation Agency Safety Plans for subrecipients. Other commenters expressed an opinion that 49 U.S.C. 5329(d) does not require States' subrecipients to develop safety plans. A few commenters suggested that FTA should establish requirements for States that develop and certify Public Transportation Agency Safety Plans for their subrecipients.

Response: FTA proposes to require each State to review and certify Public Transportation Agency Safety Plans for all Section 5310, Section 5311, and small public transportation providers in that State. FTA also proposes to require States to certify individual subrecipient plans, or certify a statewide plan on behalf of its subrecipients, particularly given the statutory requirement at 49 U.S.C. 5329 that any ''operator of a public transportation system'' which receives Chapter 53 financial assistance must draft and certify a Public Transportation Agency Safety Plan, regardless of its status as a recipient or subrecipient. In addition, any Section 5310, Section 5311, or small public transportation provider that opts to draft its own plan may also certify its own plan. With respect to the process for certification of Public Transportation Agency Safety Plans, as noted above, FTA proposes to use its annual Certifications and Assurances process for the certification of the plans.

4. Oversight and Review of Public Transportation Agency Safety Plans

The State's Role section of the ANPRM posed questions relating to the purview a State might have in overseeing subrecipients, how oversight should be provided, and the time estimated to provide such oversight. In addition, FTA asked those States that currently perform safety operations oversight for non-rail modes, to provide information on these programs. Finally, this section posed questions about the annual review of Public Transportation Agency Safety Plans.

Comments: Many commenters suggested that States should provide oversight of transit agencies for which the State drafts and certifies the Public Transportation Agency Safety Plan (or statewide safety plan). Other commenters suggested that this form of oversight could represent a conflict of interest for the State. Additional commenters suggested that States do not have the staff and expertise to draft and certify plans.

Many commenters suggested that FTA should require State DOTs to maintain lists of certified subrecipients that have established safety plans or are covered by a statewide plan. A few commenters noted that some states already maintain lists of subrecipients. Other commenters suggested that State DOTs should not be required to maintain these types of lists, either because all Section 5311 subrecipients already will be covered by a state management plan, or in their opinion, 49 U.S.C. 5329(d) does not require individual safety plans for State DOT subrecipients so there is no need to maintain a list.

In response to FTA's question regarding current safety oversight practices, some commenters stated that they do not currently perform safety oversight for non-rail modes. Other commenters suggested that the oversight role could be effectively streamlined by combining bus oversight into each State's existing rail oversight program, but other commenters disagreed. Additional commenters stated that combining oversight of rail and non-rail transit safety may work in some States, but it may not work in others, and therefore, FTA should not require transit agencies to combine oversight practices. Some commenters stated that bus and rail system elements are very different, so the oversight programs would be best administered separately. Many commenters recommended that States should have some sort of oversight role of non-rail transit systems and could combine bus oversight into each State's existing rail oversight program, but others disagreed that they could be combined. Finally, several commenters suggested that additional financial and staffing resources would be necessary if FTA requires States to provide oversight of non-rail transit, and that adding additional staff would take considerable time.

Many commenters suggested that FTA should not have a role in reviewing the Public Transportation Agency Safety Plans. Other commenters recommended that FTA review the Public Transportation Agency Safety Plans through the Triennial and SMR review processes. Finally, many commenters suggested that an annual review would be too frequent for transit agencies that only provide bus service, and an annual review may increase a transit agency's operating costs and be difficult to implement without diverting resources from other agency programs.

Response: With today's notice, FTA does not propose additional oversight requirements for States that draft and certify Public Transportation Agency Safety Plans. FTA anticipates that oversight for Public Transportation Agency Safety Plan implementation for agencies that do not operate a rail fixed guideway system would be conducted primarily through FTA's SMR and Triennial Review Programs. FTA is likely to conduct additional oversight of Public Transportation Agency Safety Plans outside of these programs. FTA agrees with commenters who suggested that States likely already maintain lists of subrecipients, and therefore is not

proposing a requirement for additional subrecipient lists.

With respect to the review of Public Transportation Agency Safety Plans, as mentioned earlier, FTA intends to maintain the authority to review the plans during SMR and Triennial Reviews or at its sole discretion, such as in the event that FTA identifies circumstances posing a safety risk. FTA disagrees with commenters who suggested that an annual review would be too frequent. Pursuant to 49 U.S.C. 5329(d)(1)(D), transit agencies are required to perform annual reviews of their Public Transportation Agency Safety Plans. FTA proposes that each transit agency document its timeline for an annual review and update, as necessary, of its Public Transportation Agency Safety Plan (§ 673.11(a)(7)).

D. Role of the Board of Directors (or Equivalent Authority) and the Chief Safety Officer (Questions 23, 29)

In the Plan Requirements section of the ANPRM, FTA posed a question regarding the role of a transit agency's Board of Directors (or equivalent authority) with the approval of its Public Transportation Agency Safety Plan. FTA also posed questions regarding the roles and responsibilities of a transit agency's executive leadership, including the combination of roles and responsibilities, particularly in smaller operations, where the same individual may function as the transit agency's general manager, operations manager, and Safety Officer. Related to this question, FTA asked if the combination of these roles could cause any conflict of interest between safety and any other agency responsibilities.

1. Board of Directors (or Equivalent Authority)

Comments: Many commenters suggested that if a Transit agency does not have a Board of Directors, ''equivalent entities'' to a Board of Directors generally would be those that have authority to make day-to-day policy decisions. In the cases where a transit agency does not have a Board of Directors, several commenters suggested that FTA should allow a transit agency's General Manager to certify that it has reviewed a Public Transportation Agency Safety Plan through FTA's Certifications and Assurances process. Other commenters noted that the attributes, functions, and authorities of an ''equivalent entity'' to a Board of Directors should be the same as that of a Board of Directors. A few commenters suggested that, in some instances, boards of directors and equivalent entities may be serving in a volunteer capacity, and lack the experience and knowledge to develop or certify safety plans. These commenters suggested that only the State or FTA may have the experience and knowledge to develop and certify Public Transportation Agency Safety Plans. A few commenters stated that if there is no Board of Directors, then only the State (or State Safety Oversight Agency) or FTA should be allowed to approve Public Transportation Agency Safety Plans.

Response: FTA is proposing to define the term ''Equivalent Authority'' to mean an entity that carries out duties similar to that of a Board of Directors, including, at the very minimum, sufficient authority to review and approve a recipient or subrecipient's Public Transportation Agency Safety Plan. If a recipient or subrecipient does not have a Board of Directors to review and approve a Public Transportation Agency Safety Plan, then FTA proposes that the recipient or subrecipient must identify an ''Equivalent Authority'' as defined in today's proposal. For example, an ''Equivalent Authority'' could be the policy decision-maker/grant manager for a Section 5310, Section 5311, or small public transportation provider; the city council and/or city manager for a city; a county legislature for a county; or a State transportation commission for a State. Pursuant to 49 U.S.C. 5329(d)(1)(A), FTA proposes that each Public Transportation Agency Safety Plan, and subsequent updates, would be reviewed and approved by the Board of Directors (or Equivalent Authority).

Regarding the role of State Safety Oversight Agencies, it would be a conflict of interest for those oversight authorities to be involved in the development of the Public Transportation Agency Safety Plans that they are charged with overseeing. Consequently, FTA is not proposing that a State Safety Oversight Agency serve as an ''Equivalent Authority'' for purposes of this rule.

2. Chief Safety Officer

Comments: When asked what other responsibilities might be combined with the Safety Officer role, particularly in smaller operations where the same individual may function as the general manager, operations manager, and Safety Officer, many commenters acknowledged that the Safety Officer position could be combined with other complementary non-operational positions, but these commenters recommended that the Safety Officer position should not be combined with operational roles because the combined duties would create a conflict of interest. Many other commenters noted that small agencies do not have the resources to dedicate a single position to a Safety Officer role, and in some cases, combine operational, maintenance, and safety functions under a single individual. A few commenters stated that a Safety Officer very likely will serve many functions within small transit agencies, and these commenters believe that there are no conflicts of interest with this arrangement.

A few commenters suggested that a transit agency could combine the following responsibilities with the Safety Officer position: training, emergency preparedness and management, security, risk management (claims), quality assurance, and environmental management. One commenter also stated that FTA needs to be very diligent about codifying new requirements, and should consider a different set of rules for the 20 to 50 largest transit providers than for smaller operators nationwide.

Response: Pursuant to 49 U.S.C. 5329(d)(1)(F), a Public Transportation Agency Safety Plan must include the ''assignment of an adequately trained Safety Officer who reports directly to the general manager, president, or equivalent officer of the recipient.'' The intent for this direct reporting relationship is to ensure that safety matters are directly and routinely elevated from the most senior Safety Officer to the Accountable Executive.

FTA agrees that many smaller agencies may not have sufficient resources for a dedicated Safety Officer. In many cases, a transit agency's Safety Officer may serve several other functions, including those related to safety, operations, and maintenance. Consequently, FTA proposes that Section 5310, Section 5311, and small public transportation providers may assign an adequately trained Safety Officer to serve other agency functions. For example, it would be reasonable to anticipate that in a very small bus transit agency, the general manager or operations manager may be the same individual as the Safety Officer.

Notwithstanding this proposal for smaller transit providers, FTA believes that it is preferable for larger transit systems to have a Safety Officer who focuses exclusively on safety-related issues, so for rail fixed guideway systems and all other recipients, FTA proposes that the Safety Officer may not also serve in an operational or maintenance capacity, and that the Safety Officer must report directly to the chief executive officer, general manager, president, or other equivalent officer.

E. Coordination of Public Transportation Agency Safety Plan With Other MAP–21 Programs and Plans (Questions 8–10, 24, 116–121)

In the ANPRM, FTA discussed the statutory requirements regarding coordination of the Public Transportation Agency Safety Plan with the National Public Transportation Safety Plan at 49 U.S.C. 5329(b) and the Transit Asset Management System at 49 U.S.C. 5326. FTA also discussed the statutory requirements regarding coordination of the Public Transportation Agency Safety Plan with the planning requirements at 49 U.S.C. 5303 and 49 U.S.C. 5304. These provisions require Metropolitan Planning Organizations (MPOs) and States to coordinate the selection of their performance targets with the performance targets set by FTA recipients for safety and state of good repair.

Comments: Commenters generally opposed FTA issuing prescriptive criteria for safety, state of good repair, or statewide and metropolitan planning processes. To address the law's requirements, commenters generally encouraged FTA to allow transit agencies to establish their own safety and state of good repair definitions, and to allow transit agencies to develop their own performance measures in their Public Transportation Agency Safety Plans. Several commenters expressed the opinion that state of good repair considerations should only become relevant when safety issues are identified. These commenters generally recommended that FTA focus the Public Transportation Agency Safety Plan and SMS implementation on processes used to ensure the identification of these issues. Other commenters disputed the existence of a nexus or connection between state of good repair and safety. Several commenters pointed out that although safety is an important consideration in state of good repair, it is only one consideration, and existing processes and capabilities already account for safety issues in asset management and statewide/MPO planning processes.

Many commenters believed that FTA should not establish any other requirements for integrating Public Transportation Agency Safety Plans and Transit Asset Management Plan goals, measures, and targets into each other or the transportation planning process. Other commenters stated that FTA should not establish any requirements regarding coordination. Some commenters stated that the MPO Certification process is the most appropriate venue to ensure that Public Transportation Agency Safety Plan's and the Transit Asset Management Plan's goals, measures, and targets from individual transit systems are integrated into the metropolitan transportation planning process. A small group of commenters recommended that any FTA requirements be as general as possible and not undercut fundamental State and local prerogatives.

Response: FTA recognizes that safety is only one factor in the transit asset management and statewide and local planning processes, and likewise, that safety programs do not deal exclusively with asset condition and capital investments but rather touch on a wide variety of operational, engineering, and maintenance activities. While the connections between and among safety, transit asset management, and statewide and metropolitan planning may appear tenuous to some commenters, MAP–21 makes them a matter of law. Specifically, Congress authorized a new Transit Asset Management Program at 49 U.S.C. 5326 to establish a system to monitor, manage, and improve the state of good repair of the nation's public transportation capital assets. Further, in the enhanced requirements for Statewide and Metropolitan planning at 49 U.S.C. 5303(h)(2)(B)(iii) and 5304(d)(2)(B)(ii), respectively, Congress mandated that the performance targets set in the Metropolitan and Statewide Planning processes be ''coordinate[d] to the maximum extent practicable'' with transit agencies' performance targets for safety and asset management. In their entirety, the requirements of 49 U.S.C. 5329, 5326, 5303 and 5304 support one another and the coordination of national, State, and local efforts to improve transit safety and increase the reliability and performance of the nation's public transportation systems.

Pursuant to 49 U.S.C. 5329(b)(2)(B), FTA must develop and implement a National Public Transportation Safety Plan that includes safety performance criteria and the definition of state of good repair, which must be defined through a transit asset management rulemaking. 49 U.S.C. 5326(b)(1) and (d). Pursuant to 49 U.S.C. 5329(d)(1)(E), a Public Transportation Agency Safety Plan must include safety performance targets based on the safety performance criteria in the National Public Transportation Safety Plan and the state of good repair standards established under the National Transit Asset Management System. 49 U.S.C. 5329(b)(2), 49 U.S.C. 5326(b)(1).

Although not required in this proposed rule, pursuant to the planning requirements at 49 U.S.C. 5303 and 5304 and the proposed regulations thereunder at 23 CFR part 450 (see 79 FR 31784, June 2, 2014), States and MPOs must integrate into the Statewide and metropolitan planning processes the developed goals, objectives, performance measures, and targets described in the Public Transportation Agency Safety Plans and Transit Asset Management Plans, either directly or by reference. Further, in the Statewide Long Range Plans and Metropolitan Transportation Plans, States should and MPOs must (1) describe the safety and asset management performance measures and targets; (2) report on the condition of the transit systems with respect to the safety and asset management performance targets; and (3) report on the progress achieved in meeting the safety and asset management performance targets in comparison with the conditions reported in previous years. 49 U.S.C. 5303(i)(2)(B) and (C); 49 U.S.C. 5304(f)(7). States and MPOs also must coordinate in the selection of transit safety performance and state of good repair targets with the transit agencies to the maximum extent practicable. 49 U.S.C. 5303(h)(2)(B)(ii); 49 U.S.C. 5304(d)(2)(B)(ii). Finally, transportation improvement programs (TIPs) and statewide transportation improvement programs (STIPs) must include, to the maximum extent practicable, a discussion of the anticipated effects of the TIP or STIP toward achieving the safety and asset management performance targets, linking the safety and asset management investment priorities to those performance targets. 49 U.S.C. 5303(j)(2)(D); 49 U.S.C. 5304(g)(4).

The integration of a transit agency's safety and asset management performance targets into the State and MPO planning process would inform States and MPOs in the setting of their goals, objectives, and investment strategies for public transportation. This integrated planning process should result in States and MPOs being able to identify investment and management strategies to improve or preserve the safety of public transportation systems and the condition of transit capital assets.

In today's NPRM, FTA proposes in § 673.11(a)(3) that transit agencies must include in their Public Transportation Agency Safety Plans performance targets that are based on the safety performance criteria and state of good repair standards established by FTA under its National Public Transportation Safety Plan and the National Transit Asset Management System, respectively. In § 673.15, FTA proposes to require

transit agencies to coordinate with States and MPOs in the selection of State and MPO safety performance targets.

In addition, the development of safety performance criteria by FTA and safety performance targets by transit agencies support FTA's overall efforts to monitor the safety performance of the public transportation industry, in keeping with recommendations made by the U.S. Government Accountability Office in its January 2011 report, ''FTA Programs are Helping Address Transit Agencies' Safety Challenges, but Improved Performance Goals and Measures could Better Focus Efforts'' (*http://www.gao.gov/new.items/d11199.pdf*).

FTA is providing additional information regarding the coordination of Public Transportation Agency Safety Plans, the Public Transportation Safety Program, National Public Transportation Safety Plan, and Transit Asset Management Plans in separate NPRMs issued to implement the MAP–21 provisions codified at 49 U.S.C. 5329(b) and 5326, respectively. FTA and FHWA jointly issued an NPRM on June 2, 2014, that proposes new requirements for Metropolitan, Statewide and Non-Metropolitan Planning to implement the new MAP–21 provisions codified at 49 U.S.C. 5303 and 5304, and in the future, FTA and FHWA will issue a joint final rule to guide the new performance-based approach to planning. See 79 FR 31784.

Section-by-Section Analysis

Subpart A—General

§ 673.1 Applicability

This section explains that this regulation would apply to all States, local governmental authorities, and other operators of public transportation systems that are recipients of Federal financial assistance under 49 U.S.C. Chapter 53. In accordance with 49 U.S.C. 5329(d), a Public Transportation Agency Safety Plan would be required of all operators of public transportation systems, whereas in the past, a ''system safety program plan'' was only required of rail fixed guideway systems, currently codified in 49 CFR 659.17. This requirement would go into effect one year after the effective date of the final rule.

§ 673.3 Policy

This section explains that FTA proposes the use of principles and methods of SMS as the basis for this regulation and all other regulations and policies FTA will issue under the authority of 49 U.S.C. 5329, to the extent practicable and consistent with law and other applicable requirements (such as those for regulatory review). It further proposes FTA's intent to set standards for SMS that are flexible and can be tailored to the size and operating complexity of the recipient.

§ 673.5 Definitions

This section sets forth a number of proposed definitions, many of which are based on the principles and methods of SMS. For example, readers should refer to ''Accountable Executive,'' ''Hazard,'' ''Operator of a Public Transportation System,'' ''Safety Assurance,'' ''Safety Management System,'' ''Safety Management Policy,'' ''Safety Promotion,'' and ''Safety Risk Management.'' In recent years SMS has emerged as the preferable practice for enhancing safety in all modes of transportation, and the Secretary of Transportation instructed each of the Department's operating administrations to develop rules, plans, and programs to apply SMS to their grant recipients and regulated communities. See *http://www.fedeval.net/docs/2012Coplen_1.pdf.* Many of the definitions for applying the principles and methods of SMS in proposed § 673.5 are very similar to those set forth in the FAA's SMS regulation, titled ''Safety Management Systems for Domestic, Flag, and Supplemental Operations Certificate Holders,'' 14 CFR parts 5 and 119, 80 FR 1308, Jan. 8, 2015.

In addition, both the Administrator's May 13, 2013 Dear Colleague letter and a set of frequently asked questions about SMS are available on FTA's Web site at *http://www.fta.dot.gov/tso_15177.html.* Finally, FTA has provided its ''Safety Management Systems Framework,'' in Appendix A to FTA's State Safety Oversight NPRM. 80 FR 11002, Feb. 27, 2015 (*http://www.gpo.gov/fdsys/pkg/FR-2015-02-27/pdf/2015-03841.pdf*). FTA anticipates that it will be incorporating these same definitions for applying SMS to public transportation in its related rulemakings for the Public Transportation Safety Program and the Public Transportation Safety Certification Training Program.

FTA proposes to include a definition for ''Accountable Executive'' that identifies the person at a transit agency that has the responsibility and accountability for the implementation of SMS and control and direction of the Public Transportation Agency Safety Plan and the Transit Asset Management Plan. FTA proposes to include definitions for ''Safety Risk Management,'' ''Safety Risk,'' ''Safety Assurance,'' and ''Safety Management Policy,'' all key terms to the implementation of SMS.

This section also proposes a number of definitions for terms used repeatedly throughout the other safety programs authorized by 49 U.S.C. 5329. Some of these terms are included in FTA's proposed State Safety Oversight NPRM which was issued prior to this NPRM, but the wording of the definitions has been slightly changed in today's rulemaking for sake of clarity. FTA's intent is for all terms to have the same definition in all of its safety programs, and FTA will reconcile those terms in the appropriate rulemakings. Readers should refer, specifically, to the definitions of ''Accident,'' ''Event,'' ''Hazard,'' ''Incident,'' ''Investigation,'' ''Occurrence,'' and ''Transit Agency.''

Pursuant to 49 U.S.C. 5329(d)(3)(B), FTA must issue a rule that designates which 49 U.S.C. 5307 small public transportation providers may have States draft Public Transportation Agency Safety Plans on their behalf. This section proposes a definition for ''Small Public Transportation Provider'' (in accordance with 49 U.S.C. 5329(d)(3)(B)) as a Section 5307 recipient or subrecipient that does not operate rail fixed guideway service and operates 100 or fewer vehicles in revenue service.

New definitions are proposed for the terms ''National Public Transportation Safety Plan,'' ''Transit Asset Management Plan,'' and ''Equivalent Authority,'' all of which are consistent with the use of those terms in the statutes and FTA's related rulemakings on safety and transit asset management.

Subpart B—Public Transportation Agency Safety Plans

§ 673.11 General Requirements

This section proposes the minimum requirements for the elements to be included in a Public Transportation Agency Safety Plan. Pursuant to 49 U.S.C 5329(d)(1), this section proposes that each operator of public transportation that receives Federal financial assistance under 49 U.S.C. Chapter 53 must develop and certify a Public Transportation Agency Safety Plan. As provided by 49 U.S.C. 5329(d)(3)(A), § 673.11(d) proposes that a State must draft the Public Transportation Agency Safety Plan for 49 U.S.C. 5310 and 5311 providers, as well as for any small public transportation providers as defined in today's NPRM. A State is not required to develop a Public Transportation Agency Safety Plan for a particular transit agency that receives Federal financial assistance under 49 U.S.C. 5310, 49 U.S.C. 5311, or a small public transportation provider, if that agency

notifies the State that it will develop its own plan.

Section 673.11(a)(1) proposes that the Public Transportation Agency Safety Plan, and any updates, must be signed by the transit agency's designated Accountable Executive and be approved by the transit agency's Board of Directors, or equivalent entity. This proposal is consistent with the statutory requirement in 49 U.S.C. 5329(d)(1)(A) that a Board of Directors (or equivalent entity) approve the transit agency's safety plan. In short, under today's NPRM, accountability for the contents in the Public Transportation Agency Safety Plan is formally elevated to the Accountable Executive and Board of Directors. Section 673.11(a)(7) proposes that this occurs annually to a timeline established by the agency, or State, in accordance with 49 U.S.C. 5329(d)(1)(D).

Pursuant to 49 U.S.C. 5329(d)(1)(B), (C), (D), (E), (F), and (G), a transit agency must establish: Methods for identifying and evaluating safety risks throughout all elements of its public transportation system; strategies to minimize the exposure of the public, personnel, and property to hazards and unsafe conditions; a process and timeline for conducting an annual review and update of its safety plan; safety performance targets; a safety officer who reports directly to the general manager, president, or equivalent officer; and a comprehensive staff training program for the operations personnel and personnel directly responsible for safety. These statutory requirements fit into the four key pillars of SMS, as discussed in more detail above: Safety Management Policy, Safety Risk Management, Safety Assurance, and Safety Promotion. Consequently, FTA proposes to require each transit agency to develop and implement an SMS under § 673.11(a)(2); this SMS will satisfy the statutory requirements of 49 U.S.C. 5329(d)(1)(B), (C), (D), (E), (F), and (G). In this proposal, FTA recognizes that a Public Transportation Agency Safety Plan for a large, multi-modal, complex public transportation system most likely will be more complex than that of a very small bus operator. The scalability of SMS will allow transit agencies to develop safety plans that will meet the unique needs of their operating environments.

Proposed § 673.11(a)(3) explains that each Public Transportation Agency Safety Plan must include safety performance targets based on the safety performance criteria and state of good repair measures established by FTA in the National Public Transportation Safety Plan. In the National Public Transportation Safety Plan, FTA is proposing to adopt four initial safety performance criteria: (1) Fatalities, (2) Injuries, (3) Safety Events, and (4) System Reliability.[16] These safety performance criteria represent categories of measures that are intended to reduce safety events, fatalities, and injuries. These measures are broad so that they will be relevant to all public transportation modes, and they are intended to focus transit agencies on the development of specific and measureable targets, as well as the actions each agency would implement to improve their own safety outcomes. Through the SMS process, FTA expects transit agencies to develop their own performance indicators and regularly monitor the performance of their systems to ensure that they are meeting their targets and improving safety outcomes. FTA is proposing to adopt these measures through a separate notice and comment process, and FTA directs readers to that docket if readers are interested in submitting comments on the safety performance criteria. FTA expects transit agencies to evaluate their safety performances and determine whether they should change their safety performance targets at least annually when the transit agencies are reviewing and updating their Public Transportation Agency Safety Plans. A State or transit agency must make its safety performance targets available to States and Metropolitan Planning Organizations (MPO) to aid States and MPOs in the selection of their own performance targets.

Section 673.11(a)(4) proposes that a Public Transportation Agency Safety Plan must address any future standards or requirements, as applicable, set forth in FTA's Public Transportation Safety Program and FTA's National Public Transportation Safety Plan.

Section 673.11(a)(5) proposes that each transit agency must establish a process and timeline for conducting an annual review and update of its Public Transportation Agency Safety Plan.

Proposed § 673.11(a)(6) would require that each rail transit agency include, or incorporate by reference, in its Public Transportation Agency Safety Plan an emergency preparedness and response plan. FTA intends that each emergency preparedness and response plan would address, at a minimum: The assignment of employee responsibilities, as necessary and appropriate, during an emergency; the integration of responses to all hazards, as appropriate; and coordination with Federal, State, regional, and local officials with roles and responsibilities for emergency preparedness and response in the transit agency's service area. FTA understands that a transit agency may have developed an emergency preparedness and response plan that addresses these minimum requirements in accordance with regulations from other Federal and State agencies. Notably, FTA currently requires rail fixed guideway systems to have emergency preparedness plans through the State Safety Oversight Rule at 49 CFR 659.19(k). FTA intends to require rail transit systems to continue to implement the twenty-one elements of their system safety program plans as currently required under 49 CFR part 659; the pillars of SMS cover the remaining twenty elements. FTA has developed a crosswalk analysis between each of the twenty-one elements of system safety program plans and each of the elements of SMS. FTA is adding this crosswalk to the docket, and FTA is making the crosswalk available on its Web site at *http://fta.dot.gov/tso.html.*

FTA notes that there are safety models that include emergency preparedness as a key element. For example, FAA requires certain air carriers to have emergency preparedness plans. *See* 14 CFR 5.27. Additionally, FRA is proposing to require railroads to have emergency preparedness plans. *See* 77 FR 55403 (Sept. 7, 2012). Recent safety-related events have demonstrated the need for emergency preparedness plans in improving safety outcomes nationally.

In addition to the above general requirements, FTA would expect a transit agency to comply with all other applicable Federal, State, and local requirements, laws, regulations, and codes as they may relate to safety.[17]

Section 673.11(b) proposes that the Public Transportation Agency Safety Plan may include more than one mode of service. However, if a transit agency has a safety plan for its commuter rail service, passenger ferry service, or aviation service, then the transit agency may not use that plan for purposes of satisfying 49 CFR part 673; the transit agency must develop a separate Public Transportation Agency Safety Plan consistent with this part. FTA invites specific comment on how FTA could support the development of Public Transportation Agency Safety Plans for Transit Agencies of different sizes and modes.

Section 673.11(c) proposes that a transit agency must maintain its Public Transportation Agency Safety Plan in

[16] FTA may adopt additional performance criteria through future public comment processes.

[17] See FTA's State Safety Oversight Rule at 49 CFR 659.19(r) (2015).

accordance with the recordkeeping requirements of Subpart D of this Part.

Section 673.11(d) proposes that a State must draft and certify a Public Transportation Agency Safety Plan on behalf of any 49 U.S.C. 5310, 49 U.S.C. 5311, or small public transportation provider. A State is not required to draft a Public Transportation Agency Safety Plan if a 49 U.S.C. 5310, 49 U.S.C. 5311, or small public transportation provider notifies the State that it will draft its own plan. In either instance, the transit agency must carry out the plan.

If a State drafts and certifies a Public Transportation Agency Safety Plan on behalf of a transit agency, and the transit agency later opts to draft and certify its own Public Transportation Agency Safety Plan, then the transit agency would be required to notify the State, and the transit agency would have one year from the date of the notification to draft and certify a Public Transportation Agency Safety Plan that is compliant with this part.

Section 673.11(e) proposes that any rail fixed guideway system that had a system safety program plan, as per requirements set forth in 49 CFR part 659 as of October 1, 2012, may keep that plan in effect until one year after the effective date of the final rule.

§ 673.11(f) proposes that agencies that operate passenger ferries regulated by USCG or commuter rail service regulated by FRA are not required to develop agency safety plans for those modes of service.

§ 673.13 Certification of Compliance

Section 673.13(a) provides that not later than one year after the effective date of the final rule, each transit agency must certify its compliance with the requirements of this part. For transit agencies that receive Federal funding under 49 U.S.C. 5310, 49 U.S.C. 5311, and those identified as small public transportation providers under 49 U.S.C. 5307, a State must certify compliance unless the provider opts to draft and certify its own safety plan. In those cases where a State certifies compliance for 49 U.S.C. 5310, 49 U.S.C. 5311, or small public transportation provider under 49 U.S.C. 5307, this certification must also occur within one year after the effective date of the final rule.

In addition to certification, Public Transportation Agency Safety Plans that are developed by transit agencies with rail transit systems must also be reviewed and approved by the appropriate State Safety Oversight Agency as per the requirements set forth in 49 CFR part 659, and the future recodification of those requirements at 49 CFR part 674. In accordance with 49 U.S.C. 5329(e)(4)(iv), State Safety Oversight Agencies must have the authority to review, approve, oversee, and enforce the implementation of the Public Transportation Agency Safety Plans of transit agencies operating rail fixed guideway public transportation systems.

Section 673.13(b) requires that each transit agency or State certify compliance with part 673 on an annual basis.

§ 673.15 Coordination with Metropolitan, Statewide, and Non-Metropolitan Planning Processes

This section proposes to require a State or transit agency to make its safety performance targets available to States and Metropolitan Planning Organizations to aid in the planning process. This section also proposes to require, to the maximum extent practicable, a State or transit agency to coordinate with States and Metropolitan Planning Organizations in the selection of State and MPO safety performance targets.

Subpart C—Safety Management Systems

§ 673.21 General Requirements

This section outlines the SMS elements that each transit agency must establish in its Public Transportation Agency Safety Plan. Under today's NPRM, each transit agency would be required to implement an SMS; however, FTA would require that each transit agency would scale the SMS to the size, scope, and complexity of the transit agency's operations. Each transit agency would be required to establish its activities to include the four main pillars of SMS: (1) Safety Management Policy; (2) Safety Risk Management; (3) Safety Assurance; and (4) Safety Promotion. FTA expects that the scope and detail for each activity will vary based on the size and complexity of the system. FTA anticipates that activities, and documentation of those activities, for a small bus transit agency will be substantially less than those of a large multi-modal system. To help clarify SMS development and implementation, FTA intends to provide guidance to the industry, including templates designed to accommodate the variance in transit system mode, size and complexity.

§ 673.23 Safety Management Policy

Under proposed § 673.23(a), a transit agency would be required to establish the organizational accountabilities and responsibilities necessary for implementing SMS and capture these under the first component of SMS, Safety Management Policy. The success of a transit agency's SMS is dependent upon the commitment of the entire organization and begins with the highest levels of transit agency management. FTA expects that the level of detail for organizational accountabilities and responsibilities would be commensurate with the size and complexity of the transit agency.

The Safety Management Policy statement would contain the transit agency's safety objectives. These objectives would include a broad description of the agency's overarching safety goals, which would be based on that agency's unique needs. The Safety Management Policy statement also would include a reference to the agency's safety objectives and performance targets.

Under § 673.23(b), a transit agency would need to include in its Safety Management Policy statement a process that allows employees to report safety conditions to senior management. This process would provide protections for employees who report safety conditions to senior management and a description of behaviors that are unacceptable and that would not be exempt from disciplinary actions. This is a critical SMS element for ensuring safety. A reporting program allows employees who identify safety hazards and risks in the day-to-day duties to directly notify senior personnel, without fear of reprisal, so that the hazards and risks can be mitigated or eliminated. NTSB has emphasized the need for transit agencies to have confidential employee safety reporting programs,[18] and this need was discussed at length in NTSB's Investigate Hearing on the WMATA Smoke and Electrical Arcing Incident in Washington, DC on June 23 and 24, 2015.[19]

Section 673.23(c) proposes that the Safety Management Policy statement is communicated throughout the transit agency, as well as to the Board of Directors (or equivalent authority), and is made readily available to all employees of the transit agency and contractors.

[18] NTSB issued Safety Recommendation R–10/02 for the WMATA Metrorail train collision accident on June 22, 2009, found at: *http://www.ntsb.gov/investigations/AccidentReports/Reports/RAR1002.pdf*. Through this report, NTSB recommends that "FTA facilitate the development of non-punitive safety reporting programs at all transit agencies [in order] to collect reports from employees in all divisions within their agencies."

[19] See the NTSB's hearing materials at *http://www.ntsb.gov/news/events/Pages/2015_WMATA_Washington_DC_IHG_Agenda.aspx*. and *http://dms.ntsb.gov/pubdms/search/document.cfm?docID=432379&docketID=57383&mkey=90596*.

Section 673.23(d) proposes that the transit agency establish its accountabilities and responsibilities necessary to meet the established safety performance targets. In general, a transit agency would need to describe its organizational structure and the procedures it must adopt in order for it to meet its safety performance targets. A transit agency would describe the authorities, accountabilities, and responsibilities for safety management as they relate to the development and management of the transit agency's SMS. The level of detail in this section would be commensurate with the size and complexity of transit agency operations. At a minimum, a transit agency would need to identify an Accountable Executive, a Chief Safety Officer or SMS Executive, and agency leadership, executive management, and key staff who would be responsible for the implementation of a transit agency's safety plan.

§ 673.25 Safety Risk Management

Section 673.25(a) proposes that each transit agency establish and implement its process for managing safety risk, including the identification of hazards, analysis of hazards, evaluation of safety risk, and mitigation of safety risk, in all elements of its public transportation system, including changes to its public transportation system that may impact safety performance. At a minimum, FTA would expect a transit agency to apply its safety risk management process to the design of a new public transportation system, changes to its existing public transportation system, new operations of service to the public, new operations or maintenance procedures or organizational change, and changes to operations or maintenance procedures. Additionally, FTA would expect a transit agency to develop measures to ensure that safety principles, requirements, and representatives are included in the transit agency's procurement process.[20]

Section 673.25(b)(1) would require a transit agency to establish a process for hazard identification and analysis, including the identification of the sources, both proactive and reactive, for identifying hazards. Activities for hazard identification analysis could include formalized processes where a transit agency identifies hazards throughout its entire system, logs them into a database, performs risk analyses, and identifies mitigation measures. These activities also could include safety focus groups, reviews of safety reporting trends, and for smaller bus systems, it could mean sitting down with a few operators in a room, discussing hazards on the system, deciding which ones pose the greatest risk, and then developing mitigation.

A transit agency must apply its process for hazard identification and analysis to all aspects of its system, including but not limited to its operational activities, system expansions, and state of good repair activities. A transit agency should consider the results of its asset condition assessments while performing safety hazard identification activities within its SMS. The results of the condition assessments, and subsequent SMS analysis, will inform a transit agency's determination as to whether an asset meets the state of good repair standards under 49 CFR part 625.

Section 673.25(b)(2) would require a transit agency to include, as a source for hazard identification and analysis, data and information provided by an oversight authority and the FTA.

FTA proposes that hazard identification and analysis activities are commensurate with the size of the transit agency operations. For example, FTA would anticipate that the number of identified hazards for a small, rural bus system may be less than the number of hazards identified for a large, multi-modal system.

Section 673.25(c) proposes that a transit agency establish activities for the evaluation and prioritization of safety risks related to the potential consequences of hazards identified and analyzed in § 673.25(b). Transit agencies would need to evaluate safety risks in terms of both probability (the likelihood of the hazard producing the potential consequences) and severity (the damage, or the potential consequences of a hazard, that may be caused if the hazard is not eliminated or its consequences are not successfully mitigated).

A transit agency also would need to establish criteria for the development of safety risk mitigations that are necessary based on the results of the agency's safety risk evaluation. For example, a transit agency may decide that the criteria for developing safety risk mitigations could be the identification of a safety risk, benefit-cost analysis, a system level change (such as the addition of new technology on a vehicle), a change to operational procedures, or the expansion of service. To further illustrate these examples, a transit agency may color code different levels of safety risk (''red'' as high, ''yellow'' as medium, and ''green'' as minor) and develop different types of safety risk mitigations to correspond to those levels.

§ 673.27 Safety Assurance

Section 673.27(a) proposes that a transit agency develop and implement safety assurance activities that include safety performance monitoring and measurement and continuous improvement. FTA would expect that a transit agency's safety assurance activities would be scaled to the size and complexity of its operations, with the objective being that a transit agency can accurately determine whether or not it is meeting its safety objectives and safety performance targets, as well as the extent to which its SMS is being implemented effectively.

Each transit agency would be required to conduct an annual review of its safety risk mitigations. FTA anticipates that each transit agency would identify those safety risk mitigations that should be reviewed each year to ensure they are still effective.

In § 673.27(b), FTA proposes that a transit agency identify the data and information that it must collect from its operations, maintenance, and public transportation services so that it may monitor the agency's safety performance as well as the effectiveness of its SMS. Under this section, a transit agency would be responsible for the ongoing monitoring of its operations and maintenance protocols and procedures, and any safety risk mitigations, to assure that they are being implemented as planned.

This section proposes that a transit agency investigate safety events (as defined in this NPRM) and any reports from non-compliance with applicable regulations, standards, and applicable legal authority. Finally, the section would require the continuous monitoring of information reported through the employee safety reporting program.

In § 673.27(c), a transit agency would be required to manage changes in its system. A transit agency would be required to develop a process for identifying and assessing changes that may introduce new hazards or impact the transit agency's safety performance. If a transit agency determines that a change might impact safety, then the transit agency would need to evaluate the change using Safety Risk Management activities established under § 673.25.

In § 673.27(d), a transit agency would be required to regularly assess its safety performance. If a transit agency identifies any deficiencies during a safety performance assessment, it would be required to develop and carry out,

[20] See FTA's State Safety Oversight Rule at 49 CFR 659.19(u).

under the direction of the Accountable Executive, a plan to address the identified safety deficiencies. FTA would expect a transit agency to conduct a safety performance assessment at least annually, and the safety performance assessment can be completed in conjunction with the annual review and update to its overall safety plan in § 673.11(a)(5).

§ 673.29 Safety Promotion

This section proposes that a transit agency establish competencies and training for all agency employees directly responsible for the management of safety, and establish and maintain the means for communicating safety performance and SMS information. Section 673.29(a) would require a transit agency to establish a comprehensive safety training program. Through the safety training programs, a transit agency would require each employee, as applicable, to complete training to enable the person to meet his or her role and responsibilities for safety management, and to complete refresher training, as necessary, to stay current with the agency's safety management practices and procedures.

Section 673.29(b) would require a transit agency to ensure that all employees are aware of any policies, activities, and procedures that are related to their role and safety management responsibilities. Safety communications would include information on hazards and safety risks that are relevant to the employee's role and responsibilities; explain reasons that a transit agency introduces or changes policies, activities or procedures; and communicates to an employee when actions are taken in response to reports submitted by the employee through an employee safety reporting program. FTA expects that each transit agency would define the means and mechanisms for effective safety communication based on their organization, structure, and size of operations.

Subpart D—Safety Plan Documentation and Recordkeeping

§ 673.31 Safety Plan Documentation

This section proposes that transit agencies keep records of their documents that meet the requirements of this part. FTA would expect a transit agency to maintain documents that set forth its Public Transportation Agency Safety Plan, including those related to the implementation of its SMS, such as results from SMS processes and activities. For the purpose of reviews, investigations, audits, or other purposes, the section proposes that these documents be made available to FTA, State Safety Oversight Agencies in the case of rail transit systems, and other Federal agencies as appropriate. A transit agency would be required to maintain any of these documents for a minimum of three years.

§ 673.33 Safety Plan Records

This section proposes that, in addition to the documents indicated above, a transit agency must maintain, at a minimum, the following records: safety risk mitigations, results from a transit agency's safety performance assessment, and records of employee safety training. FTA anticipates that the amount of records maintained by each transit agency would vary based on the agency's size and complexity. For example, it is reasonable to expect that a smaller agency would have fewer safety risk mitigations and employee training records to maintain, whereas a large transit agency may have a robust safety management information system to track and monitor its safety risk mitigations, and perhaps another system dedicated to tracking employee safety training. For safety performance monitoring and measurement, the section proposes that the transit agency maintain documentation that it would use to determine how well it is meeting its safety objectives and safety performance targets, as well as safety performance indicators used to determine the effectiveness of SMS implementation.

V. Regulatory Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and USDOT Regulatory Policies and Procedures

Executive Orders and 12866 and 13563 direct agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); tailor its regulations to impose the least burden on society; assess all costs and benefits of available regulatory alternatives; and, if regulation is necessary, to select regulatory approaches that maximizes net benefits—including potential economic, environmental, public health, and safety effects, distributive impacts, and equity. Executive Order 13563 also emphasizes the importance of harmonizing rules and promoting flexibility.

This proposed rule has been drafted and reviewed in accordance with the principles set forth in Executive Orders 12866 and 13563. FTA has determined that this proposed rule likely is ''economically significant'' under Executive Order 12866, in that it may lead to transit agencies making investment and prioritization decisions related to mitigation of safety risks that would result in economic impacts that could exceed $100 million in a year. However, as discussed in greater detail below, FTA was unable to quantify the potential impacts of this rule beyond the costs for transit agencies to develop and implement Public Transportation Agency Safety Plans. FTA was able to estimate costs of approximately $86 million in the first year, and $70 million per year thereafter. These costs result from developing and certifying safety plans, documenting the SMS approach, implementing SMS, and associated recordkeeping. The estimated costs do not include the costs of actions that transit agencies would be required to take to mitigate risk as a result of implementing this rule, such as vehicle modifications, additional training, technology investments, or changes to operating procedures. The annualized cost of proposed requirements is estimated to be approximately $71 million. FTA requests comment on any information that could assist in quantifying the costs, benefits, and transfers associated with this rulemaking.

FTA has placed in the docket a Regulatory Impact Analysis (RIA) that analyzes the benefits and costs of the proposed regulatory changes in accordance with Executive Orders 12866 and 13563, and United States Department of Transportation (USDOT) policy.

FTA also conducted this analysis to satisfy the statutory requirement at 49 U.S.C. 5329(h)(1) that it take into consideration the costs and benefits related to each action that it takes under 49 U.S.C. 5329, including this proposed rule.

The proposed rule would require all operators of public transportation systems that receive Federal financial assistance under 49 U.S.C. Chapter 53 to develop and implement Public Transportation Safety Plans as required by Section 20021 of the Moving Ahead for Progress in the 21st Century Act (MAP–21), now codified at 49 U.S.C. 5329, using the SMS approach.

SMS is a flexible, scalable approach to safety that has been widely adopted across multiple modes of transportation in both the public and private sectors. It employs a systematic, data-driven approach in which risks to safety are identified, then controlled or mitigated to acceptable levels. SMS brings

business-like methods and principles to safety, similar to the ways in which an organization manages its finances, through safety plans, with targets and performance indicators, and continuous monitoring of safety performance throughout an organization.

In addition to responding to the specific legislative mandate, the proposed rule responds to National Transportation Safety Board (NTSB) recommendations about expanding the use of SMS to reduce the risks of transit crashes. From 2004 to 2013, NTSB reported on nine transit accidents that, collectively, resulted in 15 fatalities, 297 injuries, and over $30 million in property damages. Although transit systems have historically been among the safest means of surface transportation, the transit industry is facing increased pressures at a time when ridership is growing, infrastructure is aging, and large numbers of the workforce are retiring. During that same 2004–2013 time period, transit agencies reported over 40,000 incidents, more than 2,000 fatalities, and over 76,000 injuries to FTA's National Transit Database.

This RIA provides quantitative estimates of the expected compliance costs associated with the proposed rule. Costs for transit agencies were estimated based on the staff labor costs associated with implementing the requirements of the proposed rule, with adjustments for agency size and for agencies' existing level of maturity with SMS approaches. Three main cost areas were estimated: (1) Developing and certifying safety plans; (2) implementing and documenting the SMS approach; and (3) associated recordkeeping. Staff time was monetized using data on wage rates and benefits in the transit industry. Over the 20-year analysis period, total costs are estimated at $752 million in present value (using a 7% discount rate), or the equivalent of $71 million per year.

As previously stated, FTA was unable to estimate the cost of actions that agencies would take to mitigate or eliminate safety problems identified through implementation of their safety plans. This is because FTA is unaware of information sources or methods to predict with sufficient confidence the number or type of safety problems agencies will identify through implementation of their safety plans, or the number, type, and cost of actions that agencies will take to address such problems. For similar reasons, FTA also is unable to estimate the benefits of these actions. FTA seeks information from the public for analyzing the benefits and costs of actions by agencies to mitigate or eliminate safety problems such as the number, types, benefits, and costs of such actions.

With respect to State and MPO performance target setting, FTA forecasted benefits based on the estimated impact of the SMS approach on reducing transit crashes and their associated societal costs, including fatal and non-fatal injuries, property damage, and other costs. Safety benefits were calculated for both bus and rail modes. However, since the rail agencies are subject to additional safety rules, analysis also was undertaken excluding the rail modes. Benefits were monetized using information on transit crash costs, including direct costs and USDOT-standard statistical values for fatality and injury prevention. Although many other sectors report reductions in safety incident after adopting SMS, it is not possible to transfer that experience to the transit industry due to the differences in organizational structures and practices.

FTA could not estimate the benefits of this proposed rule. To estimate safety benefits, one would need to understand the exact causes of the accidents and the factors that may cause future accidents. This information is generally unknown in this sector, given the infrequency and diversity of the type of safety incidents that occur. Instead, FTA conducted a breakeven analysis that compares the costs that FTA was able to estimate (absent the cost of mitigations) to a pool of potential safety benefits. The pool of safety benefits is an estimate of the cost of bus and rail incidents over a future 20-year period. The estimate is an extrapolation based on the cost of bus and rail incidents that occurred from 2010 to 2014.

As the table below shows, the amount of incident reduction needed to breakeven with the costs of the proposed rule that were estimated is low. However, benefits of SMS primarily will result from mitigating actions. As previously stated, the benefits and costs of such actions are not accounted for in this analysis. FTA has not estimated the benefits of implementing SMS without mitigating actions, but expects such benefits are unlikely to be large. Estimated costs for the Public Transportation Agency Safety Plans include certain activities that likely will yield safety improvements, such as improved communication, identification of hazards, and greater employee awareness. It is plausible that these changes alone could produce accident reductions that surpass estimated costs.

This analysis assumes that benefits are realized from reducing both rail and bus incidents after adjusting for the estimated breakeven threshold for the proposed State Safety Oversight and Safety Training Rules (RINs 2132–AB19 and 2132–AB25 respectively), to which the rail agencies also will be subject when finalized.

Under the performance management framework established by MAP–21, States, MPOs, and transit providers must establish targets in key national performance areas to document expectations for future performance. Pursuant to 49 U.S.C. 5303(h)(2)(B)(ii) and 5304(d)(2)(B)(ii), States and MPOs must coordinate the selection of their performance targets, to the maximum extent practicable, with performance targets set by transit providers under 49 U.S.C. 5326 (transit asset management) and 49 U.S.C. 5329 (safety), to ensure consistency.

In the joint FTA and FHWA Planning NPRM, both agencies indicated that their performance-related rules would implement the basic elements of a performance management framework, including the establishment of measures and associated target setting. Because the performance-related rules implement these elements and the difficulty in estimating costs of target setting associated with unknown measures, the joint FTA and FHWA Planning NPRM did not assess these costs. Rather, FTA and FHWA proposed that the costs associated with target setting at every level would be captured in each agency's respective ''performance management'' rules. For example, FHWA's second performance management rule NPRM, published after the joint FTA and FHWA Planning NPRM, assumes that the incremental costs to States and MPOs for establishing performance targets reflect the incremental wage costs for an operations manager and a statistician to analyze performance-related data.

The RIA that accompanied the joint FTA and FHWA Planning Final Rule captured the costs of the effort by States, MPOs, and transit providers to coordinate in the setting of State and MPO transit performance targets for state of good repair and safety. FTA believes that the cost to MPOs and States to set transit performance targets is included within the costs of coordination. FTA requests comments on this point. Will there be any additional costs for States and MPOs in target setting beyond the coordination costs included in the planning rule? If so, what would those costs be? To the extent that responses to these questions cause the agency to adjust any of its cost assumptions, those changes will be reflected in the final rule and any related information collections.

A summary of the benefits and costs of this proposed rule is provided in Table 3 below, which also is included in Table 1 above.

TABLE 3—REDUCTION IN COST OF BUS AND RAIL INCIDENTS NEEDED TO BREAKEVEN WITH ESTIMATED COSTS [21]

	Current Dollar value	7% Discounted value	3% Discounted value
Bus Incidents (20-Year Estimate)	$86,999,489,120	$40,894,178,605	$58,084,884,054.
Rail Incidents (20-Year Estimate)	$37,680,410,444	$17,711,706,703	$25,157,185,334.
Total Pool of Benefits (20-Year Estimate)	$124,679,899,564	$58,605,885,309	$83,242,069,388.
Estimated Costs (20-Year Estimate)	$1,407,680,883	$752,319,890	$1,050,876,643.
Benefits and Costs of Mitigating Actions	Not Estimated	Not Estimated	Not Estimated.
Estimated Cost (Annualized)		$71,013,675	$70,635,417.
Breakeven Threshold Including Bus and Rail		1.28%	1.26%.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), FTA has evaluated the effects of this proposed rule on small entities and has determined that the proposed rule will not have a significant economic impact on a substantial number of small entities.

The proposed rule would affect roughly 2,125 small entities, most of which are small government entities and small non-profit organizations that operate public transportation systems in non-urbanized areas. Compliance costs will vary according to agency size and complexity, the extent of current SMS practices, and the extent of current asset management practices. Costs are illustrated by an example calculation for a small operator of a public transportation system that receives Formula Grants for Rural Areas under 49 U.S.C. 5311, for which compliance costs range from an average of $12,000 per Section 5310 agency, to roughly $31,000 per small Section 5307 agency (these estimates exclude the cost of mitigating actions). For the sake of comparison, while transit agency operations budgets vary significantly, the average for small Section 5307 agencies is around $6.3 million per year, and Section 5311 agencies average $1 million per year. Thus, the estimated costs of the rule are around 0.5% to 1.5% of agency budgets. FTA proposes to mitigate the costs for smaller operators of public transportation systems by requiring the States in which they are located to draft and certify Public Transportation Agency Safety Plans on their behalf, unless the operator chooses to develop and certify its own plan. Additionally, to mitigate the costs for smaller operators of public transportation systems, FTA is proposing to adopt the SMS approach to safety, which is scalable and tailored for the specific needs of a particular transit agency.

Overall, while the proposed rule would affect a substantial number of small entities, these impacts would not be significant due to the low magnitude of the costs. Moreover, FTA has designed the proposed rule to allow flexibility for small entities. FTA is providing additional analysis of the Regulatory Flexibility Act's application to this proposed rule in Regulatory Impact Analysis posted to the docket.

Unfunded Mandates Reform Act of 1995

This proposed rule will not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48; codified at 2 U.S.C. 1501 *et seq.*).

Pursuant to 2 U.S.C. 1501(8), one of the purposes of the Unfunded Mandates Reform Act is to consider ''the effect of . . . Federal statutes and regulations that impose Federal intergovernmental mandates.'' The term ''Federal intergovernmental mandate'' is defined at 2 U.S.C. 658(5)(A)(i) to mean ''any provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, except . . . a condition of Federal assistance.''

Given the fact that FTA's authorizing statute at 49 U.S.C. 5329(d) makes the development and implementation of Public Transportation Agency Safety Plans a condition of FTA Federal financial assistance, and given that FTA is proposing to require transit agencies to annually certify that they have safety plans consistent with this rule as a condition of that Federal financial assistance, this proposed rule will not impose unfunded mandates.

Executive Order 13132 (Federalism)

This final rule has been analyzed in accordance with the principles and criteria established by Executive Order 13132, and FTA has determined that this proposed rule will not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. FTA has also determined that this proposed rule will not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

The regulations effectuating Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed rule.

Paperwork Reduction Act (PRA)

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. *et seq.*) (PRA), and the White House Office of Management and Budget's (OMB) implementing regulation at 5 CFR 1320.8(d), FTA is seeking approval from OMB for the Information Collection Request abstracted below. FTA acknowledges that this NPRM entails the collection of information to implement the Public Transportation Agency Safety Plan requirements of 49 U.S.C. 5329(d). Specifically, an operator of a public transportation system would do the following: (1) Develop and certify a Public Transportation Agency Safety Plan; (2) implement and document the SMS approach; and (3) associated recordkeeping.

FTA seeks public comment to evaluate whether the proposed collection of information is necessary for the proper performance of FTA's functions, including whether the information will have practical utility; whether the estimation of the burden of the proposed information collection is accurate, including the validity of the methodologies and assumptions used; ways in which the quality, utility, and clarity of the information can be enhanced; and whether the burden can be minimized, including through the use of automated collection techniques

[21] The costs and breakeven threshold in this table do not account for actions by agencies to mitigate or eliminate safety risks identified through implementation of their safety plans other than those mitigation actions prescribed in the rule, such as training.

or other forms of information technology.

Readers should note that the information collection would be specific to each operator of a public transportation system in an effort to facilitate and record the operator's safety responsibilities and activities. The paperwork burden for each operator of a public transportation system would be proportionate to the size and complexity of its operations. For example, an operator of both a rail fixed guideway system and a bus system may need to generate more documentation than an operator of a bus system only.

Also, readers should note that FTA already requires rail fixed guideway public transportation systems to develop System Safety Program Plans and System Security Plans in accordance with the requirements of 49 CFR part 659. FTA collects information from States and State Safety Oversight Agencies regarding these plans, and FTA anticipates that operators of rail fixed guideway systems will utilize some of this documentation for purposes of developing Public Transportation Agency Safety Plans. Please see FTA's currently approved collection, 2132–0558, available at *http://www.reginfo.gov/public/do/PRAMain.*

Type of Collection: Operators of public transportation systems.

Type of Review: OMB Clearance. New Information Collection Request.

Summary of the Collection: The information collection includes (1) the development and certification of a Public Transportation Agency Safety Plan; (2) the implementation and documentation of the SMS approach; and (3) associated recordkeeping.

Need for and Expected Use of the Information to be Collected: Collection of information for this program is necessary to ensure that operators of public transportation systems are performing their safety responsibilities and activities required by law at 49 U.S.C. 5329(d). Without the Public Transportation Agency Safety Plan reporting requirements, FTA would be unable to determine each State's compliance with 49 U.S.C. 5329(d).

Respondents: Respondents include operators of public transportation as defined under 49 U.S.C. 5302(14), which do not provide service that is closed to the general public and only available for a particular clientele. The total number of respondents is 561. This figure includes 242 respondents that are States, rail fixed guideway systems that receive Urbanized Area Formula Program funds under 49 U.S.C. 5307, and large bus systems that receive Urbanized Area Formula Program funds under 49 U.S.C. 5307. This figure also includes 319 respondents that would have their Public Transportation Agency Safety Plans drafted and certified by the State in which they are located, including small public transportation providers that receive Urbanized Area Formula Program funds under 49 U.S.C. 5307, operate one hundred or fewer vehicles in revenue service, and do not operate rail fixed guideway service; recipients of Formula Grants for Rural areas under 49 U.S.C. 5311; and operators of public transportation systems that receive Formula Grants for the Enhanced Mobility of Senior and Individuals with Disabilities under 49 U.S.C. 5310.

Frequency: Annual.

Estimated Total Annual Burden of Costs and Hours on Respondents:

TIER I RESPONDENTS (OPERATING OVER 100 VEHICLES AND RAIL FIXED GUIDEWAY SERVICE)

[Total annualized burden hours and costs [22]]

Agency type	Agency safety plan item	Number of respondents	Annual burden hours per respondent	Total annual burden hours	Total annual cost ($)
States	Development/Certification	55	111	6,082	210,010
	Implementation/Documentation	55	0	0	0
	Recordkeeping	55	0	0	0
5307 Rail	Development/Certification	60	48	2,862	255,660
	Implementation/Documentation	60	699	41,956	3,893,019
	Recordkeeping	60	238	14,274	2,051,779
5307 Large Bus	Development/Certification	127	48	6,123	583,332
	Implementation/Documentation	127	771	97,943	6,856,950
	Recordkeeping	127	232	29,520	3,290,570
Total Tier I		242	821	198,760	17,141,321

TIER II RESPONDENTS (OPERATING 100 OR FEWER VEHICLES AND NO RAIL FIXED GUIDEWAY SERVICE)

[Total Annualized burden hours and costs [23]]

Agency type	Agency safety plan item	Number of respondents	Annual burden hours per respondent	Total annual burden hours	Total annual cost ($)
5307 Small Bus	Development/Certification	94	19	1,773	$170,092
	Implementation/Documentation	625	355	221,601	11,724,615
	Recordkeeping	625	242	150,938	8,714,824
5311 Bus	Development/Certification	195	14	2,767	265,343
	Implementation/Documentation	1300	279	362,875	19,199,240
	Recordkeeping	1300	190	247,163	14,270,660
5310 Bus	Development/Certification	30	11	319	30,617
	Implementation/Documentation	200	227	45,463	2,405,367
	Recordkeeping	200	21	4,129	238,386

[22] The total annual cost includes labor and non-labor costs for travel and information technology.

TIER II RESPONDENTS (OPERATING 100 OR FEWER VEHICLES AND NO RAIL FIXED GUIDEWAY SERVICE)—Continued

[Total Annualized burden hours and costs [23]]

Agency type	Agency safety plan item	Number of respondents	Annual burden hours per respondent	Total annual burden hours	Total annual cost ($)
Total Tier II	.....	2125	488	1,037,026	57,019,144

The total PRA cost of the rule would be approximately $74.2 million per year averaged over the first three years and $31,110 per respondent per year on average.

National Environmental Policy Act

The National EnvironmentalPolicy Act of 1969 (42 U.S.C. 4321 *et seq.*), requires Federal agencies to analyze the potential environmental effects of their proposed actions either through a Categorical Exclusion, an Environmental Assessment, or an Environmental Impact Statement. This proposed rule is categorically excluded under FTA's NEPA implementing regulations at 23 CFR 771.118(c)(4), which covers planning and administrative activities that do not involve or lead directly to construction, such as the promulgation of rules, regulations, directives, and program guidance. FTA has determined that no unusual circumstances exist and that this Categorical Exclusion is applicable.

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations)

Executive Order 12898 directs every Federal agency to make environmental justice part of its mission by identifying and addressing the effects of all programs, policies, and activities on minority populations and low-income populations. The DOT's environmental justice initiatives accomplish this goal by involving the potentially affected public in developing transportation projects that fit harmoniously within their communities without sacrificing safety or mobility. FTA has developed a program circular addressing environmental justice in transit projects, Circular 4703.1, *Environmental Justice Policy Guidance for Federal Transit Administration Recipients.* The Circular is designed to provide a framework to assist recipients as they integrate principles of environmental justice into their transit decision-making process. The Circular contains recommendations for State DOTs, MPOs, and transit providers on (1) how to fully engage environmental justice populations in the transportation decision-making process; (2) how to determine whether environmental justice populations would be subjected to disproportionately high and adverse human health or environmental effects of a public transportation project, policy, or activity; and (3) how to avoid, minimize, or mitigate these effects. This proposed rule will not cause adverse environmental impacts, and as a result, minority populations and low-income populations will not be disproportionately impacted.

Executive Order 12630 (Taking of Private Property)

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

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

FTA has analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. FTA certifies that this proposed rule will not cause an environmental risk to health or safety that may disproportionately affect children.

Executive Order 13175 (Tribal Consultation)

FTA has analyzed this proposed rule under Executive Order 13175 (Nov. 6, 2000), and has determined that it will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal laws. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

FTA has analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). FTA has determined that this proposed rule is not a significant energy action under that Executive Order because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

Privacy Act

Any individual is able to search the electronic form of all comments received on any FTA docket by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review USDOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Statutory/Legal Authority for This Rulemaking

This rulemaking is issued under the authority of section 20021 of MAP–21, which requires public transportation agencies to develop and implement comprehensive safety plans. This authority was reauthorized under the FAST Act. The authority is codified at 49 U.S.C. 5329(d).

Regulation Identification Number

A RIN is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN set forth in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 673

Mass transportation, Safety.

Public Transportation Agency Safety Plan

Issued in Washington, DC, under authority delegated in 49 CFR 1.91.

Therese McMillan,

Acting Administrator.

For the reasons set forth in the preamble, and under the authority of 49

[23] The total annual cost includes labor and non-labor costs for travel and information technology.

U.S.C. 5329(d), 5334, and the delegations of authority at 49 CFR 1.91, FTA hereby proposes to amend Chapter VI of Title 49, Code of Federal Regulations by adding part 673 to read as follows:

Title 49—Transportation

PART 673—PUBLIC TRANSPORTATION AGENCY SAFETY PLANS

Subpart A—General

Sec.
673.1 Applicability
673.3 Policy
673.5 Definitions

Subpart B—Safety Plans

673.11 General requirements
673.13 Certification of compliance
673.15 Coordination with metropolitan, statewide, and non-metropolitan planning processes

Subpart C—Safety Management Systems

673.21 General requirements
673.23 Safety management policy
673.25 Safety Risk Management
673.27 Safety assurance
673.29 Safety promotion

Subpart D—Safety Plan Documentation and Recordkeeping

673.31 Safety plan documentation
673.33 Safety plan records

Authority: 49 U.S.C. 5329(d), 5334; 49 CFR 1.91.

Subpart A—General

§ 673.1 Applicability.

This part applies to any State, local governmental authority, and any other operator of a public transportation system that receives Federal financial assistance under 49 U.S.C. Chapter 53.

§ 673.3 Policy.

The Federal Transit Administration (FTA) has adopted the principles and methods of Safety Management Systems (SMS) as the basis for enhancing the safety of public transportation in the United States. All rules, regulations, policies, guidance, best practices, and technical assistance administered under FTA's safety authority will, to the extent practicable and consistent with legal and other applicable requirements, follow the principles and methods of SMS. This part sets standards for the Public Transportation Agency Safety Plan, which will be responsive to FTA's Public Transportation Safety Program, and reflect the specific safety objectives, standards, and priorities of each transit agency. Each Public Transportation Agency Safety Plan will incorporate SMS principles and methods tailored to the size, complexity, and scope of the public transportation system and the environment in which it operates.

§ 673.5 Definitions.

As used in this part:

Accident means an Event that involves any of the following: A loss of life; a report of a serious injury to a person; a collision of public transportation vehicles; a runaway train; an evacuation for life safety reasons; or any derailment of a rail transit vehicle, at any location, at any time, whatever the cause.

Accountable Executive means a single, identifiable person who has ultimate responsibility and accountability for the implementation and maintenance of the Safety Management System of a public transportation agency; responsibility for carrying out the agency's Transit Asset Management Plan; and control or direction over the human and capital resources needed to develop and maintain both the agency's Public Transportation Agency Safety Plan, in accordance with 49 U.S.C. 5329(d), and the agency's Transit Asset Management Plan in accordance with 49 U.S.C. 5326.

Chief Safety Officer means an adequately trained individual who has responsibility for safety and reports directly to a transit agency's chief executive officer, general manager, president, or equivalent officer. A Chief Safety Officer may not serve in other operational or maintenance capacities, unless the Chief Safety Officer is employed by a transit agency that is a small public transportation provider as defined in this part, or a public transportation provider that does not operate a rail fixed guideway public transportation system.

Equivalent Authority means an entity that carries out duties similar to that of a Board of Directors, for a recipient or subrecipient of FTA funds under 49 U.S.C. Chapter 53, including sufficient authority to review and approve a recipient or subrecipient's Public Transportation Agency Safety Plan.

Event means any Accident, Incident, or Occurrence.

FTA means the Federal Transit Administration, an operating administration within the United States Department of Transportation.

Hazard means any real or potential condition that can cause injury, illness, or death; damage to or loss of the facilities, equipment, rolling stock, or infrastructure of a public transportation system; or damage to the environment.

Incident means an event that involves any of the following: a personal injury that is not a serious injury; one or more injuries requiring medical transport; or damage to facilities, equipment, rolling stock, or infrastructure that disrupts the operations of a transit agency.

Investigation means the process of determining the causal and contributing factors of an accident, incident, or hazard, for the purpose of preventing recurrence and mitigating risk.

National Public Transportation Safety Plan means the plan to improve the safety of all public transportation systems that receive Federal financial assistance under 49 U.S.C. Chapter 53.

Occurrence means an Event without any personal injury in which any damage to facilities, equipment, rolling stock, or infrastructure does not disrupt the operations of a transit agency.

Operator of a public transportation system means a provider of public transportation as defined under 49 U.S.C. 5302(14), and which does not provide service that is closed to the general public and only available for a particular clientele.

Performance criteria means categories of measures indicating the level of safe performance within a transit agency.

Performance target means a specific level of performance for a given performance measure over a specified timeframe.

Public Transportation Agency Safety Plan means the documented comprehensive agency safety plan for a transit agency that is required by 49 U.S.C. 5329 and this part.

Rail transit agency means any entity that provides services on a rail fixed guideway public transportation system.

Risk mitigation means a method or methods to eliminate or reduce the effects of hazards.

Safety Assurance means processes within a transit agency's Safety Management System that functions to ensure the implementation and effectiveness of safety risk mitigation, and to ensure that the transit agency meets or exceeds its safety objectives through the collection, analysis, and assessment of information.

Safety Management Policy means a transit agency's documented commitment to safety, which defines the transit agency's safety objectives and the accountabilities and responsibilities of its employees in regard to safety.

Safety Management System (SMS) means the formal, top-down, organization-wide approach to managing safety risk and assuring the effectiveness of a transit agency's safety risk mitigation. SMS includes systematic procedures, practices, and policies for managing risks and hazards.

Safety Management System (SMS) Executive means a Safety Officer or an equivalent.

Safety performance target means a Performance Target related to safety management activities.

Safety Promotion means a combination of training and communication of safety information to support SMS as applied to the transit agency's public transportation system.

Safety risk means the assessed probability and severity of the potential consequence(s) of a hazard, using as reference the worst foreseeable, but credible, outcome.

Safety risk evaluation means the formal activity whereby a transit agency determines Safety Risk Management priorities by establishing the significance or value of its safety risks.

Safety Risk Management means a process within a transit agency's Safety Management System for identifying hazards and analyzing, assessing, and mitigating safety risk.

Serious injury means any injury which:

(1) Requires hospitalization for more than 48 hours, commencing within 7 days from the date of the injury was received;

(2) Results in a fracture of any bone (except simple fractures of fingers, toes, or noses);

(3) Causes severe hemorrhages, nerve, muscle, or tendon damage;

(4) Involves any internal organ; or

(5) Involves second- or third-degree burns, or any burns affecting more than 5 percent of the body surface.

Small public transportation provider means a recipient or subrecipient of Urbanized Area Formula Program funds under 49 U.S.C. 5307 that has one hundred (100) or fewer vehicles in revenue service and does not operate a rail fixed-guideway public transportation system.

State means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

State of Good Repair means the condition in which a capital asset is able to operate at a full level of performance.

State Safety Oversight Agency means an agency established by a State that meets the requirements and performs the functions specified by 49 U.S.C. 5329(e) and the regulations set forth in 49 CFR part 674.

Transit agency means an operator of a public transportation system that receives Federal financial assistance under 49 U.S.C. Chapter 53.

Transit Asset Management Plan means a plan developed by a recipient or Group Plan pursuant to 49 CFR part 625 that includes, at minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization.

Subpart B—Safety Plans

§ 673.11 General requirements.

(a) A transit agency must within one calendar year after publication of the final rule, establish a Public Transportation Agency Safety Plan that meets the requirements of this part and, at a minimum, consists of the following elements:

(1) The Public Transportation Agency Safety Plan, and subsequent updates, must be signed by the Accountable Executive and approved by the agency's Board of Directors, or an entity equivalent to a Board of Directors.

(2) The Public Transportation Agency Safety Plan must document the processes and activities related to Safety Management System (SMS) implementation, as required under Subpart C of this Part.

(3) The Public Transportation Agency Safety Plan must include performance targets based on the safety performance criteria established under the National Public Transportation Safety Plan, and the state of good repair standards established in the regulations that implement the National Transit Asset Management System and are included in the National Public Transportation Safety Plan.

(4) The Public Transportation Agency Safety Plan must address all applicable requirements and standards as set forth in FTA's Public Transportation Safety Program and the National Public Transportation Safety Plan. Compliance with the minimum safety performance standards authorized under 49 U.S.C. 5329(b)(2)(C) is not required until standards have been established through the rulemaking process.

(5) Each transit agency must establish a process and timeline for conducting an annual review and update of the Public Transportation Agency Safety Plan.

(6) A rail transit agency also must include in its Public Transportation Agency Safety Plan an emergency preparedness and response plan or procedures that addresses, at a minimum, the assignment of employee responsibilities during an emergency; and coordination with Federal, State, regional, and local officials with roles and responsibilities for emergency preparedness and response in the transit agency's service area.

(b) A transit agency may develop one Public Transportation Agency Safety Plan for all modes of service, or may develop a Public Transportation Agency Safety Plan for each mode of service not subject to safety regulation by another Federal entity.

(c) A transit agency must maintain its Public Transportation Agency Safety Plan in accordance with the recordkeeping requirements in subpart D of this part.

(d) A State must draft and certify a Public Transportation Agency Safety Plan on behalf of any transit agency that receives Federal financial assistance under 49 U.S.C. 5310, 49 U.S.C. 5311, and any small public transportation provider located in that State. A State is not required to draft a Public Transportation Agency Safety Plan for a particular transit agency that receives Federal financial assistance under 49 U.S.C. 5310, 49 U.S.C. 5311, or a small public transportation provider, if that agency notifies the State that it will draft its own plan. In each instance, the transit agency must carry out the plan. If a State drafts and certifies a Public Transportation Agency Safety Plan on behalf of a transit agency, and the transit agency later opts to draft and certify its own Public Transportation Agency Safety Plan, then the transit agency must notify the State. The transit agency has one year from the date of the notification to draft and certify a Public Transportation Agency Safety Plan that is compliant with this part.

(e) Any rail fixed guideway public transportation system that had a System Safety Program Plan compliant with 49 CFR part 659 as of October 1, 2012, may keep that plan in effect until [one year after the effective date of the final rule].

(f) Agencies that operate passenger ferries regulated by the United States Coast Guard (USCG) or commuter rail service regulated by the Federal Railroad Administration (FRA) are not required to develop agency safety plans for those modes of service.

§ 673.13 Certification of compliance.

(a) Each transit agency, or State as authorized in § 673.11(d), must certify that it has established a Public Transportation Agency Safety Plan meeting the requirements of this part by [one year after the effective date of the final rule]. A State Safety Oversight Agency must review and approve a Public Transportation Agency Safety Plan developed by rail fixed guideway system, as authorized in 49 U.S.C. 5329(e) and its implementing regulations at 49 CFR part 674.

(b) On an annual basis, a transit agency or State must certify its compliance with this part.

§ 673.15 Coordination with metropolitan, statewide, and non-metropolitan planning processes.

(a) A State or transit agency must make its safety performance targets available to States and Metropolitan Planning Organizations to aid in the planning process.

(b) To the maximum extent practicable, a State or transit agency must coordinate with States and Metropolitan Planning Organizations in the selection of State and MPO safety performance targets.

Subpart C—Safety Management Systems

§ 673.21 General requirements.

Each transit agency must establish and implement a Safety Management System under this part. A transit agency Safety Management System must be appropriately scaled to the size, scope and complexity of transit agency and include the following elements:

(a) Safety Management Policy as described in § 673.23 of this subpart;

(b) Safety Risk Management as described in § 673.25 of this subpart;

(c) Safety Assurance as described in § 673.27 of this subpart; and

(d) Safety Promotion as described in § 673.29 of this subpart.

§ 673.23 Safety management policy.

(a) A transit agency must establish its organizational accountabilities and responsibilities and have a written statement of safety management policy that includes the agency's safety objectives and safety performance targets.

(b) A transit agency must establish a process that allows employees to report safety conditions to senior management, protections for employees who report safety conditions to senior management, and a description of employee behaviors that may result in disciplinary action.

(c) The safety management policy must be communicated throughout the agency's organization.

(d) The transit agency must establish the necessary authorities, accountabilities, and responsibilities for the management of safety amongst the following individuals within its organization, as they relate to the development and management of the transit agency's Safety Management System (SMS):

(1) *Accountable Executive.* The transit agency must identify an Accountable Executive. The Accountable Executive is accountable for ensuring that the agency's SMS is effectively implemented, throughout the agency's public transportation system. The Accountable Executive is accountable for ensuring action is taken, as necessary, to address substandard performance in the agency's SMS. The Accountable Executive may delegate specific responsibilities, but the ultimate accountability for the transit agency's safety performance cannot be delegated and always rests with the Accountable Executive.

(2) *Chief Safety Officer or Safety Management System (SMS) Executive.* The Accountable Executive may designate a Chief Safety Officer or SMS Executive who may be given authority and responsibility for day-to-day implementation and operation of an agency's SMS. The Chief Safety Officer or SMS Executive must hold a direct line of reporting to the Accountable Executive. A transit agency may allow the Accountable Executive to also serve as the Chief Safety Officer or SMS Executive.

(3) *Agency leadership and executive management.* A transit agency must identify those members of its leadership or executive management, other than an Accountable Executive, Safety Officer, or SMS Executive, who have authorities or responsibilities for day-to-day implementation and operation of an agency's SMS.

(4) *Key staff.* A transit agency may designate key staff, groups of staff, or committees to support the Accountable Executive, Chief Safety Officer, or SMS Executive in developing, implementing, and operating the agency's SMS.

§ 673.25 Safety Risk Management.

(a) *Safety Risk Management process.* A transit agency must develop and implement a Safety Risk Management process for all elements of its public transportation system. The Safety Risk Management process must be comprised of the following activities: Identification of safety hazards, analysis of safety hazards, safety risk evaluation, and safety risk mitigation.

(b) *Safety hazard identification and analysis.* (1) A transit agency must establish a process for hazard identification and analysis.

(2) A transit agency must include, as a source for hazard identification and analysis, data, and information provided by an oversight authority and the FTA.

(c) Safety risk evaluation and mitigation. (1) A transit agency must establish activities to evaluate and prioritize the safety risk associated with the potential consequences of safety hazards. Safety risks must be evaluated in terms of probability and severity and take into account mitigations already in place to reduce the probability or severity of the potential consequence(s) analyzed.

(2) A transit agency must establish criteria for the development of safety risk mitigations that are necessary based on the results of the agency's safety risk evaluation.

§ 673.27 Safety assurance.

(a) *Safety assurance process.* A transit agency must develop and implement a safety assurance process, consistent with this subpart.

(b) *Safety performance monitoring and measurement.* A transit agency must establish activities to:

(1) Monitor its system for compliance with, and sufficiency of, the agency's procedures for operations and maintenance;

(2) Monitor its operations to identify hazards not identified through the Safety Risk Management process established in § 673.25 of this subpart;

(3) Monitor its operations to identify any safety risk mitigations that may be ineffective, inappropriate, or were not implemented as intended;

(4) Investigate safety events to identify causal factors; and

(5) Monitor information reported through any internal safety reporting programs.

(c) *Management of change.* (1) A transit agency must establish a process for identifying and assessing changes that may introduce new hazards or impact the transit agency's safety performance.

(2) If a transit agency determines that a change may impact its safety performance, then the transit agency must evaluate the proposed change through its Safety Risk Management process.

(d) *Continuous improvement.* (1) A transit agency must establish a process to assess its safety performance.

(2) If a transit agency identifies any deficiencies as part of its safety performance assessment, then the transit agency must develop and carry out, under the direction of the Accountable Executive, a plan to address the identified safety deficiencies.

§ 673.29 Safety promotion.

(a) *Competencies and training.* A transit agency must establish a comprehensive safety training program for all agency employees and contractors directly responsible for the management of safety in the agency's public transportation system. The training program must include refresher training, as necessary.

(b) *Safety communication.* A transit agency must communicate safety and safety performance information throughout the agency's organization

that, at a minimum, conveys information on hazards and safety risks relevant to employees' roles and responsibilities and informs employees of safety actions taken in response to reports submitted through an employee safety reporting program.

Subpart D—Safety Plan Documentation and Recordkeeping

§ 673.31 Safety plan documentation.

At all times, a transit agency must maintain documents that set forth its Public Transportation Agency Safety Plan, including those related to the implementation of its Safety Management System (SMS), and results from SMS processes and activities. A transit agency must maintain documents that are included in whole, or by reference, that describe the programs, policies, and procedures that the agency uses to carry out its Public Transportation Agency Safety Plan. These documents must be made available upon request by the Federal Transit Administration or other Federal entity, or a State Safety Oversight Agency having jurisdiction. A transit agency must maintain these documents for a minimum of three years.

§ 673.33 Safety plan records.

In addition to any documents or records required elsewhere in this part, a transit agency must maintain records of the following items:

(a) Safety risk mitigations developed in accordance with § 673.25;

(b) Results from the transit agency's safety performance assessments as required under § 673.27; and

(c) Employee safety training taken for purposes of compliance with this part and the Public Transportation Agency Safety Training Certification Program.

[FR Doc. 2016–02017 Filed 2–4–16; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2015–0017]

RIN 2132–ZA04

National Public Transportation Safety Plan

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability of proposed National Public Transportation Safety Plan; request for comments.

SUMMARY: The Federal Transit Administration (FTA) invites public comment on a proposed National Public Transportation Safety Plan (National Safety Plan). FTA's proposed National Safety Plan is intended to guide the national effort in managing the safety risks within the Nation's public transportation systems. The direction and guidance set forth in the National Safety Plan is intended to guide FTA's partners within the transit industry towards improving an already excellent safety record.

The proposed National Safety Plan has been placed in the docket and posted on the FTA Web site. If adopted, the National Safety Plan will be the primary communication tool for all of FTA's safety programs.

DATES: Comments must be received on or before April 5, 2016. Any comments received beyond this deadline will be considered to the extent practicable.

FTA will hold a series of public webinars to discuss the contents of the proposed National Public Transportation Safety Plan and respond to clarifying questions. Please check FTA's Web site at *http://www.fta.dot.gov/calendar.html* for further information regarding the dates and times of the webinars. In addition, FTA will hold a public listening session on March 16, 2016 at 9:30 a.m. during the APTA Legislative Conference, which is being held at the JW Marriot located at 1331 Pennsylvania Ave. NW., Washington, DC 20004.

ADDRESSES: You may submit comments to DOT docket number FTA–2015–0017 by any of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.

U.S. Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Fax: 202–493–2251.

Instructions: You must include the agency name (Federal Transit Administration) and docket number (FTA–2015–0017) for this notice at the beginning of your comments. You must submit two copies of your comments if you submit them by mail. If you wish to receive confirmation FTA received your comments, you must include a self-addressed, stamped postcard. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties submitting comments may wish to consider using an express mail firm to ensure prompt filing of any submissions not filed electronically or by hand.

All comments received will be posted, without change and including any personal information provided, to *http://www.regulations.gov,* where they will be available to internet users. You may review DOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000, at 65 FR 19477. For access to the docket and to read background documents and comments received, go to *http://regulations.gov* at any time or to the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Management Facility, West Building Ground Floor, Room W12–140, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For program matters, Brian Alberts, Office of System Safety, (202) 366–1783 or *Brian.Alberts@dot.gov.* For legal matters, Candace Key, Office of Chief Counsel, (202) 366–1936 or *Candace.Key@dot.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to 49 U.S.C. 5329(b), FTA is obliged to create and carry out a National Public Transportation Safety Plan to improve the safety of all public transportation systems that receive Federal financial assistance under 49 U.S.C. Chapter 53. FTA seeks public comment on this first proposed National Safety Plan. The proposed National Safety Plan is available in its entirety on the agency's public Web site at *http://www.fta.dot.gov,* and in the docket at *http://www.regulations.gov.*

Pursuant to 49 U.S.C. 5329(b), a National Safety Plan must include, at minimum, the following:

- Safety performance criteria for all modes of public transportation;
- The definition of the term ''state of good repair,'' established under a rulemaking to implement a National Transit Asset Management System pursuant to 49 U.S.C. 5326(b);
- Minimum safety performance standards for public transportation vehicles used in revenue operations that are not otherwise regulated by any other Federal agency, and that, to the extent practicable, take into account relevant recommendations of the National Transportation Safety Board and other industry best practices and standards;
- Minimum safety standards to ensure the safe operation of public transportation systems that are not related to vehicle performance standards; [1] and
- A safety certification training program.

The proposed National Safety Plan addresses each of the aforementioned statutory requirements. In addition, the proposed National Safety Plan would serve as FTA's primary tool for communicating with the transit industry about the industry's safety performance.

The proposed National Safety Plan is organized into the following four chapters:

Chapter I Introduction and Background: Chapter I explains the purpose for the Plan and introduces the state of safety performance in the public transportation industry.

Chapter II Safety Management Systems: Chapter II provides a framework for applying SMS to transit agencies of any size or mode of public transportation.

Chapter III Safety Performance Management for Public Transportation: Chapter III lays out FTA's strategic approach to safety performance. This chapter sets forth FTA's safety vision and mission, establishes safety performance criteria for all modes of public transportation, and presents performance measures designed to improve safety performance in day-to-day operations. This chapter also describes how FTA will collect and disseminate safety performance data, and based on that data, set national goals for improving the transit industry's safety performance.

Chapter IV Managing Risk to Improve Public Transportation Safety Performance: Chapter IV provides information about the actions FTA has

[1] The requirement for minimum standards for operations was authorized under the Fixing America's Surface Transportation Act (''FAST'') (Pub. L. 114–94 (2015)). The FAST Act supersedes MAP–21 and was signed into law by the President on December 4, 2015.

taken to address safety risks within the public transportation industry, information on tools that transit providers can use to implement SMS in their agencies, information about other sources of technical assistance, and the public transportation safety certification training program.

FTA expects to update the National Safety Plan, from time to time, in response to trends in risk management in the transit industry, emerging technologies, best practices, findings from research, and other industry developments. FTA will establish all future editions of the National Safety Plan through public notice-and-comment.

FTA plans to base each edition of the National Safety Plan on the principles and methods of Safety Management Systems (SMS): A formal, top-down, organization-wide approach to managing safety risks and ensuring the effectiveness of a public transportation agency's safety risk mitigations. In his *Dear Colleague* letter dated May 13, 2013, the former Federal Transit Administrator, Peter Rogoff, described SMS as a flexible, performance-based regimen that will help a safe industry become even safer by fostering sound safety policy and culture at every transit system, whatever its size or mode of operation. See, *http://www.fta.dot.gov/newsroom/12910_15391.html.*

In this issue of the **Federal Register**, FTA also is publishing a notice of proposed rulemaking (NPRM) for Public Transportation Agency Safety Plans. The NPRM would require operators of public transportation systems that receive Federal financial assistance under 49 U.S.C. chapter 53 to develop and implement Public Transportation Agency Safety Plans based on the Safety Management System approach. FTA seeks public comments on all aspects of the proposed rule, including information related to its benefits and costs, as well as alternative approaches that may be more cost-effective in satisfying the statutory requirements.

Readers should please note that two key elements of the National Safety Plan—the definition of *state of good repair,* and the Public Transportation Safety Certification Training Program—are the subjects of rulemakings already underway. On October 3, 2013, FTA issued an Advance Notice of Proposed Rulemaking for transit asset management and several safety programs, at 78 FR 61251–72, which offered a number of alternative approaches for defining the term *state of good repair.* On February 27, 2015, FTA announced interim provisions for the Public Transportation Safety Certification Program, at 80 FR 10619–26. The interim provisions became effective in May. FTA published an NPRM for safety certification training on December 3, 2015. 80 FR 75639. The public comment period for the training certification NPRM closed on February 1, 2016, and FTA is now reviewing the comments. On September 30, 2015, FTA published a notice of proposed rulemaking for transit asset management. 80 FR 58912. FTA will publish a final rule for transit asset management in the coming months. FTA has addressed ANPRM comments received on the National Safety Plan in a separate document that we have posted in the docket.

Two other key elements of the National Safety Plan—the minimum safety performance standards for public transportation vehicles used in revenue operations and minimum operational standards—may eventually be the subject of rulemaking. For the time being, however, FTA is proposing to establish voluntary vehicle performance standards and voluntary operational standards in this first iteration of the National Safety Plan. FTA seeks specific comment on the following questions related to the proposed standard:

1. Has your agency adopted any of the proposed voluntary standards?
2. What is the cost to your agency of implementing the proposed voluntary standards?
3. What other standards has your agency adopted?
4. In what other areas should FTA establish standards?

Other elements of the National Safety Plan, including, specifically, the safety advisories, directives, and reports that FTA will issue, from time to time, need not be the subject of notice-and-comment, but the agency will include them in the National Safety Plan for the purpose of communicating with the transit industry and the public on matters of general interest in improving the safety of public transportation. After reviewing and responding to the comments received on this proposed National Public Transportation Safety Plan, FTA will issue a final National Safety Plan.

Therese W. McMillan,

Acting Federal Transit Administrator.

[FR Doc. 2016–02010 Filed 2–4–16; 8:45 am]

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Part III

Department of Commerce

National Oceanic and Atmospheric Administration

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Geophysical and Geotechnical Survey in Cook Inlet, Alaska; Notices

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE403

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Geophysical and Geotechnical Survey in Cook Inlet, Alaska

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received an application from ExxonMobil Alaska LNG LLC (EMALL) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to a geophysical and geotechnical survey in Cook Inlet, Alaska. This action is proposed to occur for 16 weeks. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to EMALL to incidentally take, by Level B Harassment only, marine mammals during the specified activity.

DATES: Comments and information must be received no later than March 7, 2016.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *itp.young@noaa.gov.* Comments sent via email, including all attachments, must not exceed a 25-megabyte file size. NMFS is not responsible for comments sent to addresses other than those provided here.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

An electronic copy of the application may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* The following associated documents are also available at the same internet address: Draft Environmental Assessment.

FOR FURTHER INFORMATION CONTACT: Sara Young, Office of Protected Resources, NMFS, (301) 427–8484.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On October 5, 2015, NMFS received an application from EMALL for the taking of marine mammals incidental to a geotechnical and geophysical survey in Cook Inlet, Alaska. NMFS determined that the application was adequate and complete on December 22, 2015.

EMALL proposes to conduct a geophysical and geotechnical survey in Cook Inlet to investigate the technical suitability of a pipeline study corridor across Cook Inlet and potential marine terminal locations near Nikiski. The proposed activity would occur for 16 weeks during the 2016 open water season beginning on March 1, 2016. The following specific aspects of the proposed activities are likely to result in the take of marine mammals: Use of a seismic airgun, sub-bottom profiler (chirp and boomer), and a vibracore. Take, by Level B Harassment only, of individuals of four species of marine mammals is anticipated to result from the specified activities.

EMALL received an Authorization for 2015 to conduct a similar suite of activities using the same technologies. The Authorization was issued for 84 days beginning August 14, 2015 (80 FR 50989).

Description of the Specified Activity

Overview

The planned geophysical surveys involve remote sensors including single beam echo sounder, multibeam echo sounder, sub-bottom profiler (chirp and boomer), 0.983 L (60 in^3) airgun array, side scan sonar, geophysical resistivity meters, and magnetometer to characterize the bottom surface and subsurface. The planned shallow geotechnical investigations include vibracoring, sediment grab sampling, and piezo-cone penetration testing (PCPT) to directly evaluate seabed features and soil conditions. Geotechnical borings are planned at potential shoreline crossings and in the terminal boring subarea within the Marine Terminal survey area, and will be used to collect information on the mechanical properties of in-situ soils to support feasibility studies for construction crossing techniques and decisions on siting and design of pilings, dolphins, and other marine structures. Geophysical resistivity imaging will be conducted at the potential shoreline crossings. Shear wave velocity profiles (downhole geophysics) will be conducted within some of the boreholes. Further details of the planned operations are provided below.

Dates and Duration

EMALL expects operations to occur 102 days during the 2016 open-water season between March 2016 and November 2016. Operations in the pipeline survey area would occur for approximately 46 days, and operations in the marine facilities survey area and

LNG carrier (LNGC) approach survey area would occur for a total of approximately 56 days. Approximately 100 km (62 mi) of transect line (the linear distance traveled by the survey vessel) would be surveyed on an average day. The use of an air gun from a stationary platform would occur over an estimated 24 days in the marine facilities survey area. Vibracoring would occur approximately 120 times (estimated 60 days) during the 2016 open-water season between March 2016 and November 2016. It is expected that on average, two vibracores would be conducted each day depending on tides and currents, with the sound source operating for a few minutes each time the equipment is deployed. The survey days may not be consecutive, given operational limitations including but not limited to tides, currents, hours of daylight, vessel resupply, personnel fatigue days, weather, and simultaneous operations. The activities would be scheduled in such a manner as to minimize potential effects to marine mammals, subsistence activities, and other users of the Cook Inlet. EMALL will engage with NMFS should the program require additional time to complete.

Specified Geographic Region

Three separate areas will be surveyed in Cook Inlet. The survey areas are shown in Figure 1 of the application. The survey areas were sized to provide siting flexibility for future infrastructure to avoid existing hazards.

The pipeline survey area (Figure 2 in the application) extends in the marine waters of Cook Inlet from the northwest shoreline of Upper Cook Inlet near the communities of Tyonek and Beluga to the southeast shoreline of Upper Cook Inlet near Boulder Point on the Kenai Peninsula. This survey area is approximately 47 km (29 mi) in length and averages approximately 16 km (10 mi) wide. The pipeline survey area is 795 km^2 (307 mi^2).

The marine facilities survey area and LNGC approach survey areas (Figure 3 in the application) are located in the marine waters of Cook Inlet near the eastern shoreline of what is defined as the northern region of Lower Cook Inlet, south of the Forelands and adjacent to Nikiski on the Kenai Peninsula. The marine facilities survey area encompasses 109 km^2 (42 mi^2) and the LNGC approach survey area encompasses 79 km^2 (30 mi^2).

In the LNGC approach survey area, the chirp and boomer sub-bottom profilers will be operated simultaneously. The marine facilities survey area will be surveyed twice: Once with the chirp and boomer sub-bottom profilers operated simultaneously, and once with the air gun and chirp subbottom profiler operated simultaneously. The pipeline survey area will also be surveyed twice: Once with the chirp and boomer sub-bottom profilers operated simultaneously and once with the boomer sub-bottom profiler and air gun operated simultaneously. Use of an air gun from a stationary platform will be conducted only in the marine facilities survey area. Vibracoring may be conducted throughout all of the survey areas.

Detailed Description of Activities

The details of this activity are broken down into two categories for further description and analysis: Geophysical surveys and geotechnical surveys.

Geophysical Surveys

The types of acoustical geophysical equipment planned for use in the Cook Inlet 2016 G&G Program are indicated in Table 1 in the application. The equipment includes: Sub-bottom profilers (chirp and boomer), 0.983 L (60 in^3) airgun, and vibracore.

Downhole geophysics is included in the table as a sound source, but is not considered further in this assessment as the energy source will not generate significant sound energy within the water column since the equipment will be located downhole within the geotechnical boreholes. The transmitter (source) and receiver are both housed within the same probe or tool that is lowered into the hole on a wireline. The suspension log transmitter is an electromechanical device. It consists of a metallic barrel (the hammer) disposed horizontally in the tool and actuated by an electromagnet (solenoid) to hit the inside of tool body (the plate). The fundamental H1 mode is at about 4.5 KHz, and H2 is at 9 KHz. An extra resonance (unknown) mode is also present at about 15 Khz. An analysis performed to estimate the expected sound level of the proposed borehole logging equipment scaled the sound produced by a steel pile driven by a hammer (given that both are cylindrical noise sources and produce impulsive sounds) and concluded that the sound level produced at 25 m by the borehole logging equipment would be less than 142 dB. This is not considering the confining effect of the borehole which would lower the sound level even further (I&R, 2015).

The other types of geophysical equipment proposed for the 2015 program will generate impulsive sound in the water column and are described below Information on the acoustic characteristics of geophysical and geotechnical sound sources is also summarized in Table 2 in the application, followed by a corresponding description of each piece of equipment to be used.

Sub-Bottom Profiler—Chirp

The chirp sub-bottom profiler planned for use in this program is a precisely controlled ''chirp'' system that emits high-energy sounds with a resolution of one millisecond (ms) and is used to penetrate and profile the shallow sediments near the sea floor. At operating frequencies of 2 to 16 kHz (Table 2 in application), this system will be operating at the lower end of the hearing range of beluga whales and well below the most sensitive hearing range of beluga whales (45–80 kHz, Castellote *et al.* 2014), killer whales (18–42 kHz; Szymanski *et al.* 1999) and harbor porpoises (16–140 kHz; Kastelein *et al.* 2002). The source level is estimated at 202 dB re 1 μPa-m (rms). The beam width is 24 degrees and pointed downward. The chirp will be used in combination with the boomer, and separately in combination with the air gun.

Sub-Bottom Profiler—Boomer

A boomer sub-bottom profiling system with a penetration depth of up to 600 ms and resolution of 2 to 10 ms will be used to penetrate and profile the Cook Inlet sediments to an intermediate depth. The system will be towed behind the vessel. With a sound energy source level of about 205 dB re 1 μPa-m (rms) at frequencies of 0.5 to 6 kHz (Table 2 in application), most of the sound energy generated by the boomer will be at frequencies that are well below peak hearing sensitivities of beluga whales (45–80 kHz; Castellote *et al.* 2014), but would still be detectable by these animals. The boomer is pointed downward but the equipment is omni-directional so the physical orientation is irrelevant.

Airgun

A 0.983 L (60 in^3) airgun or airgun array of equal or lesser volume will be used to gather high resolution profiling at greater depths below the seafloor. The published source level from Sercel (the manufacturer) for a 0.983 L (60 in^3) airgun is 216 dB re 1 μPa-m (equating to about 206 dB re 1 μPa-m (rms). These airguns typically produce sound levels at frequencies of less than 1 kHz (Richardson *et al.* 1995, Zykov and Carr 2012), or below the most sensitive hearing of beluga whales (45–80 kHz; Castellote *et al.* 2014), but within the

functional hearing of these animals (>75 Hz; Southall *et al.* 2007). The airgun will only be used during geophysical surveys conducted in the Marine Facilities area (Lower Inlet).

Geotechnical Surveys

Shallow Geotechnical Investigations—Vibracores

Vibracoring is conducted to obtain cores of the seafloor sediment from the surface down to a depth of about 6.1 m (20 ft). The cores are later analyzed in the laboratory for moisture, organic and carbonate content, shear strength, and grain size. Vibracore samplers consist of a 10-cm (4.0-in) diameter core barrel and a vibratory driving mechanism mounted on a four-legged frame, which is lowered to the seafloor. The electric motor driving mechanism oscillates the core barrel into the sediment where a core sample is then extracted. The duration of the operation varies with substrate type, but generally the sound source (driving mechanism) is operable for only the one or two minutes it takes to complete the 6.1-m (20-ft) bore and the entire setup process often takes less than one hour.

Chorney *et al.* (2011) conducted sound measurements on an operating vibracorer in Alaska and found that it emitted a sound pressure level at 1-m source of 187.4 dB re 1 μPa-m (rms), with a frequency range of between 10 Hz and 20 kHz (Table 2). Vibracoring will result in the largest zone of influence (ZOI; area ensonified by sound energy greater than the 120 dB threshold) among the continuous sound sources. Vibracoring would also have a very small effect on the benthic habitat. Vibracoring will be conducted approximately 120 times over 60 days.

Because of the very brief duration within a day (each event lasting 1 or 2-minute periods) of this continuous, non-impulsive sound, combined with the small number of days the source will be used overall, NMFS does not believe that the vibracore operations will result in the take of marine mammals. However, because the applicant requested take from this source and included a quantitative analysis in their application, that analysis will be included here for reference and opportunity for public comment.

Vessels

Vessels used in the program will be approximately 15–42 m (50–140 ft) in length and 4.5–15 m (15–50 ft) in width (beam) with approximately 750–1500 horsepower. When used in combination, the air gun and chirp and boomer sub-bottom profilers will typically be deployed from the same survey vessel. Vibracoring may be conducted from a separate survey vessel. The air gun may also be used from a stationary platform or barge.

Description of Marine Mammals in the Area of the Specified Activity

Marine mammals that regularly inhabit upper Cook Inlet and Nikiski activity areas are the beluga whale (*Delphinapterus leucas*), harbor porpoise (*Phocoena phocoena*), and harbor seal (*Phoca vitulina*) (Table 6). However, these species are found there in relatively low numbers, and generally only during the summer fish runs (Nemeth *et al.* 2007, Boveng *et al.* 2012). Killer whales (*Orcinus orca*) are occasionally observed in upper Cook Inlet where they have been observed attempting to prey on beluga whales (Shelden *et al.* 2003). Based on a number of factors, Shelden *et al.* (2003) concluded that the killer whales found in upper Cook Inlet to date are the transient type, while resident types occasionally enter lower Cook Inlet. Marine mammals occasionally found in lower Cook Inlet include humpback whales (*Megaptera novaeangliae*), gray whales (*Eschrichtius robustus*), minke whales (*Balaenoptera acutorostrata*), Dall's porpoise (*Phocoena dalli*), and Steller sea lion (*Eumetopias jubatus).* Background information of species found in Upper Cook Inlet is detailed in Table 1 below.

TABLE 1—MARINE MAMMALS INHABITING THE COOK INLET ACTION AREA

Species	Stock	ESA/MMPA status[1]; strategic (Y/N)	Stock abundance (CV, N_{min}, most recent abundance survey)[2]	Relative occurrence in Cook Inlet; season of occurrence
Killer whale	Alaska Resident	–;N	2,347 (N/A; 2,084; 2009)	Occasionally sighted in Lower Cook Inlet.
	Alaska Transient	–:N	345 (N/A; 303; 2003)	
Beluga whale	Cook Inlet	E/D;Y	312 (0.10; 280; 2012)	Use upper Inlet in summer and lower in winter: Annual.
Harbor porpoise	Gulf of Alaska	–;Y	31,046 (0.214; 25,987; 1998)	Widespread in the Inlet: Annual (less in winter).
Harbor seal	Cook Inlet/Shelikof	–;N	22,900 (0.053; 21,896; 2006)	Frequently found in upper and lower inlet; annual (more in northern Inlet in summer).

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (–) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR (see footnote 3) or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable. For certain stocks, abundance estimates are actual counts of animals and there is no associated CV. The most recent abundance survey that is reflected in the abundance estimate is presented; there may be more recent surveys that have not yet been incorporated into the estimate.

Beluga Whale (Delphinapterus leucas)

The Cook Inlet beluga whale Distinct Population Segment (DPS) is a small geographically isolated population that is separated from other beluga populations by the Alaska Peninsula. The population is genetically (mtDNA) distinct from other Alaska populations, suggesting that the Peninsula is an effective barrier to genetic exchange (O'Corry-Crowe *et al.* 1997) and that these whales may have been separated from other stocks at least since the last ice age. Laidre *et al.* (2000) examined data from over 20 marine mammal surveys conducted in the northern Gulf of Alaska and found that sightings of belugas outside Cook Inlet were exceedingly rare, and these were composed of a few stragglers from the Cook Inlet DPS observed at Kodiak Island, Prince William Sound, and Yakutat Bay. Several marine mammal surveys specific to Cook Inlet (Laidre *et al.* 2000, Speckman and Piatt 2000), including those that concentrated on beluga whales (Rugh *et al.* 2000, 2005a),

clearly indicate that this stock largely confines itself to Cook Inlet. There is no indication that these whales make forays into the Bering Sea where they might intermix with other Alaskan stocks.

The Cook Inlet beluga DPS was originally estimated at 1,300 whales in 1979 (Calkins 1989) and has been the focus of management concerns since experiencing a dramatic decline in the 1990s. Between 1994 and 1998 the stock declined 47%, which has been attributed to overharvesting by subsistence hunting. During that period, subsistence hunting was estimated to have annually removed 10–15% of the population. Only five belugas have been harvested since 1999, yet the population has continued to decline (Allen and Angliss 2014), with the most recent estimate at only 312 animals (Allen and Angliss 2014). The NMFS listed the population as ''depleted'' in 2000 as a consequence of the decline, and as ''endangered'' under the ESA in 2008 when the population failed to recover following a moratorium on subsistence harvest. In April 2011, the NMFS designated critical habitat for the Cook Inlet beluga whale under the ESA (Figure 2 in the application).

Prior to the decline, this DPS was believed to range throughout Cook Inlet and occasionally into Prince William Sound and Yakutat (Nemeth *et al.* 2007). However, the range has contracted coincident with the population reduction (Speckman and Piatt 2000). During the summer and fall, beluga whales are concentrated near the Susitna River mouth, Knik Arm, Turnagain Arm, and Chickaloon Bay (Nemeth *et al.* 2007) where they feed on migrating eulachon (*Thaleichthys pacificus*) and salmon (Onchorhynchus spp.) (Moore *et al.* 2000). The limits of Critical Habitat Area 1 reflect the summer distribution (Figure 4 in the application). During the winter, beluga whales concentrate in deeper waters in the mid-inlet to Kalgin Island, and in the shallow waters along the west shore of Cook Inlet to Kamishak Bay. The limits of Critical Habitat Area 2 reflect the winter distribution. Some whales may also winter in and near Kachemak Bay.

Goetz *et al.* (2012) modeled beluga use in Cook Inlet based on the NMFS aerial surveys conducted between 1994 and 2008. The combined model results shown in Figure 3 in the application indicate a very clumped distribution of summering beluga whales, and that lower densities of belugas are expected to occur in most of the pipeline survey area (but not necessarily specific G&G survey locations; see Section 6.3 in the application) and the vicinity of the proposed Marine Terminal. However, Cook Inlet beluga whales begin moving into Knik Arm around August 15 where they spend about a month feeding on Eagle River salmon. The area between Nikiski, Kenai, and Kalgin Island provides important wintering habitat for Cook Inlet beluga whales. Use of this area would be expected between fall and spring, with animals largely absent during the summer months when G&G surveys would occur (Goetz *et al.* 2012).

Killer Whale (Orcinus orca)

Two different stocks of killer whales inhabit the Cook Inlet region of Alaska: The Alaska Resident Stock and the Gulf of Alaska, Aleutian Islands, Bering Sea Transient Stock (Allen and Angliss 2014). The Alaska Resident killer whale stock is estimated at 2,347 animals and occurs from Southeast Alaska to the Bering Sea (Allen and Angliss 2014). Resident killer whales feed exclusively on fish and are genetically distinct from transient whales (Saulitis *et al.* 2000).

The transient killer whales feed primarily on marine mammals (Saulitis *et al.* 2000). The transient population inhabiting the Gulf of Alaska shares mitochondrial DNA haplotypes with whales found along the Aleutian Islands and the Bering Sea, suggesting a common stock, although there appears to be some subpopulation genetic structuring occurring to suggest the gene flow between groups is limited (see Allen and Angliss 2014). For the three regions combined, the transient population has been estimated at 587 animals (Allen and Angliss 2014).

Killer whales are occasionally observed in lower Cook Inlet, especially near Homer and Port Graham (Shelden *et al.* 2003, Rugh *et al.* 2005a). The few whales that have been photographically identified in lower Cook Inlet belong to resident groups more commonly found in nearby Kenai Fjords and Prince William Sound (Shelden *et al.* 2003). Prior to the 1980s, killer whale sightings in upper Cook Inlet were very rare. During aerial surveys conducted between 1993 and 2004, killer whales were observed on only three flights, all in the Kachemak and English Bay area (Rugh *et al.* 2005a). However, anecdotal reports of killer whales feeding on belugas in upper Cook Inlet began increasing in the 1990s, possibly in response to declines in sea lion and harbor seal prey elsewhere (Shelden *et al.* 2003). These sporadic ventures of transient killer whales into beluga summering grounds have been implicated as a possible contributor to the decline of Cook Inlet belugas in the 1990s, although the number of confirmed mortalities from killer whales is small (Shelden *et al.* 2003). If killer whales were to venture into upper Cook Inlet in 2015, they might be encountered during the G&G Program.

Harbor Porpoise (Phocoena phocoena)

Harbor porpoise are small (approximately 1.2 m [4 ft] in length), relatively inconspicuous toothed whales. The Gulf of Alaska Stock is distributed from Cape Suckling to Unimak Pass and was most recently estimated at 31,046 animals (Allen and Angliss 2014). They are found primarily in coastal waters less than 100 m (328 ft) deep (Hobbs and Waite 2010) where they feed on Pacific herring (*Clupea pallasii*), other schooling fishes, and cephalopods.

Although they have been frequently observed during aerial surveys in Cook Inlet, most sightings of harbor porpoise are of single animals, and are concentrated at Chinitna and Tuxedni bays on the west side of lower Cook Inlet (Rugh *et al.* 2005a). Dahlheim *et al.* (2000) estimated the 1991 Cook Inlet-wide population at only 136 animals. Also, during marine mammal monitoring efforts conducted in upper Cook Inlet by Apache from 2012 to 2014, harbor porpoise represented less than 2% of all marine mammal sightings. However, they are one of the three marine mammals (besides belugas and harbor seals) regularly seen in upper Cook Inlet (Nemeth *et al.* 2007), especially during spring eulachon and summer salmon runs. Because harbor porpoise have been observed throughout Cook Inlet during the summer months, including mid-inlet waters, they represent species that might be encountered during G&G Program surveys in upper Cook Inlet.

Harbor Seal (Phoca vitulina)

At over 150,000 animals state-wide (Allen and Angliss 2014), harbor seals are one of the more common marine mammal species in Alaskan waters. They are most commonly seen hauled out at tidal flats and rocky areas. Harbor seals feed largely on schooling fish such as Alaska Pollock, Pacific cod, salmon, Pacific herring, eulachon, and squid. Although harbor seals may make seasonal movements in response to prey, they are resident to Alaska and do not migrate.

The Cook Inlet/Shelikof Stock, ranging from approximately Anchorage down along the south side of the Alaska Peninsula to Unimak Pass, has been recently estimated at a stable 22,900 (Allen and Angliss 2014). Large numbers concentrate at the river mouths and embayments of lower Cook Inlet,

including the Fox River mouth in Kachemak Bay (Rugh *et al.* 2005a). Montgomery *et al.* (2007) recorded over 200 haulout sites in lower Cook Inlet alone. However, only a few dozen to a couple hundred seals seasonally occur in upper Cook Inlet (Rugh *et al.* 2005a), mostly at the mouth of the Susitna River where their numbers vary with the spring eulachon and summer salmon runs (Nemeth *et al.* 2007, Boveng *et al.* 2012). Review of NMFS aerial survey data collected from 1993–2012 (Shelden *et al.* 2013) finds that the annual high counts of seals hauled out in Cook Inlet ranged from about 100–380, with most of these animals hauling out at the mouths of the Theodore and Lewis Rivers. There are certainly thousands of harbor seals occurring in lower Cook Inlet, but no references have been found showing more than about 400 harbor seals occurring seasonally in upper Cook Inlet. In 2012, up to 100 harbor seals were observed hauled out at the mouths of the Theodore and Lewis rivers (located about 16 km [10 mi] northeast of the pipeline survey area) during monitoring activity associated with Apache's 2012 Cook Inlet seismic program, and harbor seals constituted 60 percent of all marine mammal sightings by Apache observers during 2012 to 2014 survey and monitoring efforts (L. Parker, Apache, pers. comm.). Montgomery *et al.* (2007) also found that seals elsewhere in Cook Inlet move in response to local steelhead (*Onchorhynchus mykiss*) and salmon runs. Harbor seals may be encountered during G&G surveys in Cook Inlet.

Humpback Whale (Megaptera novaeangliae)

Although there is considerable distributional overlap in the humpback whale stocks that use Alaska, the whales seasonally found in lower Cook Inlet are probably of the Central North Pacific stock. Listed as endangered under the ESA, this stock has recently been estimated at 7,469, with the portion of the stock that feeds in the Gulf of Alaska estimated at 2,845 animals (Allen and Angliss 2014). The Central North Pacific stock winters in Hawaii and summers from British Columbia to the Aleutian Islands (Calambokidis *et al.* 1997), including Cook Inlet.

Humpback use of Cook Inlet is largely confined to lower Cook Inlet. They have been regularly seen near Kachemak Bay during the summer months (Rugh *et al.* 2005a), and there is a whale-watching venture in Homer capitalizing on this seasonal event. There are anecdotal observations of humpback whales as far north as Anchor Point, with recent summer observations extending to Cape Starichkof (Owl Ridge 2014). Because of the southern distribution of humpbacks in Cook Inlet, it is unlikely that they will be encountered during this activity in close enough proximity to cause Level B harassment. Therefore, no take is authorized for humpback whales.

Gray Whale (Eschrichtius robustus)

Each spring, the Eastern North Pacific stock of gray whale migrates 8,000 kilometers (5,000 miles) northward from breeding lagoons in Baja California to feeding grounds in the Bering and Chukchi seas, reversing their travel again in the fall (Rice and Wolman 1971). Their migration route is for the most part coastal until they reach the feeding grounds. A small portion of whales do not annually complete the full circuit, as small numbers can be found in the summer feeding along the Oregon, Washington, British Columbia, and Alaskan coasts (Rice *et al.* 1984, Moore *et al.* 2007).

Human exploitation reduced this stock to an estimated ''few thousand'' animals (Jones and Schwartz 2002). However, by the late 1980s, the stock was appearing to reach carrying capacity and estimated to be at 26,600 animals (Jones and Schwartz 2002). By 2002, that stock had been reduced to about 16,000 animals, especially following unusually high mortality events in 1999 and 2000 (Allen and Angliss 2014). The stock has continued to grow since then and is currently estimated at 19,126 animals with a minimum estimate of 18,017 (Carretta *et al.* 2013).

Most gray whales migrate past the mouth of Cook Inlet to and from northern feeding grounds. However, small numbers of summering gray whales have been noted by fisherman near Kachemak Bay and north of Anchor Point. Further, summering gray whales were seen offshore of Cape Starichkof by marine mammal observers monitoring Buccaneer's Cosmopolitan drilling program in 2013 (Owl Ridge 2014). Regardless, gray whales are not expected to be encountered in upper Cook Inlet, where the activity is concentrated, north of Kachemak Bay. Therefore, it is unlikely that they will be encountered during this activity in close enough proximity to cause Level B harassment and are not considered further in this final Authorization notice.

Minke Whale (Balaenoptera acutorostrata)

Minke whales are the smallest of the rorqual group of baleen whales reaching lengths of up to 35 feet. They are also the most common of the baleen whales, although there are no population estimates for the North Pacific, although estimates have been made for some portions of Alaska. Zerbini *et al.* (2006) estimated the coastal population between Kenai Fjords and the Aleutian Islands at 1,233 animals.

During Cook Inlet-wide aerial surveys conducted from 1993 to 2004, minke whales were encountered only twice (1998, 1999), both times off Anchor Point 16 miles northwest of Homer. Recently, several minke whales were recorded off Cape Starichkof in early summer 2013 during exploratory drilling conducted there (Owl Ridge 2014). There are no records north of Cape Starichkof, and this species is unlikely to be seen in upper Cook Inlet. There is little chance of encountering a minke whale during these activities. Therefore, no take of minke whales is authorized.

Dall's Porpoise (Phocoenoides dalli)

Dall's porpoise are widely distributed throughout the North Pacific Ocean including Alaska, although they are not found in upper Cook Inlet and the shallower waters of the Bering, Chukchi, and Beaufort Seas (Allen and Angliss 2014). Compared to harbor porpoise, Dall's porpoise prefer the deep offshore and shelf slope waters. The Alaskan population has been estimated at 83,400 animals (Allen and Angliss 2014), making it one of the more common cetaceans in the state. Dall's porpoise have been observed in lower Cook Inlet, including Kachemak Bay and near Anchor Point (Owl Ridge 2014), but sightings there are rare. The concentration of sightings of Dall's porpoise in a southerly part of the Inlet suggest it is unlikely they will be encountered during EMALL's activities. Therefore, no take of Dall's porpoise is authorized.

Steller Sea Lion (Eumetopias jubatus)

The Western Stock of the Steller sea lion is defined as all populations west of longitude 144°W to the western end of the Aleutian Islands. The most recent estimate for this stock is 45,649 animals (Allen and Angliss 2014), considerably less than that estimated 140,000 animals in the 1950s (Merrick *et al.* 1987). Because of this dramatic decline, the stock was listed under the ESA as a threatened DPS in 1990, and relisted as endangered in 1997. Critical habitat was designated in 1993, and is defined as a 20-nautical-mile radius around all major rookeries and haulout sites. The 20-nautical-mile buffer was established based on telemetry data that indicated these sea lions concentrated their

summer foraging effort within this distance of rookeries and haul outs.

Steller sea lions inhabit lower Cook Inlet, especially in the vicinity of Shaw Island and Elizabeth Island (Nagahut Rocks) haulout sites (Rugh *et al.* 2005a), but are rarely seen in upper Cook Inlet (Nemeth *et al.* 2007). Of the 42 Steller sea lion groups recorded during Cook Inlet aerial surveys between 1993 and 2004, none were recorded north of Anchor Point and only one in the vicinity of Kachemak Bay (Rugh *et al.* 2005a). Marine mammal observers associated with Buccaneer's drilling project off Cape Starichkof did observe seven Steller sea lions during the summer of 2013 (Owl Ridge 2014).

The upper reaches of Cook Inlet may not provide adequate foraging conditions for sea lions for establishing a major haul out presence. Steller sea lions feed largely on walleye pollock, salmon and arrowtooth flounder during the summer, and walleye pollock and Pacific cod during the winter (Sinclair and Zeppelin 2002), none of which, except for salmon, are found in abundance in upper Cook Inlet (Nemeth *et al.* 2007). Steller sea lions are unlikely to be encountered during operations in upper Cook Inlet, as they are primarily encountered along the Kenai Peninsula, especially closer to Anchor Point. Therefore, no take of Steller sea lion is authorized.

Potential Effects of the Specified Activity on Marine Mammals

This section includes a summary and discussion of the ways that components (seismic airgun operations, sub-bottom profiler chirper and boomer, vibracore) of the specified activity may impact marine mammals. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that NMFS expects to be taken by this activity. The ''Negligible Impact Analysis'' section will include the analysis of how this specific proposed activity would impact marine mammals and will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, the ''Mitigation'' section, and the ''Anticipated Effects on Marine Mammal Habitat'' section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

NMFS intends to provide a background of potential effects of EMALL's activities in this section. Operating active acoustic sources have the potential for adverse effects on marine mammals. The majority of anticipated impacts would be from the use of active acoustic sources.

Acoustic Impacts

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Current data indicate that not all marine mammal species have equal hearing capabilities (Richardson *et al.,* 1995; Southall *et al.,* 1997; Wartzok and Ketten, 1999; Au and Hastings, 2008).

Southall *et al.* (2007) designated ''Functional hearing groups'' for marine mammals based on available behavioral data; audiograms derived from auditory evoked potentials; anatomical modeling; and other data. Southall *et al.* (2007) also estimated the lower and upper frequencies of functional hearing for each group. However, animals are less sensitive to sounds at the outer edges of their functional hearing range and are more sensitive to a range of frequencies within the middle of their functional hearing range.

The functional groups and the associated frequencies are:

- Low frequency cetaceans (13 species of mysticetes): Functional hearing estimates occur between approximately 7 Hertz (Hz) and 25 kHz (extended from 22 kHz based on data indicating that some mysticetes can hear above 22 kHz; Au *et al.,* 2006; Lucifredi and Stein, 2007; Ketten and Mountain, 2009; Tubelli *et al.,* 2012);
- Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): Functional hearing estimates occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (eight species of true porpoises, six species of river dolphins, *Kogia,* the franciscana, and four species of *cephalorhynchids*): Functional hearing estimates occur between approximately 200 Hz and 180 kHz; and
- Pinnipeds in Water: Phocid (true seals) functional hearing estimates occur between approximately 75 Hz and 100 kHz (Hemila *et al.,* 2006; Mulsow *et al.,* 2011; Reichmuth *et al.,* 2013) and otariid (seals and sea lions) functional hearing estimates occur between approximately 100 Hz to 40 kHz.

As mentioned previously in this document, Cook Inlet beluga whales, harbor porpoise, killer whales, and harbor seals (3 odontocetes and 1 phocid) would likely occur in the action area. Table 2 presents the classification of these species into their respective functional hearing group. NMFS consider a species' functional hearing group when analyzing the effects of exposure to sound on marine mammals.

TABLE 2—CLASSIFICATION OF MARINE MAMMALS THAT COULD POTENTIALLY OCCUR IN THE PROPOSED ACTIVITY AREA IN COOK INLET, 2015 BY FUNCTIONAL HEARING GROUP

[Southall *et al.,* 2007]

Mid-Frequency Hearing Range.	Beluga whale, killer whale.
High Frequency Hearing Range.	Harbor porpoise.
Pinnipeds in Water Hearing Range.	Harbor seal.

1. Potential Effects of Airgun Sounds on Marine Mammals

The effects of sounds from airgun operations might include one or more of the following: Tolerance, masking of natural sounds, behavioral disturbance, temporary or permanent impairment, or non-auditory physical or physiological effects (Richardson *et al.,* 1995; Gordon *et al.,* 2003; Nowacek *et al.,* 2007; Southall *et al.,* 2007). The effects of noise on marine mammals are highly variable, often depending on species and contextual factors (based on Richardson *et al.,* 1995).

Tolerance

Studies on marine mammals' tolerance to sound in the natural environment are relatively rare. Richardson *et al.* (1995) defined tolerance as the occurrence of marine mammals in areas where they are exposed to human activities or manmade noise. In many cases, tolerance develops by the animal habituating to the stimulus (*i.e.,* the gradual waning of responses to a repeated or ongoing stimulus) (Richardson, *et al.,* 1995), but because of ecological or physiological requirements, many marine animals may need to remain in areas where they are exposed to chronic stimuli (Richardson, *et al.,* 1995).

Numerous studies have shown that pulsed sounds from airguns are often readily detectable in the water at distances of many kilometers. Several studies have also shown that marine mammals at distances of more than a few kilometers from operating seismic vessels often show no apparent response. That is often true even in cases when the pulsed sounds must be readily audible to the animals based on measured received levels and the

hearing sensitivity of the marine mammal group. Although various baleen whales and toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to airgun pulses under some conditions, at other times marine mammals of all three types have shown no overt reactions (Stone, 2003; Stone and Tasker, 2006; Moulton *et al.* 2005, 2006) and (MacLean and Koski, 2005; Bain and Williams, 2006).

Weir (2008) observed marine mammal responses to seismic pulses from a 24 airgun array firing a total volume of either 5,085 in^3 or 3,147 in^3 in Angolan waters between August 2004 and May 2005. Weir (2008) recorded a total of 207 sightings of humpback whales (n = 66), sperm whales (n = 124), and Atlantic spotted dolphins (n = 17) and reported that there were no significant differences in encounter rates (sightings per hour) for humpback and sperm whales according to the airgun array's operational status (*i.e.,* active versus silent).

Bain and Williams (2006) examined the effects of a large airgun array (maximum total discharge volume of 1,100 in^3) on six species in shallow waters off British Columbia and Washington: harbor seal, California sea lion, Steller sea lion, gray whale, Dall's porpoise, and harbor porpoise. Harbor porpoises showed reactions at received levels less than 155 dB re: 1 μPa at a distance of greater than 70 km (43 mi) from the seismic source (Bain and Williams, 2006). However, the tendency for greater responsiveness by harbor porpoise is consistent with their relative responsiveness to boat traffic and some other acoustic sources (Richardson, *et al.,* 1995; Southall, *et al.,* 2007). In contrast, the authors reported that gray whales seemed to tolerate exposures to sound up to approximately 170 dB re: 1 μPa (Bain and Williams, 2006) and Dall's porpoises occupied and tolerated areas receiving exposures of 170–180 dB re: 1 μPa (Bain and Williams, 2006; Parsons, *et al.,* 2009). The authors observed several gray whales that moved away from the airguns toward deeper water where sound levels were higher due to propagation effects resulting in higher noise exposures (Bain and Williams, 2006). However, it is unclear whether their movements reflected a response to the sounds (Bain and Williams, 2006). Thus, the authors surmised that the lack of gray whale responses to higher received sound levels were ambiguous at best because one expects the species to be the most sensitive to the low-frequency sound emanating from the airguns (Bain and Williams, 2006).

Pirotta *et al.* (2014) observed short-term responses of harbor porpoises to a two-dimensional (2–D) seismic survey in an enclosed bay in northeast Scotland which did not result in broad-scale displacement. The harbor porpoises that remained in the enclosed bay area reduced their buzzing activity by 15 percent during the seismic survey (Pirotta, *et al.,* 2014). Thus, the authors suggest that animals exposed to anthropogenic disturbance may make trade-offs between perceived risks and the cost of leaving disturbed areas (Pirotta, *et al.,* 2014).

Masking

Marine mammals use acoustic signals for a variety of purposes, which differ among species, but include communication between individuals, navigation, foraging, reproduction, avoiding predators, and learning about their environment (Erbe and Farmer, 2000; Tyack, 2000).

The term masking refers to the inability of an animal to recognize the occurrence of an acoustic stimulus because of interference of another acoustic stimulus (Clark *et al.,* 2009). Thus, masking is the obscuring of sounds of interest by other sounds, often at similar frequencies. It is a phenomenon that affects animals that are trying to receive acoustic information about their environment, including sounds from other members of their species, predators, prey, and sounds that allow them to orient in their environment. Masking these acoustic signals can disturb the behavior of individual animals, groups of animals, or entire populations in certain circumstances.

Introduced underwater sound may, through masking, reduce the effective communication distance of a marine mammal species if the frequency of the source is close to that used as a signal by the marine mammal, and if the anthropogenic sound is present for a significant fraction of the time (Richardson *et al.,* 1995).

Marine mammals are thought to be able to compensate for masking by adjusting their acoustic behavior through shifting call frequencies, increasing call volume, and increasing vocalization rates. For example in one study, blue whales increased call rates when exposed to noise from seismic surveys in the St. Lawrence Estuary (Di Iorio and Clark, 2010). Other studies reported that some North Atlantic right whales exposed to high shipping noise increased call frequency (Parks *et al.,* 2007) and some humpback whales responded to low-frequency active sonar playbacks by increasing song length (Miller *et al.,* 2000). Additionally, beluga whales change their vocalizations in the presence of high background noise possibly to avoid masking calls (Au *et al.,* 1985; Lesage *et al.,* 1999; Scheifele *et al.,* 2005).

Studies have shown that some baleen and toothed whales continue calling in the presence of seismic pulses, and some researchers have heard these calls between the seismic pulses (*e.g.,* McDonald *et al.,* 1995; Greene *et al.,* 1999; Nieukirk *et al.,* 2004; Smultea *et al.,* 2004; Holst *et al.,* 2005a, 2005b, 2006; and Dunn and Hernandez, 2009).

In contrast, Clark and Gagnon (2006) reported that fin whales in the northeast Pacific Ocean went silent for an extended period starting soon after the onset of a seismic survey in the area. Similarly, NMFS is aware of one report that observed sperm whales ceased calls when exposed to pulses from a very distant seismic ship (Bowles *et al.,* 1994). However, more recent studies have found that sperm whales continued calling in the presence of seismic pulses (Madsen *et al.,* 2002; Tyack *et al.,* 2003; Smultea *et al.,* 2004; Holst *et al.,* 2006; and Jochens *et al.,* 2008).

Risch *et al.* (2012) documented reductions in humpback whale vocalizations in the Stellwagen Bank National Marine Sanctuary concurrent with transmissions of the Ocean Acoustic Waveguide Remote Sensing (OAWRS) low-frequency fish sensor system at distances of 200 km (124 mi) from the source. The recorded OAWRS produced series of frequency modulated pulses and the signal received levels ranged from 88 to 110 dB re: 1 μPa (Risch, *et al.,* 2012). The authors hypothesized that individuals did not leave the area but instead ceased singing and noted that the duration and frequency range of the OAWRS signals (a novel sound to the whales) were similar to those of natural humpback whale song components used during mating (Risch *et al.,* 2012). Thus, the novelty of the sound to humpback whales in the study area provided a compelling contextual probability for the observed effects (Risch *et al.,* 2012). However, the authors did not state or imply that these changes had long-term effects on individual animals or populations (Risch *et al.,* 2012).

Several studies have also reported hearing dolphins and porpoises calling while airguns were operating (*e.g.,* Gordon *et al.,* 2004; Smultea *et al.,* 2004; Holst *et al.,* 2005a, b; and Potter *et al.,* 2007). The sounds important to small odontocetes are predominantly at much higher frequencies than the dominant components of airgun sounds, thus

limiting the potential for masking in those species.

Although some degree of masking is inevitable when high levels of manmade broadband sounds are present in the sea, marine mammals have evolved systems and behavior that function to reduce the impacts of masking. Odontocete conspecifics may readily detect structured signals, such as the echolocation click sequences of small toothed whales even in the presence of strong background noise because their frequency content and temporal features usually differ strongly from those of the background noise (Au and Moore, 1988, 1990). The components of background noise that are similar in frequency to the sound signal in question primarily determine the degree of masking of that signal.

Redundancy and context can also facilitate detection of weak signals. These phenomena may help marine mammals detect weak sounds in the presence of natural or manmade noise. Most masking studies in marine mammals present the test signal and the masking noise from the same direction. The sound localization abilities of marine mammals suggest that, if signal and noise come from different directions, masking would not be as severe as the usual types of masking studies might suggest (Richardson *et al.,* 1995). The dominant background noise may be highly directional if it comes from a particular anthropogenic source such as a ship or industrial site. Directional hearing may significantly reduce the masking effects of these sounds by improving the effective signal-to-noise ratio. In the cases of higher frequency hearing by the bottlenose dolphin, beluga whale, and killer whale, empirical evidence confirms that masking depends strongly on the relative directions of arrival of sound signals and the masking noise (Penner *et al.,* 1986; Dubrovskiy, 1990; Bain *et al.,* 1993; Bain and Dahlheim, 1994). Toothed whales and probably other marine mammals as well, have additional capabilities besides directional hearing that can facilitate detection of sounds in the presence of background noise. There is evidence that some toothed whales can shift the dominant frequencies of their echolocation signals from a frequency range with a lot of ambient noise toward frequencies with less noise (Au *et al.,* 1974, 1985; Moore and Pawloski, 1990; Thomas and Turl, 1990; Romanenko and Kitain, 1992; Lesage *et al.,* 1999). A few marine mammal species increase the source levels or alter the frequency of their calls in the presence of elevated sound levels (Dahlheim, 1987; Au, 1993; Lesage *et al.,* 1993, 1999; Terhune, 1999; Foote *et al.,* 2004; Parks *et al.,* 2007, 2009; Di Iorio and Clark, 2010; Holt *et al.,* 2009).

These data demonstrating adaptations for reduced masking pertain mainly to the very high frequency echolocation signals of toothed whales. There is less information about the existence of corresponding mechanisms at moderate or low frequencies or in other types of marine mammals. For example, Zaitseva *et al.* (1980) found that, for the bottlenose dolphin, the angular separation between a sound source and a masking noise source had little effect on the degree of masking when the sound frequency was 18 kHz, in contrast to the pronounced effect at higher frequencies. Studies have noted directional hearing at frequencies as low as 0.5–2 kHz in several marine mammals, including killer whales (Richardson *et al.,* 1995a). This ability may be useful in reducing masking at these frequencies. In summary, high levels of sound generated by anthropogenic activities may act to mask the detection of weaker biologically important sounds by some marine mammals. This masking may be more prominent for lower frequencies. For higher frequencies, such as that used in echolocation by toothed whales, several mechanisms are available that may allow them to reduce the effects of such masking.

Behavioral Disturbance

Marine mammals may behaviorally react to sound when exposed to anthropogenic noise. Reactions to sound, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.,* 1995; D'Spain & Wartzok, 2004; Southall *et al.,* 2007; Weilgart, 2007).

Types of behavioral reactions can include the following: Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where noise sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haulouts or rookeries).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, one could expect the consequences of behavioral modification to be biologically significant if the change affects growth, survival, and/or reproduction (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007). Examples of behavioral modifications that could impact growth, survival, or reproduction include:

- Drastic changes in diving/surfacing patterns (such as those associated with beaked whale stranding related to exposure to military mid-frequency tactical sonar);
- Permanent habitat abandonment due to loss of desirable acoustic environment; and
- Disruption of feeding or social interaction resulting in significant energetic costs, inhibited breeding, or cow-calf separation.

The onset of behavioral disturbance from anthropogenic noise depends on both external factors (characteristics of noise sources and their paths) and the receiving animals (hearing, motivation, experience, demography) and is also difficult to predict (Richardson *et al.,* 1995; Southall *et al.,* 2007). Many studies have also shown that marine mammals at distances more than a few kilometers away often show no apparent response when exposed to seismic activities (*e.g.,* Madsen & Mohl, 2000 for sperm whales; Malme *et al.,* 1983, 1984 for gray whales; and Richardson *et al.,* 1986 for bowhead whales). Other studies have shown that marine mammals continue important behaviors in the presence of seismic pulses (*e.g.,* Dunn & Hernandez, 2009 for blue whales; Greene Jr. *et al.,* 1999 for bowhead whales; Holst and Beland, 2010; Holst and Smultea, 2008; Holst *et al.,* 2005; Nieukirk *et al.,* 2004; Richardson, *et al.,* 1986; Smultea *et al.,* 2004).

Baleen Whales: Studies have shown that underwater sounds from seismic activities are often readily detectable by baleen whales in the water at distances of many kilometers (Castellote *et al.,* 2012 for fin whales).

Observers have seen various species of *Balaenoptera* (blue, sei, fin, and minke whales) in areas ensonified by airgun pulses (Stone, 2003; MacLean and Haley, 2004; Stone and Tasker, 2006), and have localized calls from blue and fin whales in areas with airgun operations (*e.g.,* McDonald *et al.,* 1995; Dunn and Hernandez, 2009; Castellote *et al.,* 2010). Sightings by observers on seismic vessels off the United Kingdom from 1997 to 2000 suggest that, during times of good visibility, sighting rates for mysticetes (mainly fin and sei whales) were similar when large arrays of airguns were shooting versus silent (Stone, 2003; Stone and Tasker, 2006). However, these whales tended to exhibit

localized avoidance, remaining significantly further (on average) from the airgun array during seismic operations compared with non-seismic periods (Stone and Tasker, 2006).

Ship-based monitoring studies of baleen whales (including blue, fin, sei, minke, and humpback whales) in the northwest Atlantic found that overall, this group had lower sighting rates during seismic versus non-seismic periods (Moulton and Holst, 2010). The authors observed that baleen whales as a group were significantly farther from the vessel during seismic compared with non-seismic periods. Moreover, the authors observed that the whales swam away more often from the operating seismic vessel (Moulton and Holst, 2010). Initial sightings of blue and minke whales were significantly farther from the vessel during seismic operations compared to non-seismic periods and the authors observed the same trend for fin whales (Moulton and Holst, 2010). Also, the authors observed that minke whales most often swam away from the vessel when seismic operations were underway (Moulton and Holst, 2010).

Toothed Whales: Few systematic data are available describing reactions of toothed whales to noise pulses. However, systematic work on sperm whales is underway (*e.g.,* Gordon *et al.,* 2006; Madsen *et al.,* 2006; Winsor and Mate, 2006; Jochens *et al.,* 2008; Miller *et al.,* 2009) and there is an increasing amount of information about responses of various odontocetes, including killer whales and belugas, to seismic surveys based on monitoring studies (*e.g.,* Stone, 2003; Smultea *et al.,* 2004; Moulton and Miller, 2005; Bain and Williams, 2006; Holst *et al.,* 2006; Stone and Tasker, 2006; Potter *et al.,* 2007; Hauser *et al.,* 2008; Holst and Smultea, 2008; Weir, 2008; Barkaszi *et al.,* 2009; Richardson *et al.,* 2009; Moulton and Holst, 2010). Reactions of toothed whales to large arrays of airguns are variable and, at least for delphinids, seem to be confined to a smaller radius than has been observed for mysticetes.

Observers stationed on seismic vessels operating off the United Kingdom from 1997–2000 have provided data on the occurrence and behavior of various toothed whales exposed to seismic pulses (Stone, 2003; Gordon *et al.,* 2004). The studies note that killer whales were significantly farther from large airgun arrays during periods of active airgun operations compared with periods of silence. The displacement of the median distance from the array was approximately 0.5 km (0.3 mi) or more. Killer whales also appear to be more tolerant of seismic shooting in deeper water (Stone, 2003; Gordon *et al.,* 2004).

The beluga may be a species that (at least in certain geographic areas) shows long-distance avoidance of seismic vessels. Aerial surveys during seismic operations in the southeastern Beaufort Sea recorded much lower sighting rates of beluga whales within 10–20 km (6.2–12.4 mi) of an active seismic vessel. These results were consistent with the low number of beluga sightings reported by observers aboard the seismic vessel, suggesting that some belugas might have been avoiding the seismic operations at distances of 10–20 km (6.2–12.4 mi) (Miller *et al.,* 2005).

Delphinids

Seismic operators and protected species observers (observers) on seismic vessels regularly see dolphins and other small toothed whales near operating airgun arrays, but in general there is a tendency for most delphinids to show some avoidance of operating seismic vessels (*e.g.,* Goold, 1996a,b,c; Calambokidis and Osmek, 1998; Stone, 2003; Moulton and Miller, 2005; Holst *et al.,* 2006; Stone and Tasker, 2006; Weir, 2008; Richardson *et al.,* 2009; Barkaszi *et al.,* 2009; Moulton and Holst, 2010). Some dolphins seem to be attracted to the seismic vessel and floats, and some ride the bow wave of the seismic vessel even when large arrays of airguns are firing (*e.g.,* Moulton and Miller, 2005). Nonetheless, there have been indications that small toothed whales sometimes move away or maintain a somewhat greater distance from the vessel when a large array of airguns is operating than when it is silent (*e.g.,* Goold, 1996a,b,c; Stone and Tasker, 2006; Weir, 2008; Moulton and Holst, 2010). In most cases, the avoidance radii for delphinids appear to be small, on the order of one km or less, and some individuals show no apparent avoidance.

Captive bottlenose dolphins exhibited changes in behavior when exposed to strong pulsed sounds similar in duration to those typically used in seismic surveys (Finneran *et al.,* 2000, 2002, 2005). However, the animals tolerated high received levels of sound (pk–pk level >200 dB re 1 μPa) before exhibiting aversive behaviors.

Porpoises

Results for porpoises depend upon the species. The limited available data suggest that harbor porpoises show stronger avoidance of seismic operations than do Dall's porpoises (Stone, 2003; MacLean and Koski, 2005; Bain and Williams, 2006; Stone and Tasker, 2006). Dall's porpoises seem relatively tolerant of airgun operations (MacLean and Koski, 2005; Bain and Williams, 2006), although they too have been observed to avoid large arrays of operating airguns (Calambokidis and Osmek, 1998; Bain and Williams, 2006). This apparent difference in responsiveness of these two porpoise species is consistent with their relative responsiveness to boat traffic and some other acoustic sources (Richardson *et al.,* 1995; Southall *et al.,* 2007).

Pinnipeds

Pinnipeds are not likely to show a strong avoidance reaction to the airgun sources proposed for use. Visual monitoring from seismic vessels has shown only slight (if any) avoidance of airguns by pinnipeds and only slight (if any) changes in behavior. Monitoring work in the Alaskan Beaufort Sea during 1996–2001 provided considerable information regarding the behavior of Arctic ice seals exposed to seismic pulses (Harris *et al.,* 2001; Moulton and Lawson, 2002). These seismic projects usually involved arrays of 6 to 16 airguns with total volumes of 560 to 1,500 in^3. The combined results suggest that some seals avoid the immediate area around seismic vessels. In most survey years, ringed seal (*Phoca hispida*) sightings tended to be farther away from the seismic vessel when the airguns were operating than when they were not (Moulton and Lawson, 2002). However, these avoidance movements were relatively small, on the order of 100 m (328 ft) to a few hundreds of meters, and many seals remained within 100–200 m (328–656 ft) of the trackline as the operating airgun array passed by the animals. Seal sighting rates at the water surface were lower during airgun array operations than during no-airgun periods in each survey year except 1997. Similarly, seals are often very tolerant of pulsed sounds from seal-scaring devices (Mate and Harvey, 1987; Jefferson and Curry, 1994; Richardson *et al.,* 1995). However, initial telemetry work suggests that avoidance and other behavioral reactions by two other species of seals to small airgun sources may at times be stronger than evident to date from visual studies of pinniped reactions to airguns (Thompson *et al.,* 1998).

Hearing Impairment

Exposure to high intensity sound for a sufficient duration may result in auditory effects such as a noise-induced threshold shift—an increase in the auditory threshold after exposure to noise (Finneran *et al.,* 2005). Factors that influence the amount of threshold shift include the amplitude, duration,

frequency content, temporal pattern, and energy distribution of noise exposure. The magnitude of hearing threshold shift normally decreases over time following cessation of the noise exposure. The amount of threshold shift just after exposure is the initial threshold shift. If the threshold shift eventually returns to zero (*i.e.,* the threshold returns to the pre-exposure value), it is a temporary threshold shift (Southall *et al.,* 2007).

Threshold Shift (noise-induced loss of hearing)—When animals exhibit reduced hearing sensitivity (*i.e.,* sounds must be louder for an animal to detect them) following exposure to an intense sound or sound for long duration, it is referred to as a noise-induced threshold shift (TS). An animal can experience temporary threshold shift (TTS) or permanent threshold shift (PTS). TTS can last from minutes or hours to days (*i.e.,* there is complete recovery), can occur in specific frequency ranges (*i.e.,* an animal might only have a temporary loss of hearing sensitivity between the frequencies of 1 and 10 kHz), and can be of varying amounts (for example, an animal's hearing sensitivity might be reduced initially by only 6 dB or reduced by 30 dB). PTS is permanent, but some recovery is possible. PTS can also occur in a specific frequency range and amount as mentioned above for TTS.

The following physiological mechanisms are thought to play a role in inducing auditory TS: Effects to sensory hair cells in the inner ear that reduce their sensitivity, modification of the chemical environment within the sensory cells, residual muscular activity in the middle ear, displacement of certain inner ear membranes, increased blood flow, and post-stimulatory reduction in both efferent and sensory neural output (Southall *et al.,* 2007). The amplitude, duration, frequency, temporal pattern, and energy distribution of sound exposure all can affect the amount of associated TS and the frequency range in which it occurs. As amplitude and duration of sound exposure increase, so, generally, does the amount of TS, along with the recovery time. For intermittent sounds, less TS could occur than compared to a continuous exposure with the same energy (some recovery could occur between intermittent exposures depending on the duty cycle between sounds) (Kryter *et al.,* 1966; Ward, 1997). For example, one short but loud (higher SPL) sound exposure may induce the same impairment as one longer but softer sound, which in turn may cause more impairment than a series of several intermittent softer sounds with the same total energy (Ward, 1997). Additionally, though TTS is temporary, prolonged exposure to sounds strong enough to elicit TTS, or shorter-term exposure to sound levels well above the TTS threshold, can cause PTS, at least in terrestrial mammals (Kryter, 1985). Although in the case of EMALL's survey, NMFS does not expect that animals would experience levels high enough or durations long enough to result in PTS given that the airgun is a very low volume airgun, and the use of the airgun will be restricted to seven days in a small geographic area.

PTS is considered auditory injury (Southall *et al.,* 2007). Irreparable damage to the inner or outer cochlear hair cells may cause PTS; however, other mechanisms are also involved, such as exceeding the elastic limits of certain tissues and membranes in the middle and inner ears and resultant changes in the chemical composition of the inner ear fluids (Southall *et al.,* 2007).

Although the published body of scientific literature contains numerous theoretical studies and discussion papers on hearing impairments that can occur with exposure to a loud sound, only a few studies provide empirical information on the levels at which noise-induced loss in hearing sensitivity occurs in non-human animals.

Recent studies by Kujawa and Liberman (2009) and Lin *et al.* (2011) found that despite completely reversible threshold shifts that leave cochlear sensory cells intact, large threshold shifts could cause synaptic level changes and delayed cochlear nerve degeneration in mice and guinea pigs, respectively. NMFS notes that the high level of TTS that led to the synaptic changes shown in these studies is in the range of the high degree of TTS that Southall *et al.* (2007) used to calculate PTS levels. It is unknown whether smaller levels of TTS would lead to similar changes. NMFS, however, acknowledges the complexity of noise exposure on the nervous system, and will re-examine this issue as more data become available.

For marine mammals, published data are limited to the captive bottlenose dolphin, beluga, harbor porpoise, and Yangtze finless porpoise (Finneran *et al.,* 2000, 2002, 2003, 2005, 2007, 2010a, 2010b; Finneran and Schlundt, 2010; Lucke *et al.,* 2009; Mooney *et al.,* 2009a, 2009b; Popov *et al.,* 2011a, 2011b; Kastelein *et al.,* 2012a; Schlundt *et al.,* 2000; Nachtigall *et al.,* 2003, 2004). For pinnipeds in water, data are limited to measurements of TTS in harbor seals, an elephant seal, and California sea lions (Kastak *et al.,* 1999, 2005; Kastelein *et al.,* 2012b).

Lucke *et al.* (2009) found a threshold shift (TS) of a harbor porpoise after exposing it to airgun noise with a received sound pressure level (SPL) at 200.2 dB (peak-to-peak) re: 1 μPa, which corresponds to a sound exposure level of 164.5 dB re: 1 μPa2 s after integrating exposure. NMFS currently uses the root-mean-square (rms) of received SPL at 180 dB and 190 dB re: 1 μPa as the threshold above which permanent threshold shift (PTS) could occur for cetaceans and pinnipeds, respectively. Because the airgun noise is a broadband impulse, one cannot directly determine the equivalent of rms SPL from the reported peak-to-peak SPLs. However, applying a conservative conversion factor of 16 dB for broadband signals from seismic surveys (McCauley, *et al.,* 2000) to correct for the difference between peak-to-peak levels reported in Lucke *et al.* (2009) and rms SPLs, the rms SPL for TTS would be approximately 184 dB re: 1 μPa, and the received levels associated with PTS (Level A harassment) would be higher. This is still above NMFS' current 180 dB rms re: 1 μPa threshold for injury. However, NMFS recognizes that TTS of harbor porpoises is lower than other cetacean species empirically tested (Finneran & Schlundt, 2010; Finneran *et al.,* 2002; Kastelein and Jennings, 2012).

A recent study on bottlenose dolphins (Schlundt, *et al.,* 2013) measured hearing thresholds at multiple frequencies to determine the amount of TTS induced before and after exposure to a sequence of impulses produced by a seismic air gun. The air gun volume and operating pressure varied from 40–150 in^3 and 1000–2000 psi, respectively. After three years and 180 sessions, the authors observed no significant TTS at any test frequency, for any combinations of air gun volume, pressure, or proximity to the dolphin during behavioral tests (Schlundt, *et al.,* 2013). Schlundt *et al.* (2013) suggest that the potential for airguns to cause hearing loss in dolphins is lower than previously predicted, perhaps as a result of the low-frequency content of air gun impulses compared to the high-frequency hearing ability of dolphins.

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to

serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts. Also, depending on the degree and frequency range, the effects of PTS on an animal could range in severity, although it is considered generally more serious because it is a permanent condition. Of note, reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.,* 2007), so one can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

Given the higher level of sound necessary to cause PTS as compared with TTS, it is considerably less likely that PTS would occur during the survey; TTS is also unlikely. Cetaceans generally avoid the immediate area around operating seismic vessels, as do some other marine mammals. Some pinnipeds show avoidance reactions to airguns, but their avoidance reactions are generally not as strong or consistent compared to cetacean reactions.

Non-auditory Physical Effects: Non-auditory physical effects might occur in marine mammals exposed to strong underwater pulsed sound. Possible types of non-auditory physiological effects or injuries that theoretically might occur in mammals close to a strong sound source include stress, neurological effects, bubble formation, and other types of organ or tissue damage. Some marine mammal species (*i.e.,* beaked whales) may be especially susceptible to injury and/or stranding when exposed to strong pulsed sounds.

Classic stress responses begin when an animal's central nervous system perceives a potential threat to its homeostasis. That perception triggers stress responses regardless of whether a stimulus actually threatens the animal; the mere perception of a threat is sufficient to trigger a stress response (Moberg, 2000; Sapolsky *et al.,* 2005; Seyle, 1950). Once an animal's central nervous system perceives a threat, it mounts a biological response or defense that consists of a combination of the four general biological defense responses: Behavioral responses; autonomic nervous system responses; neuroendocrine responses; or immune responses.

In the case of many stressors, an animal's first and most economical (in terms of biotic costs) response is behavioral avoidance of the potential stressor or avoidance of continued exposure to a stressor. An animal's second line of defense to stressors involves the sympathetic part of the autonomic nervous system and the classical ''fight or flight'' response, which includes the cardiovascular system, the gastrointestinal system, the exocrine glands, and the adrenal medulla to produce changes in heart rate, blood pressure, and gastrointestinal activity that humans commonly associate with stress. These responses have a relatively short duration and may or may not have significant long-term effects on an animal's welfare.

An animal's third line of defense to stressors involves its neuroendocrine or sympathetic nervous systems; the system that has received the most study has been the hypothalmus-pituitary-adrenal (HPA) system (also known as the HPA axis in mammals or the hypothalamus-pituitary-interrenal axis in fish and some reptiles). Unlike stress responses associated with the autonomic nervous system, the pituitary hormones regulate virtually all neuroendocrine functions affected by stress—including immune competence, reproduction, metabolism, and behavior. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction (Moberg, 1987; Rivier, 1995), altered metabolism (Elasser *et al.,* 2000), and reduced immune competence (Blecha, 2000). Increases in the circulation of glucocorticosteroids (cortisol, corticosterone, and aldosterone in marine mammals; see Romano *et al.,* 2004) have been equated with stress for many years.

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and distress is the biotic cost of the response. During a stress response, an animal uses glycogen stores that the body quickly replenishes after alleviation of the stressor. In such circumstances, the cost of the stress response would not pose a risk to the animal's welfare. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, it diverts energy resources from other biotic functions, which impair those functions that experience the diversion. For example, when mounting a stress response diverts energy away from growth in young animals, those animals may experience stunted growth (McEwen and Wingfield, 2003). When mounting a stress response diverts energy from a fetus, an animal's reproductive success and fitness will suffer. In these cases, the animals will have entered a pre-pathological or pathological state called ''distress'' (*sensu* Seyle, 1950) or ''allostatic loading'' (*sensu* McEwen and Wingfield, 2003). This pathological state will last until the animal replenishes its biotic reserves sufficient to restore normal function. Note that these examples involved a long-term (days or weeks) stress response exposure to stimuli.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses have also been documented fairly well through controlled experiment; because this physiology exists in every vertebrate that has been studied, it is not surprising that stress responses and their costs have been documented in both laboratory and free-living animals (for examples see, Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005; Reneerkens *et al.,* 2002; Thompson and Hamer, 2000). Although no information has been collected on the physiological responses of marine mammals to anthropogenic sound exposure, studies of other marine animals and terrestrial animals would lead us to expect some marine mammals to experience physiological stress responses and, perhaps, physiological responses that would be classified as ''distress'' upon exposure to anthropogenic sounds.

For example, Jansen (1998) reported on the relationship between acoustic exposures and physiological responses that are indicative of stress responses in humans (*e.g.,* elevated respiration and increased heart rates). Jones (1998) reported on reductions in human performance when faced with acute, repetitive exposures to acoustic disturbance. Trimper *et al.* (1998) reported on the physiological stress responses of osprey to low-level aircraft noise while Krausman *et al.* (2004) reported on the auditory and physiology stress responses of endangered Sonoran pronghorn to military overflights. Smith *et al.* (2004a, 2004b) identified noise-induced physiological transient stress responses in hearing-specialist fish (*i.e.,* goldfish) that accompanied short- and long-term hearing losses. Welch and Welch (1970) reported physiological and behavioral stress responses that accompanied damage to the inner ears of fish and several mammals.

Hearing is one of the primary senses marine mammals use to gather information about their environment

and communicate with conspecifics. Although empirical information on the relationship between sensory impairment (TTS, PTS, and acoustic masking) on marine mammals remains limited, we assume that reducing a marine mammal's ability to gather information about its environment and communicate with other members of its species would induce stress, based on data that terrestrial animals exhibit those responses under similar conditions (NRC, 2003) and because marine mammals use hearing as their primary sensory mechanism. Therefore, NMFS assumes that acoustic exposures sufficient to trigger onset PTS or TTS would be accompanied by physiological stress responses. More importantly, marine mammals might experience stress responses at received levels lower than those necessary to trigger onset TTS. Based on empirical studies of the time required to recover from stress responses (Moberg, 2000), NMFS also assumes that stress responses could persist beyond the time interval required for animals to recover from TTS and might result in pathological and pre-pathological states that would be as significant as behavioral responses to TTS.

Resonance effects (Gentry, 2002) and direct noise-induced bubble formations (Crum *et al.,* 2005) are implausible in the case of exposure to an impulsive broadband source like an airgun array. If seismic surveys disrupt diving patterns of deep-diving species, this might result in bubble formation and a form of the bends, as speculated to occur in beaked whales exposed to sonar. However, there is no specific evidence of this upon exposure to airgun pulses.

In general, there are few data about the potential for strong, anthropogenic underwater sounds to cause non-auditory physical effects in marine mammals. Such effects, if they occur at all, would presumably be limited to short distances and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. There is no definitive evidence that any of these effects occur even for marine mammals in close proximity to large arrays of airguns. In addition, marine mammals that show behavioral avoidance of seismic vessels, including some pinnipeds, are unlikely to incur non-auditory impairment or other physical effects. The low volume of the airgun proposed for this activity combined with the limited scope of use makes non-auditory physical effects from airgun use, including stress, unlikely. Therefore, we do not anticipate such effects would occur given the brief duration of exposure during the survey.

Stranding and Mortality

When a living or dead marine mammal swims or floats onto shore and becomes ''beached'' or incapable of returning to sea, the event is a ''stranding'' (Geraci *et al.,* 1999; Perrin and Geraci, 2002; Geraci and Lounsbury, 2005; NMFS, 2007). The legal definition for a stranding under the MMPA is that ''(A) a marine mammal is dead and is (i) on a beach or shore of the United States; or (ii) in waters under the jurisdiction of the United States (including any navigable waters); or (B) a marine mammal is alive and is (i) on a beach or shore of the United States and is unable to return to the water; (ii) on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or (iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance.''

Marine mammals strand for a variety of reasons, such as infectious agents, biotoxicosis, starvation, fishery interaction, ship strike, unusual oceanographic or weather events, sound exposure, or combinations of these stressors sustained concurrently or in series. However, the cause or causes of most strandings are unknown (Geraci *et al.,* 1976; Eaton, 1979; Odell *et al.,* 1980; Best, 1982). Numerous studies suggest that the physiology, behavior, habitat relationships, age, or condition of cetaceans may cause them to strand or might pre-dispose them to strand when exposed to another phenomenon. These suggestions are consistent with the conclusions of numerous other studies that have demonstrated that combinations of dissimilar stressors commonly combine to kill an animal or dramatically reduce its fitness, even though one exposure without the other does not produce the same result (Chroussos, 2000; Creel, 2005; DeVries *et al.,* 2003; Fair and Becker, 2000; Foley *et al.,* 2001; Moberg, 2000; Relyea, 2005a; 2005b, Romero, 2004; Sih *et al.,* 2004). Given the low volume and source level of the proposed airgun, standing and mortality are not anticipated due to use of the airgun proposed for this activity.

2. Potential Effects of Other Acoustic Devices

Sub-Bottom Profiler

EMALL would also operate a sub-bottom profiler chirp and boomer from the source vessel during the proposed survey. The chirp's sounds are very short pulses, occurring for one ms, six times per second. Most of the energy in the sound pulses emitted by the profiler is at 2–6 kHz, and the beam is directed downward. The chirp has a maximum source level of 202 dB re: 1 μPa, with a tilt angle of 90 degrees below horizontal and a beam width of 24 degrees. The sub-bottom profiler boomer will shoot approximately every 3.125 m, with shots lasting 1.5 to 2 seconds. Most of the energy in the sound pulses emitted by the boomer is concentrated between 0.5 and 6 kHz, with a source level of 205 dB re: 1 μPa. The tilt of the boomer is 90 degrees below horizontal, but the emission is omnidirectional. Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when a bottom profiler emits a pulse is small—because if the animal was in the area, it would have to pass the transducer at close range in order to be subjected to sound levels that could cause temporary threshold shift and would likely exhibit avoidance behavior to the area near the transducer rather than swim through at such a close range.

Masking: Both the chirper and boomer sub-bottom profilers produce impulsive sound exceeding 160 dB re: 1 μPa-m (rms). The louder boomer operates at a source value of 205 dB re: 1 μPa-m (rms), but with a frequency between 0.5 and 6 kHz, which is lower than the maximum sensitivity hearing range of any the local species (belugas—40–130 kHz;, killer whales—7–30 kHz; harbor porpoise—100–140 kHz; and harbor seals—10–30 kHz; Wartzok and Ketten 1999, Southall *et al.* 2007, Kastelein *et al.* 2002). While the chirper is not as loud (202 dB re 1 μPa-m [rms]), it does operate at a higher frequency range (2–16 kHz), and within the maximum sensitive range of all of the local species except beluga whales.

Marine mammal communications would not likely be masked appreciably by the profiler's signals given the directionality of the signal and the brief period when an individual mammal is likely to be within its beam. Furthermore, despite the fact that the profiler overlaps with hearing ranges of many marine mammal species in the area, the profiler's signals do not overlap with the predominant frequencies in the calls, which would avoid significant masking.

Behavioral Responses: Responses to the profiler are likely to be similar to the other pulsed sources discussed earlier if received at the same levels. The behavioral response of local marine mammals to the operation of the sub-bottom profilers is expected to be similar to that of the small airgun. The odontocetes are likely to avoid the sub-bottom profiler activity, especially the naturally shy harbor porpoise, while the harbor seals might be attracted to them out of curiosity. However, because the sub-bottom profilers operate from a moving vessel, and the maximum radius to the 160 dB harassment threshold is only 263 m (863 ft), the area and time that this equipment would be affecting a given location is very small.

Hearing Impairment and Other Physical Effects: It is unlikely that the sub-bottom profilers produce sound levels strong enough to cause hearing impairment or other physical injuries even in an animal that is (briefly) in a position near the source (Wood et al. 2012). The likelihood of marine mammals moving away from the source make if further unlikely that a marine mammal would be able to approach close to the transducers.

Animals may avoid the area around the survey vessels, thereby reducing exposure. Any disturbance to marine mammals is likely to be in the form of temporary avoidance or alteration of opportunistic foraging behavior near the survey location.

Vibracore

EMALL would conduct vibracoring in a portion of Cook Inlet for a total of 120 vibracoring occurrences. While duration is dependent on sediment type, the driving mechanism, which emits sound at a source level of 187dB re: 1 μPa, will only bore for 1 to 2 minutes. The sound is emitted at a frequency of 10 Hz to 20 kHz.

Masking: It is unlikely that masking will occur due to vibracore operations. Chorney *et al.* (2011) conducted sound measurements on an operating vibracorer in Alaska and found that it emitted a sound pressure level at 1-m source of 188 dB re 1 μPa-m (rms), with a frequency range of between 10 Hz and 20 kHz. While the frequency range overlaps the lower ends of the maximum sensitivity hearing ranges of harbor porpoises, killer whales, and harbor seals, and the continuous sound extends 2.54 km (1.6 mi) to the 120 dB threshold, the vibracorer will operate about the one or two minutes it takes to drive the core pipe 7 m (20 ft) into the sediment, and approximately twice per day. Therefore, there is very little opportunity for this activity to mask the communication of local marine mammals.

Behavioral Response: It is unlikely that vibracoring will elicit behavioral responses that rise to the level of a take from marine mammal species in the area. A review of similar survey activity in New Zealand by their Department of Conservation classified the likely effects from vibracore and similar activity to be some habitat degradation and prey species effects, but primarily behavioral responses, although the species in the analyzed area were different to those found in Cook Inlet (Thompson, 2012). The category of behavioral responses covered a suite of behaviors including altered respiration and dive patterns, disruption of foraging or nursing, and temporary displacement from particular habitats.

There are no data on the behavioral response to vibracore activity of marine mammals in Cook Inlet. The closest analog to vibracoring might be exploratory drilling, although there is a notable difference in magnitude between an oil and gas drilling operation and collecting sediment samples with a vibracorer. Thomas *et al.* (1990) played back drilling sound to four captive beluga whales and found no statistical difference in swim patterns, social groups, respiration and dive rates, or stress hormone levels before and during playbacks. There is no reason to believe that beluga whales or any other marine mammal exposed to vibracoring sound would behave any differently, especially since vibracoring occurs for only one or two minutes.

Hearing Impairment and Other Physical Effects: The vibracorer operates for only one or two minutes at a time with a 1-m source of 187.4 dB re 1 μPa-m (rms). It is neither loud enough nor does it operate for a long enough duration to induce either TTS or PTS.

Stranding and Mortality

Stress, Stranding, and Mortality Safety zones will be established to prevent acoustical injury to local marine mammals, especially injury that could indirectly lead to mortality. Also, G&G sound is not expected to cause resonate effects to gas-filled spaces or airspaces in marine mammals based on the research of Finneran (2003) on beluga whales showing that the tissue and other body masses dampen any potential effects of resonance on ear cavities, lungs, and intestines. Chronic exposure to sound could lead to physiological stress eventually causing hormonal imbalances (NRC 2005). If survival demands are already high, and/or additional stressors are present, the ability of the animal to cope decreases, leading to pathological conditions or death (NRC 2005). Potential effects may be greatest where sound disturbance can disrupt feeding patterns including displacement from critical feeding grounds. However, all G&G exposure to marine mammals would be of duration measured in minutes.

Specific sound-related processes that lead to strandings and mortality are not well documented, but may include (1) swimming in avoidance of a sound into shallow water; (2) a change in behavior (such as a change in diving behavior) that might contribute to tissue damage, gas bubble formation, hypoxia, cardiac arrhythmia, hypertensive hemorrhage, or other forms of trauma; (3) a physiological change such as a vestibular response leading to a behavioral change or stress-induced hemorrhagic diathesis, leading in turn to tissue damage; and, (4) tissue damage directly from sound exposure, such as through acoustically mediated bubble formation and growth or acoustic resonance of tissues (Wood *et al.* 2012). Some of these mechanisms are unlikely to apply in the case of impulse G&G sounds, especially since airguns and sub-bottom profilers produce broadband sound with low pressure rise. Strandings to date which have been attributed to sound exposure related to date from military exercises using narrowband mid-frequency sonar with a much greater likelihood to cause physical damage (Balcomb and Claridge 2001, NOAA and USN, 2001, Hildebrand 2005).

The low intensity, low frequency, broadband sound associated with airguns and sub-bottom profilers, combined with the shutdown safety zone mitigation measure for the airgun would prevent physical damage to marine mammals. The vibracoring would also be unlikely to have the capability of causing physical damage to marine mammals because of its low intensity and short duration.

3. Potential Effects of Vessel Movement and Collisions

Vessel movement in the vicinity of marine mammals has the potential to result in either a behavioral response or a direct physical interaction. We discuss both scenarios here.

Behavioral Responses to Vessel Movement: There are limited data concerning marine mammal behavioral responses to vessel traffic and vessel noise, and a lack of consensus among scientists with respect to what these responses mean or whether they result in short-term or long-term adverse effects. In those cases where there is a busy shipping lane or where there is a

large amount of vessel traffic, marine mammals may experience acoustic masking (Hildebrand, 2005) if they are present in the area (*e.g.,* killer whales in Puget Sound; Foote *et al.,* 2004; Holt *et al.,* 2008). In cases where vessels actively approach marine mammals (*e.g.,* whale watching or dolphin watching boats), scientists have documented that animals exhibit altered behavior such as increased swimming speed, erratic movement, and active avoidance behavior (Bursk, 1983; Acevedo, 1991; Baker and MacGibbon, 1991; Trites and Bain, 2000; Williams *et al.,* 2002; Constantine *et al.,* 2003), reduced blow interval (Ritcher *et al.,* 2003), disruption of normal social behaviors (Lusseau, 2003; 2006), and the shift of behavioral activities which may increase energetic costs (Constantine *et al.,* 2003; 2004). A detailed review of marine mammal reactions to ships and boats is available in Richardson *et al.* (1995). For each of the marine mammal taxonomy groups, Richardson *et al.* (1995) provides the following assessment regarding reactions to vessel traffic:

Pinnipeds: Reactions by pinnipeds to vessel disturbance largely involve relocation. Harbor seals hauled out on mud flats have been documented returning to the water in response to nearing boat traffic. Vessels that approach haulouts slowly may also elicit alert reactions without flushing from the haulout. Small boats with slow, constant speed elicit the least noticeable reactions. However, in Alaska specifically, harbor seals are documented to tolerate fishing vessels with no discernable reactions, and habituation is common (Burns in Johnson *et al.,* 1989).

Porpoises: Harbor porpoises are often seen changing direction in the presence of vessel traffic. Avoidance has been documented up to 1km away from an approaching vessel, but the avoidance response is strengthened in closer proximity to vessels (Barlow, 1998; Palka, 1993). This avoidance behavior is not consistent across all porpoises, as Dall's porpoises have been observed approaching boats.

Toothed whales: In summary, toothed whales sometimes show no avoidance reaction to vessels, or even approach them. However, avoidance can occur, especially in response to vessels of types used to chase or hunt the animals. This may cause temporary displacement, but we know of no clear evidence that toothed whales have abandoned significant parts of their range because of vessel traffic.

Behavioral responses to stimuli are complex and influenced to varying degrees by a number of factors, such as species, behavioral contexts, geographical regions, source characteristics (moving or stationary, speed, direction, etc.), prior experience of the animal and physical status of the animal. For example, studies have shown that beluga whales' reactions varied when exposed to vessel noise and traffic. In some cases, naive beluga whales exhibited rapid swimming from ice-breaking vessels up to 80 km (49.7 mi) away, and showed changes in surfacing, breathing, diving, and group composition in the Canadian high Arctic where vessel traffic is rare (Finley *et al.,* 1990). In other cases, beluga whales were more tolerant of vessels, but responded differentially to certain vessels and operating characteristics by reducing their calling rates (especially older animals) in the St. Lawrence River where vessel traffic is common (Blane and Jaakson, 1994). In Bristol Bay, Alaska, beluga whales continued to feed when surrounded by fishing vessels and resisted dispersal even when purposefully harassed (Fish and Vania, 1971).

In reviewing more than 25 years of whale observation data, Watkins (1986) concluded that whale reactions to vessel traffic were ''modified by their previous experience and current activity: Habituation often occurred rapidly, attention to other stimuli or preoccupation with other activities sometimes overcame their interest or wariness of stimuli.'' Watkins noticed that over the years of exposure to ships in the Cape Cod area, minke whales changed from frequent positive interest (*e.g.,* approaching vessels) to generally uninterested reactions; fin whales changed from mostly negative (*e.g.,* avoidance) to uninterested reactions; right whales apparently continued the same variety of responses (negative, uninterested, and positive responses) with little change; and humpbacks dramatically changed from mixed responses that were often negative to reactions that were often strongly positive. Watkins (1986) summarized that ''whales near shore, even in regions with low vessel traffic, generally have become less wary of boats and their noises, and they have appeared to be less easily disturbed than previously. In particular locations with intense shipping and repeated approaches by boats (such as the whale-watching areas of Stellwagen Bank), more and more whales had positive reactions to familiar vessels, and they also occasionally approached other boats and yachts in the same ways.''

Vessel Strike

Ship strikes of cetaceans can cause major wounds, which may lead to the death of the animal. An animal at the surface could be struck directly by a vessel, a surfacing animal could hit the bottom of a vessel, or a vessel's propeller could injure an animal just below the surface. The severity of injuries typically depends on the size and speed of the vessel (Knowlton and Kraus, 2001; Laist *et al.,* 2001; Vanderlaan and Taggart, 2007).

The most vulnerable marine mammals are those that spend extended periods of time at the surface in order to restore oxygen levels within their tissues after deep dives (*e.g.,* the sperm whale). In addition, some baleen whales, such as the North Atlantic right whale, seem generally unresponsive to vessel sound, making them more susceptible to vessel collisions (Nowacek *et al.,* 2004). These species are primarily large, slow moving whales. Smaller marine mammals (*e.g.,* bottlenose dolphin) move quickly through the water column and are often seen riding the bow wave of large ships. Marine mammal responses to vessels may include avoidance and changes in dive pattern (NRC, 2003).

An examination of all known ship strikes from all shipping sources (civilian and military) indicates vessel speed is a principal factor in whether a vessel strike results in death (Knowlton and Kraus, 2001; Laist *et al.,* 2001; Jensen and Silber, 2003; Vanderlaan and Taggart, 2007). In assessing records with known vessel speeds, Laist *et al.* (2001) found a direct relationship between the occurrence of a whale strike and the speed of the vessel involved in the collision. The authors concluded that most deaths occurred when a vessel was traveling in excess of 24.1 km/h (14.9 mph; 13 kts). Given the slow vessel speeds necessary for data acquisition, ship strike is unlikely to occur during this survey.

Entanglement

Entanglement can occur if wildlife becomes immobilized in survey lines, cables, nets, or other equipment that is moving through the water column. The proposed survey would require towing approximately 150 ft of cables. This size of the array generally carries a lower risk of entanglement for marine mammals. Wildlife, especially slow moving individuals, such as large whales, have a low probability of entanglement due to the low amount of slack in the lines, slow speed of the survey vessel, and onboard monitoring. Pinnipeds and porpoises are the least likely to entangle in equipment, as most

documented cases of entanglement involve fishing gear and prey species (Gales *et al.,* 2003). There are no reported cases of entanglement from geophysical equipment in the Cook Inlet area.

Anticipated Effects on Marine Mammal Habitat

The G&G Program survey areas are within upper Cook Inlet, primarily north of the Forelands although the Marine Terminal survey area is located near Nikiski just south of the East Foreland, which includes habitat for prey species of marine mammals, including fish as well as invertebrates eaten by Cook Inlet beluga whales. This area contains Critical Habitat for Cook Inlet belugas, is near the breeding grounds for the local harbor seal population, and serves as an occasional feeding ground for killer whales and harbor porpoises. Cook Inlet is a large subarctic estuary roughly 299 km (186 mi) in length and averaging 96 km (60 mi) in width. It extends from the city of Anchorage at its northern end and flows into the Gulf of Alaska at its southernmost end. For descriptive purposes, Cook Inlet is separated into unique upper and lower sections, divided at the East and West Forelands, where the opposing peninsulas create a natural waistline in the length of the waterway, measuring approximately 16 km (10 mi) across (Mulherin *et al.,* 2001).

Potential effects on beluga habitat would be limited to noise effects on prey; direct impact to benthic habitat from jack-up platform leg placement, and sampling with grabs, coring, and boring; and small discharges of drill cuttings and drilling mud associated with the borings. Portions of the survey areas include waters of Cook Inlet that are <9.1 m (30 ft) in depth and within 8.0 km (5.0 mi) of anadromous streams. Several anadromous streams (Three-mile Creek, Indian Creek, and two unnamed streams) enter the Cook Inlet within the survey areas. Other anadromous streams are located within 8.0 km (5.0 mi) of the survey areas. The survey program will not prevent beluga access to the mouths of these streams and will result in no short-term or long-term loss of intertidal or subtidal waters that are <9.1 m (30 ft) in depth and within 8.0 km (5.0 mi) of anadromous streams. Minor seafloor impacts will occur in these areas from grab samples, PCPTs, vibracores, or geotechnical borings but will have no effect on the area as beluga habitat once the vessel or jack-up platform has left. The survey program will have no effect on this habitat.

Cook Inlet beluga whales may avoid areas ensonified by the geophysical or geotechnical activities that generate sound with frequencies within the beluga hearing range and at levels above threshold values. This includes the chirp sub-bottom profiler with a radius of 631 m, the boomer sub-bottom profiler with a radius of 1 km, the airgun with a radius of 300 m and the vibracore with a radius of 6.2 m. The sub-bottom profilers and the airgun will be operated from a vessel moving at speeds of about 4 kt. The chirp may also be operated concurrently with an airgun. The airgun may also be used as a stationary source in the Marine Facilities area. The operation of a vibracore has a duration of approximately 1–2 minutes. All of these activities will be conducted in relatively open areas of the Cook Inlet within Critical Habitat Area 2. Given the size and openness of the Cook Inlet in the survey areas, and the relatively small area and mobile/temporary nature of the zones of ensonification, the generation of sound by the G&G activities is not expected to result in any restriction of passage of belugas within or between critical habitat areas. The jack-up platform from which the geotechnical borings will be conducted will be attached to the seafloor with legs, and will be in place at a given location for up to 4–5 days, but given its small size (Table 4 in the application) would not result in any obstruction of passage by belugas.

Upper Cook Inlet comprises the area between Point Campbell (Anchorage) down to the Forelands, and is roughly 95 km (59 mi) in length and 24.9 km (15.5 mi) in width (Mulherin *et al.,* 2001). Five major rivers (Knik, Matanuska, Susitna, Little Susitna, and Beluga) deliver freshwater to upper Cook Inlet, carrying a heavy annual sediment load of over 40 million tons of eroded materials and glacial silt (Brabets 1999). As a result, upper Cook Inlet is relatively shallow, averaging 18.3 m (60 ft) in depth. It is characterized by shoals, mudflats, and a wide coastal shelf, less than 17.9 m (59 ft) deep, extending from the eastern shore. A deep trough exists between Trading Bay and the Middle Ground Shoal, ranging from 35 to 77 m (114–253 ft) deep (NOAA Nautical Chart 16660). The substrate consists of a mixture of coarse gravels, cobbles, pebbles, sand, clay, and silt (Bouma *et al.* 1978, Rappeport 1982).

Upper Cook Inlet experiences some of the most extreme tides in the world, demonstrated by a mean tidal range from 4.0 m (13 ft) at the Gulf of Alaska end to 8.8 m (29 ft) near Anchorage (U.S. Army Corps of Engineers 2013). Tidal currents reach 3.9 kts per second (Mulherin *et al.,* 2001) in upper Cook Inlet, increasing to 5.7–7.7 kts per second near the Forelands where the inlet is constricted. Each tidal cycle creates significant turbulence and vertical mixing of the water column in the upper inlet (U.S. Army Corps of Engineers 2013), and are reversing, meaning that they are marked by a period of slack tide followed an acceleration in the opposite direction (Mulherin *et al,.* 2001).

Because of scouring, mixing, and sediment transport from these currents, the marine invertebrate community is very limited (Pentec 2005). Of the 50 stations sampled by Saupe *et al.* 2005 for marine invertebrates in Southcentral Alaska, their upper Cook Inlet station had by far the lowest abundance and diversity. Further, the fish community of upper Cook Inlet is characterized largely by migratory fish—eulachon and Pacific salmon—returning to spawning rivers, or outmigrating salmon smolts. Moulton (1997) documented only 18 fish species in upper Cook Inlet compared to at least 50 species found in lower Cook Inlet (Robards *et al.* 1999).

Lower Cook Inlet extends from the Forelands southwest to the inlet mouth demarked by an approximate line between Cape Douglas and English Bay. Water circulation in lower Cook Inlet is dominated by the Alaska Coastal Current (ACC) that flows northward along the shores of the Kenai Peninsula until it turns westward and is mixed by the combined influences of freshwater input from upper Cook Inlet, wind, topography, tidal surges, and the coriolis effect (Field and Walker 2003, MMS 1996). Upwelling by the ACC brings nutrient-rich waters to lower Cook Inlet and contributes to a biologically rich and productive ecology (Sambrotto and Lorenzen 1986). Tidal currents average 2–3 kt per second and are rotary in that they do not completely go slack before rotating around into an opposite direction (Gatto 1976, Mulherin *et al.* 2001). Depths in the central portion of lower Cook Inlet are 60–80 m (197–262 ft) and decrease steadily toward the shores (Muench 1981). Bottom sediments in the lower inlet are coarse gravel and sand that grade to finer sand and mud toward the south (Bouma 1978).

Coarser substrate support a wide variety of invertebrates and fish including Pacific halibut, Dungeness crab, tanner crab, pandalid shrimp, Pacific cod, and rock sole, while the soft-bottom sand and silt communities are dominated by polychaetes, bivalves and other flatfish (Field and Walker

2003). These species constitute prey species for several marine mammals in Cook Inlet, including pinnipeds and Cook Inlet belugas. Sea urchins and sea cucumbers are important otter prey and are found in shell debris communities. Razor clams are found all along the beaches of the Kenai Peninsula. In general, the lower Cook Inlet marine invertebrate community is of low abundance, dominated by polychaetes, until reaching the mouth of the inlet (Saupe *et al.* 2005). Overall, the lower Cook Inlet marine ecosystem is fed by midwater communities of phytoplankton and zooplankton, with the latter composed mostly of copepods and barnacle and crab larvae (Damkaer 1977, English 1980).

G&G Program activities that could potentially impact marine mammal habitats include sediment sampling (vibracore, boring, grab sampling) on the sea bottom, placement of the jack-up platform spud cans, and acoustical injury of prey resources. However, there are few benthic resources in the survey area that could be impacted by collection of the small samples (Saupe *et al.* 2005). These activities are temporary in nature and for short durations.

Acoustical effects to marine mammal prey resources are also limited. Christian *et al.* (2004) studied seismic energy impacts on male snow crabs and found no significant increases in physiological stress due to exposure to high sound pressure levels. No acoustical impact studies have been conducted to date on the above fish species, but studies have been conducted on Atlantic cod and sardine. Davis *et al.* (1998) cited various studies that found no effects to Atlantic cod eggs, larvae, and fry when received levels were 222 dB. Effects found were to larval fish within about 5.0 m (16 ft), and from air guns with volumes between 49,661 and 65,548 cm3 (3,000 and 4,000 in^3). Similarly, effects to sardine were greatest on eggs and 2-day larvae, but these effects were greatest at 0.5 m (1.6 ft), and again confined to 5.0 m (16 ft). Further, Greenlaw *et al.* (1988) found no evidence of gross histological damage to eggs and larvae of northern anchovy exposed to seismic air guns, and concluded that noticeable effects would result only from multiple, close exposures. Based on these results, much lower energy impulsive geophysical equipment planned for this program would not damage larval fish or any other marine mammal prey resource.

Potential damage to the Cook Inlet benthic community will be limited to the actual surface area of the four spud cans that form the ''foot'' of each 0.762-m (30-in) diameter leg, the 42 0.1524-m (6-in) diameter borings, and the 55 0.0762-m (3-in) diameter vibracore samplings (plus several grab and PCPT samples). Collectively, these samples would temporarily damage about a hundred square meters of benthic habitat relative to the size (nearly 21,000 km2/8,108 mi2) of Cook Inlet. Overall, sediment sampling and acoustical effects on prey resources will have a negligible effect at most on the marine mammal habitat within the G&G Program survey area. Some prey resources might be temporarily displaced, but no long-term effects are expected.

The Cook Inlet 2015 G&G Program will result in a number of minor discharges to the waters of Cook Inlet. Discharges associated with the geotechnical borings will include: (1) The discharge of drill cuttings and drilling fluids and (2) the discharge of deck drainage (runoff of precipitation and deck wash water) from the geotechnical drilling platform. Other vessels associated with the G&G surveys will discharge wastewaters that are normally associated with the operation of vessels in transit including deck drainage, ballast water, bilge water, non-contact cooling water, and gray water.

The discharges of drill cuttings, drilling fluids, and deck drainage associated with the geotechnical borings will be within limitations authorized by the Alaska Department of Environmental Conservation under the Alaska Pollutant Discharge Elimination System. The drill cuttings consist of natural geologic materials of the seafloor sediments brought to the surface via the drill bit/drill stem of the rotary drilling operation, will be relatively minor in volume, and deposit over a very small area of Cook Inlet seafloor. The drilling fluids which are used to lubricate the bit, stabilize the hole, and viscosify the slurry for transport of the solids to the surface will consist of seawater and guar gum. Guar gum is a high-molecular weight polysaccharide (galactose and mannose units) derived from the ground seeds of the plant *Cyampsis gonolobus.* It is a non-toxic fluid also used as a food additive in soups, drinks, breads, and meat products.

Vessel discharges will be authorized under the U.S. Environmental Protection Agency's (EPA's) National Pollutant Discharge Elimination System (NPDES) Vessel General Permit (VGP) for Discharges Incidental to the Normal Operation of Vessels. Each vessel will have obtained authorization under the VGP and will discharge according to the conditions and limitations mandated by the permit. As required by statute and regulation, the EPA has made a determination that such discharges will not result in any unreasonable degradation of the marine environment, including:

- Significant adverse changes in ecosystem diversity, productivity and stability of the biological community within the area of discharge and surrounding biological communities,
- Threat to human health through direct exposure to pollutants or through consumption of exposed aquatic organisms, or
- Loss of aesthetic, recreational, scientific or economic values which is unreasonable in relation to the benefit derived from the discharge.

Proposed Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant).

EMALL has proposed the following mitigation measures. To mitigate potential acoustical impacts to local marine mammals, Protected Species Observers (PSOs) will operate aboard the vessels from which the chirper, boomer, airgun, and vibracorer will be deployed. The PSOs will implement the mitigation measures described in the Marine Mammal Monitoring and Mitigation Plan (Appendix A of the application). These mitigations include: (1) Establishing safety zones to ensure marine mammals are not injured by sound pressure levels exceeding Level A injury thresholds; (2) shutting down the airgun when required to avoid harassment of beluga whales approaching the 160–dB disturbance zone; and (3) timing survey activity to avoid concentrations of beluga whales on a seasonal basis.

Before chirper, boomer, airgun, and vibracoring operations begin each day and before restarting operations after a shutdown of 15 minutes or greater, the PSOs will ''clear'' both the Level A and Level B Zones of Influence (ZOIs—area from the source to the 160dB or 180/190dB isopleths) of marine mammals by intensively surveying these ZOIs prior to activity to confirm that marine mammals are not seen in the applicable area. All three geophysical activities (boomer, chirp, airgun) will be shut down in mid-operation at the approach

to any marine mammal to the Level A safety zone, and at the approach of an ESA-listed beluga whale to the Level B harassment zone for these sources. The geotechnical vibracoring lasts only one or two minutes and shutdowns are likely impossible. Finally, the G&G Program will be planned to avoid high beluga whale density areas. This would be achieved by conducting surveys at the Marine Terminal and the southern end of the pipeline survey area when beluga whales are farther north, feeding near the Susitna Delta, and completing activities in the northern portion of the pipeline survey area when the Cook Inlet beluga whales have begun to disperse from the Susitna Delta and other summer concentration areas.

Vessel-Based Visual Mitigation Monitoring

EMALL will hire qualified and NMFS-approved PSOs. These PSOs will be stationed aboard the geophysical survey source or support vessels during sub-bottom profiling, air gun, and vibracoring operations. A single senior PSO will be assigned to oversee all Marine Mammal Mitigation and Monitoring Program mandates and function as the on-site person-in-chargeimplementing the 4MP.

Generally, two PSOs will work on a rotational basis during daylight hours with shifts of 4 to 6 hours, and one PSO on duty on each source vessel at all times. Work days for an individual PSO will not exceed 12 hours in duration. Sufficient numbers of PSOs will be available and provided to meet requirements.

Roles and responsibilities of all PSOs include the following:

- Accurately observe and record sensitive marine mammal species;
- Follow monitoring and data collection procedures; and
- Ensure mitigation measures are followed.

PSOs will be stationed at the best available vantage point on the source vessels. PSOs will scan systematically with the unaided eye and 7x50 reticle binoculars. As necessary, new PSOs will be paired with experienced PSOs to ensure that the quality of marine mammal observations and data recording are consistent.

All field data collected will be entered by the end of the day into a custom database using a notebook computer. Weather data relative to viewing conditions will be collected hourly, on rotation, and when sightings occur and include the following:

- Sea state;
- Wind speed and direction;
- Sun position; and
- Percent glare.

The following data will be collected for all marine mammal sightings:

- Bearing and distance to the sighting;
- Species identification;
- Behavior at the time of sighting (*e.g.,* travel, spy-hop, breach, etc.);
- Direction and speed relative to vessel;
- Reaction to activities—changes in behavior (*e.g.,* none, avoidance, approach, paralleling, etc.);
- Group size;
- Orientation when sighted (*e.g.,* toward, away, parallel, etc.);
- Closest point of approach;
- Sighting cue (*e.g.,* animal, splash, birds, etc.);
- Physical description of features that were observed or determined not to be present in the case of unknown or unidentified animals;
- Time of sighting;
- Location, speed, and activity of the source and mitigation vessels, sea state, ice cover, visibility, and sun glare; and positions of other vessel(s) in the vicinity, and
- Mitigation measure taken—if any.

All observations and shut downs will be recorded in a standardized format and data entered into a custom database using a notebook computer. Accuracy of all data will be verified daily by the person in charge (PIC) or designated PSO by a manual verification. These procedures will reduce errors, allow the preparation of short-term data summaries, and facilitate transfer of the data to statistical, graphical, or other programs for further processing and archiving. PSOs will conduct monitoring during daylight periods (weather permitting) during G&G activities, and during most daylight periods when G&G activities are temporarily suspended.

Shutdown Procedures

If any marine mammal is seen approaching the Level A injury zone for the air gun, chirp, or boomer, these sources will be shut down. If ESA-listed marine mammals (*e.g.,* beluga whales) are observed approaching the Level B harassment zone for the air gun, chirp, or boomer, these sources will be shut down. The PSOs will ensure that the harassment zone is clear of marine mammal activity before vibracoring will occur, using observers near the vibracore as well as PSOs from a monitoring vessel. Given that vibracoring lasts only about a minute or two, shutdown actions are not practicable.

Resuming Airgun Operations After a Shutdown

A full ramp-up after a shutdown will not begin until there has been a minimum of 30 minutes of observation of the applicable exclusion zone by PSOs to assure that no marine mammals are present. The entire exclusion zone must be visible during the 30-minute lead-in to a full ramp up. If the entire exclusion zone is not visible, then ramp-up from a cold start cannot begin. If a marine mammal(s) is sighted within the injury exclusion zone during the 30-minute watch prior to ramp-up, ramp-up will be delayed until the marine mammal(s) is sighted outside of the zone or the animal(s) is not sighted for at least 15–30 minutes: 15 Minutes for small odontocetes and pinnipeds (*e.g.* harbor porpoises, harbor seals), or 30 minutes for large odontocetes (*e.g.,* killer whales and beluga whales).

Speed and Course Alterations

If a marine mammal is detected outside the Level A injury exclusion zone and, based on its position and the relative motion, is likely to enter that zone, the vessel's speed and/or direct course may, when practical and safe, be changed to also minimize the effect on the survey program. The marine mammal activities and movements relative to the sound source and support vessels will be closely monitored to ensure that the marine mammal does not approach within the applicable exclusion radius. If the mammal appears likely to enter the exclusion radius, further mitigative actions will be taken, *i.e.,* either further course alterations or shut down of the active sound sources considered in this Authorization.

Mitigation Proposed by NMFS

Special Procedures for Situations or Species of Concern

The following additional protective measures for beluga whales and groups of five or more killer whales and harbor porpoises are required. Specifically, a 160-dB vessel monitoring zone would be established and monitored in Cook Inlet during all seismic surveys. If a beluga whale or groups of five or more killer whales and/or harbor porpoises are visually sighted approaching or within the 160-dB disturbance zone, survey activity would not commence until the animals are no longer present within the 160-dB disturbance zone. Whenever Cook Inlet beluga whales or groups of five or more killer whales and/or harbor porpoises are detected approaching or within the 160-dB disturbance zone, the boomer, chirp, and airgun may be powered down

before the animal is within the 160-dB disturbance zone, as an alternative to a complete shutdown. If the PSO determines a power down is not sufficient, the sound source(s) shall be shut-down until the animals are no longer present within the 160-dB zone.

Mitigation Exclusion Zones

NMFS requires that EMALL will not operate the chirp, boomer, vibracore, or airgun within 10 miles (16 km) of the mean higher high water (MHHW) line of the Susitna Delta (Beluga River to the Little Susitna River) between April 15 and October 15. The purpose of this mitigation measure is to protect beluga whales in the designated critical habitat in this area that is important for beluga whale feeding and calving during the spring and fall months. The range of the setback required by NMFS was designated to protect this important habitat area and also to create an effective buffer where sound does not encroach on this habitat. This seasonal exclusion will be in effect from April 15th to October 15th annually. Activities can occur within this area from October 16th–April 14th.

Passive Acoustic Monitoring

To allow the use of vibracoring in low-light and nighttime conditions, NMFS would require use of passive acoustic monitoring to acoustically ''clear'' the relevant 120 or 160-dB disturbance zone. A specifically trained Passive Acoustic Monitoring (PAM) operator will deploy the hydrophone and listen for vocalizations of marine mammals. If no vocalizations are detected in 30 minutes of listening, the area can be considered clear and operations can ramp up.

Mitigation Conclusions

NMFS has carefully evaluated EMALL's mitigation measures and considered additional measures in the context of ensuring that we prescribe the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed here:

- Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).
- A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to sub-bottom profiler or airgun operations that we expect to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
- A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to sub-bottom profiler or airgun operations that we expect to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
- A reduction in the intensity of exposures (either total number or number at biologically important time or location) to airgun operations that we expect to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).
- Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.
- For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on the evaluation of EMALL's measures, as well as other measures required by NMFS, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance. Measures to ensure availability of such species or stock for taking for certain subsistence uses are discussed later in this document (see ''Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses'' section).

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for incidental take authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

Any monitoring requirement we prescribe should improve our understanding of one or more of the following:

- Occurrence of marine mammal species in action area (*e.g.,* presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) Affected species (*e.g.,* life history, dive patterns); (3) Co-occurrence of marine mammal species with the action; or (4) Biological or behavioral context of exposure (*e.g.,* age, calving, breeding, or feeding areas).
- Individual responses to acute stressors, or impacts of chronic exposures (behavioral or physiological).
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of an individual; or (2) Population, species, or stock.
- Effects on marine mammal habitat and resultant impacts to marine mammals.
- Mitigation and monitoring effectiveness.

EMALL submitted a marine mammal monitoring plan as part of the IHA application. It can be found in Appendix A. The plan may be modified or supplemented based on comments or new information received from the public during the public comment period.

Weekly Field Reports

Weekly reports will be submitted to NMFS no later than the close of business (Alaska Time) each Thursday during the weeks when in-water G&G activities take place. The reports will cover information collected from Wednesday of the previous week through Tuesday of the current week. The field reports will summarize

species detected, in-water activity occurring at the time of the sighting, behavioral reactions to in-water activities, and the number of marine mammals exposed to harassment level noise. The weekly reports will also contain information about which km^2 grid cells that EMALL has operated in that week, along with the corresponding densities from the Goetz *et al.* 2012 model to indicate how many belugas may have been taken by these operations. The weekly report will also include the number of belugas that may have been taken from previous weeks to track when EMALL is approaching their cap of 34 belugas.

Monthly Field Reports

Monthly reports will be submitted to NMFS for all months during which in-water G&G activities take place. The reports will be submitted to NMFS no later than five business days after the end of the month. The monthly report will contain and summarize the following information:

- Dates, times, locations, heading, speed, weather, sea conditions (including Beaufort Sea state and wind force), and associated activities during the G&G Program and marine mammal sightings.
- Species, number, location, distance from the vessel, and behavior of any sighted marine mammals, as well as associated G&G activity (number of shut downs), observed throughout all monitoring activities.
- An estimate of the number (by species) of: (i) Pinnipeds that have been exposed to the authorized geophysical or geotechnical activity (based on visual observation) at received levels greater than or equal to 160 dB re 1 μPa (rms) and/or 190 dB re 1 μPa (rms) with a discussion of any specific behaviors those individuals exhibited; and (ii) cetaceans that have been exposed to the geophysical activity (based on visual observation) at received levels greater than or equal to 160 dB re 1 μPa (rms) and/or 180 dB re 1 μPa (rms) with a discussion of any specific behaviors those individuals exhibited.
- An estimate of the number (by species) of pinnipeds and cetaceans that have been exposed to the geotechnical activity (based on visual observation) at received levels greater than or equal to 120 dB re 1 μPa (rms) with a discussion of any specific behaviors those individuals exhibited.
- A description of the implementation and effectiveness of the: (i) Terms and conditions of the Biological Opinion's Incidental Take Statement; and (ii) mitigation measures of the IHA. For the Biological Opinion, the report shall confirm the implementation of each Term and Condition, as well as any conservation recommendations, and describe their effectiveness, for minimizing the adverse effects of the action on ESA-listed marine mammals.

90-Day Technical Report

A report will be submitted to NMFS within 90 days after the end of the project or at least 60 days before the request for another IHA for the next open water season to enable NMFS to incorporate observation data into the next Authorization. The report will summarize all activities and monitoring results (*i.e.,* vessel-based visual monitoring) conducted during in-water G&G surveys. The Technical Report will include the following:

- Summaries of monitoring effort (*e.g.,* total hours, total distances, and marine mammal distribution through the study period, accounting for sea state and other factors affecting visibility and detectability of marine mammals).
- Analyses of the effects of various factors influencing detectability of marine mammals (*e.g.,* sea state, number of observers, and fog/glare).
- Species composition, occurrence, and distribution of marine mammal sightings, including date, water depth, numbers, age/size/gender categories (if determinable), group sizes, and ice cover.
- Analyses of the effects of survey operations.
- Sighting rates of marine mammals during periods with and without G&G survey activities (and other variables that could affect detectability), such as: (i) Initial sighting distances versus survey activity state; (ii) closest point of approach versus survey activity state; (iii) observed behaviors and types of movements versus survey activity state; (iv) numbers of sightings/individuals seen versus survey activity state; (v) distribution around the source vessels versus survey activity state; and (vi) estimates of Level B harassment based on presence in the 120 or 160 dB harassment zone.

Notification of Injured or Dead Marine Mammals

In the unanticipated event that the specified activity leads to an injury of a marine mammal (Level A harassment) or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), EMALL would immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, and the Alaska Regional Stranding Coordinators at NMFS. The report would include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the event. EMALL would work with NMFS to minimize reoccurrence of such an event in the future. The G&G Program would not resume activities until formally notified by NMFS via letter, email, or telephone.

In the event that the G&G Program discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), the Applicant would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with the Applicant to determine if modifications in the activities are appropriate.

In the event that the G&G Program discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), EMALL would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators, within 24 hours of the discovery. EMALL would provide

photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Acoustic stimuli (*i.e.,* increased underwater sound) generated during the operation of the airgun or the sub-bottom profiler have the potential to result in the behavioral disturbance of some marine mammals. NMFS believes that take from the operation of the vibracore is unlikely but possible and is issuing take at the request of the applicant. Thus, NMFS proposes to authorize take by Level B harassment resulting from the operation of the sound sources for the proposed survey based upon the current acoustic exposure criteria shown in Table 3.

TABLE 3—NMFS' CURRENT ACOUSTIC EXPOSURE CRITERIA

Criterion	Criterion definition	Threshold
Level A Harassment (Injury)	Permanent Threshold Shift (PTS) (Any level above that which is known to cause TTS).	180 dB re 1 microPa-m (cetaceans)/190 dB re 1 microPa-m (pinnipeds) root mean square (rms).
Level B Harassment	Behavioral Disruption (for impulse noises)	160 dB re 1 microPa-m (rms).
	Behavioral Disruption (for continuous noises)	120 dB re 1 microPa-m (rms).

NMFS' practice is to apply the 120 or 160 dB re: 1 μPa received level threshold (whichever is appropriate) for underwater impulse sound levels to determine whether take by Level B harassment is likely to occur.

All four types of survey equipment addressed in the application will be operated from the geophysical source vessels that will either be moving steadily across the ocean surface (chirper, boomer, airgun), or from station to station (airgun, vibracoring). The numbers of marine mammals that might be exposed to sound pressure levels exceeding NMFS Level B harassment threshold levels due to G&G surveys, without mitigation, were determined by multiplying the average raw density for each species by the daily ensonified area, and then multiplying that figure by the number of days each sound source is estimated to be in use. The chirp is always used simultaneously with either the boomer or the airgun and therefore was removed from calculation because they will be operating concurrently, using the daily ensonified area of the boomer or airgun, as it is a slightly larger isopleth. The exposure estimates for each activity were then summed to provide total exposures for the duration of the project. The exposure estimates for the activity are detailed below. Although NMFS believes that take of marine mammals from vibracore is extremely unlikely, it has been included in this authorization out of an abundance of caution and at the request of the applicant.

Ensonified Area

The ZOI is the area ensonified by a particular sound source greater than threshold levels (120 dB for continuous and 160 dB for impulsive). The radius of the ZOI for airguns was determined by applying the source sound pressure levels described in Table 6 of the application to Collins *et al.*'s (2007) attenuation model of 18.4 Log(r)—0.00188 derived from Cook Inlet. For the boomer and vibracore, which are less studied sound sources, the geometric spreading model of 15 Log(r) was used. For those equipment generating loud underwater sound within the audible hearing range of marine mammals (<200 kHz), the distance to threshold ranges between 44 m and 1 km (Table 4).

TABLE 4—SUMMARY OF DISTANCES TO THE NMFS THRESHOLDS AND ASSOCIATED ZOIS

Survey equipment	Distance to 160/120 dB isopleth [1] Km2	160/120 dB ZOI km2
Sub-bottom Profiler (Chirp)	0.631(160 dB)	127 (160 dB)
Sub-bottom Profiler (Boomer)	1.00 (160 dB)	203(160 dB)
Airgun	0.3 (160 dB)	60 (160 dB)
Vibracore	20.57 (120 dB)	1328.61 (120 dB)

[1] Calculated by applying Collins et al. (2007) spreading formula or geometrical spreading to source levels in Table 2.

Marine Mammal Densities

Density estimates were derived for harbor porpoises, killer whales, and harbor seals from NMFS 2002–2012 Cook Inlet survey data as described below in Section 6.1.2.1 and shown in Table 8. The beluga whale densities were extracted from Goetz et al. (2012) as described in Section 6.1.2.2 of the application.

Harbor Porpoise, Killer Whale, Harbor Seal

Density estimates were calculated for all marine mammals (except beluga whales) by using aerial survey data collected by NMFS in Cook Inlet between 2002 and 2012 (Rugh *et al.* 2002, 2003, 2004a, 2004b, 2005a, 2005b, 2005c, 2006, 2007; Shelden et al. 2008, 2009, 2010; Hobbs *et al.* 2011, Shelden *et al.* 2012) and compiled by Apache, Inc. (Apache IHA application 2014). To estimate the average raw densities of marine mammals, the total number of animals for each species observed over the 11-year survey period was divided by the total area of 65,889 km2 (25,540 mi2) surveyed over the 11 years. The aerial survey marine mammal sightings, survey effort (area), and derived average raw densities are provided in Table 5.

TABLE 5—RAW DENSITY ESTIMATES FOR COOK INLET MARINE MAMMALS BASED ON NMFS AERIAL SURVEYS

Species	Number of animals	NMFS survey area km² (mi²)	Mean raw density animals/km² (animals/mi²)
Harbor Porpoise	249	65,889 (25,440)	0.0033 (0.0098)
Killer Whale [1]	42	65,889 (25,440)	0.0008 (0.0017)
Harbor Seal	16,117	65,889 (25,440)	0.28 (0.6335)

[1] Density is for all killer whales regardless of the stock although all killer whales in the upper Cook Inlet are thought to be transient.

These raw densities were not corrected for animals missed during the aerial surveys as no accurate correction factors are currently available for these species; however, observer error may be limited as the NMFS surveyors often circled marine mammal groups to get an accurate count of group size. The harbor seal densities are probably biased upwards given that a large number of the animals recorded were of large groups hauled out at river mouths, and do not represent the distribution in the waters where the G&G activity will actually occur. However, these data are the most comprehensive available for Cook Inlet harbor seals and therefore constitute the best available science.

Beluga Whale

Goetz *et al.* (2012) modeled aerial survey data collected by the NMFS between 1993 and 2008 and developed specific beluga summer densities for each 1-km² cell of Cook Inlet. The results provide a more precise estimate of beluga density at a given location than simply multiplying all aerial observations by the total survey effort given the clumped distribution of beluga whales during the summer months. To develop a density estimate associated with planned action areas (*i.e.,* Marine Terminal and pipeline survey areas), the ensonified area associated with each activity was overlain a map of the 1-km density cells, the cells falling within each ensonified area were quantified, and an average cell density was calculated. The summary of the density results is found in Table 9 in the application. The associated ensonified areas and beluga density contours relative to the action areas are shown in Table 6.

TABLE 6—MEAN RAW DENSITIES OF BELUGA WHALES WITHIN THE ACTION AREAS BASED ON GOETZ ET AL. (2012) COOK INLET BELUGA WHALE DISTRIBUTION MODELING

Action area	Number of cells	Mean density (animals/km²)	Density range (animals/km²)
Marine Facilities Area	141	0.00014	0.00002–0.00069
LNGC Approach Area	95	.00016	0.00003–0.00052
Pipeline Survey Area	880	0.0139	0.00028–0.15672

Activity Duration

The Cook Inlet 2015 G&G Program is expected to require approximately 16 weeks (102 days) to complete. Table 7 below outlines which technologies will be used and for how many days.

TABLE 7—ESTIMATED ACTIVITY DURATIONS FOR 2016 G&G PROGRAM

Survey equipment	Unit	Survey area			
		Marine facilities	LNGC Approach	Pipeline	Total
Sub-bottom profiler—boomer	Days	28	14	30	72
Air gun	Days	14	0	16	30
Subtotal	Days	42	14	46	102
Vibracore	Days	30	10	20	60
Air gun (stationary)	Days	24	0	0	24

In the 46 days of activity in the pipeline area, the chirp and boomer will operate concurrently for 30 days while the chirp and airgun will operate concurrently for 16 days. In the 42 days of activity in the Marine Facilities area, the chirp and boom will operate concurrently for 28 days and the chirp will operate concurrently with the airgun for 14 days. In the 14 days of operation in the LNGC approach area, the chirp and boom will operate concurrently for all days.

Exposure Calculations

The numbers of marine mammals that might be exposed to sound pressure levels exceeding NMFS Level B harassment threshold levels due to G&G surveys, without mitigation, were determined by multiplying the average raw density for each species by the daily ensonified area, then multiplying by the number of days each sound source is estimated to be in use. While this method produces a good estimate of the number of instances of take, it is likely an overestimate of the number of individual marine mammals taken because it assumes that entirely new individuals are taken on subsequent days and that no animals are taken more than once. The chirp and boomer activities were combined to calculate exposure from days of activities in the Upper Cook Inlet area and the Lower Cook Inlet area because they will be operating concurrently. The exposure estimates for each activity were then summed to provide total exposures for

the duration of the project. The exposure estimates for the activity are detailed below.

TABLE 8—EXPOSURE ESTIMATES FOR ACTIVITY IN INSTANCES, NOT NUMBER OF INDIVIDUALS

[Also not accounting for management of total beluga takes]

Total exposures	Boomer			Airgun			Stationary airgun	Total
	Marine facilities	LNGC	Pipeline	Marine facilities	LNGC	Pipeline		
Harbor porpoise	18.71	9.36	20.05	2.78	0.00	3.17	0.02	54.09
Harbor seal	1606.15	803.08	1720.88	238.32	0.00	272.36	1.92	4642.81
Killer whale	4.66	2.33	5.00	0.69	0.00	0.79	0.01	13.48
Beluga	0.80	0.46	80.38	0.12	0.00	12.72	0.00	[1] 94.48

* Vibracore totals are not proposed to be authorized because NMFS has determined take due to vibracoring is unlikely to occur.

[1] This calculation of beluga takes is from the ensonified area and densities of those areas, and does not incorporate mitigation. NMFS will require a cap of 34 takes on the activity and would not authorize this number of takes.

NMFS recognizes that in addition to what was mentioned above, there are other factors that contribute to an overestimate of exposures *e.g.*, the fact that many of these technologies will be operating simultaneously, and not exposing animals in separate instances for the duration of the survey period. Additionally, the beamwidth and tilt angle of the sub-bottom profiler are not factored into the characterization of the sound field, making it conservative and large, creating additional overestimates in take estimation.

NMFS calculated the exposures from vibracore and found they would increase take by 580 percent and recognizes that the take calculated for vibracore is high when compared to take calculated from other portions of the activity. It is unlikely that many instances of take will occur from an activity with a source level of 187.4 dB for a duration of 60–90 seconds. This is largely attributed to the size of the isopleth (20 km) due to the use of geometrical spreading to model the ZOI. The vibracore produces noise of a much shorter duration than those sources used to determine the 120dB threshold,. NMFS believes implementation of the mitigation and monitoring measures mentioned in the above section, in combination with the short duration of the sound, will not result in take by Level B harassment.

The possibility of Level A exposure was analyzed, however the distances to 180 dB/190 dB isopleths are incredibly small, ranging from 3 to 47 meters. The number of exposures, without accounting for mitigation or likely avoidance of louder sounds, is small for these zones, and with mitigation and the likelihood of detecting marine mammals within this small area combined with the likelihood of avoidance, it is likely these takes can be avoided. The only technology that would not shutdown is the vibracore, which has a distance to Level A isopleth (180 dB) of 3 meters. Therefore, authorization of Level A take is not necessary.

NMFS recognizes that the calculations of take by Level B harassment of beluga whales for the entire activity is higher than NMFS would issue for an endangered population that is not recovering despite the moratorium on subsistence hunting. Given that the factors contributing to the lack of recovery remain unknown, NMFS proposes to limit the number of Level B takes of Cook Inlet beluga to 34, or 10 percent of the population. This cap can be implemented in a method similar to that used in SAE's 2015 IHA or the Apache proposed rulemaking.

In order to estimate when 34 individuals is reached, EMALL will use a formula based on the total potential area of each survey project zone (including the 160 dB buffer) and the average density of beluga whales for each zone. Daily take is calculated as the product of the daily ensonified area times the beluga density in that area, as extracted from the Goetz et al 2012 model. Then daily take is summed across all the days of the survey until the survey approaches 34 takes.

EMALL will limit surveying in the seismic survey area as not to exceed a maximum of 34 beluga takes during the open water season. In order to ensure that EMALL does not exceed 34 beluga whale takes, the following equation is being used:

$$\text{Equation 1: } d_1A_1 + d_2A_{2\ldots} \leq 34 \text{ Beluga Takes}$$

$$* \; d_x = \frac{\text{Expected Beluga Density from the NMML model in Zone X}}{\text{Total Area of Zone X including 160 dB buffer}}$$

$$* \; A_x = \text{Actual Area Surveyed (km}^2\text{) including 160 dB buffer in Zone X}$$

This formula also allows EMALL to have flexibility to prioritize survey locations in response to local weather, ice, and operational constraints. EMALL may choose to survey portions of a zone or a zone in its entirety, and the analysis in this Authorization takes this into account.

Operations are required to cease once EMALL has conducted seismic data acquisition in an area where multiplying the applicable density by the total ensonified area out to the 160-dB isopleth equaled 34 beluga whales, using the equation provided above. If 34 belugas are visually observed within the ZOI before the calculation reaches 34 belugas, EMALL is also required to cease survey activity.

NMFS proposes to authorize the following takes by Level B harassment:

TABLE 9—PROPOSED TAKE AUTHORIZATION

Species	Exposure estimate	Take authorized	Percent of stock or population	Population trend
Beluga	94.48	34	10	Decreasing.
Killer whale	13.48	13	3.77 transient	Transient—Stable.
Harbor seal	4,642.81	4,643	20.27	Stable.
Harbor porpoise	54.09	54	0.17	No reliable info.

Analysis and Preliminary Determinations

Negligible Impact

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). The lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population level effects) forms the basis of a negligible impact finding. Thus, an estimate of the number of takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, effects on habitat, and the status of the species.

To avoid repetition, except where otherwise identified, the discussion of our analyses applies to all the species listed in Table 8, given that the anticipated effects of this project on marine mammals are expected to be relatively similar in nature. Where there is information about specific impacts to, or about the size, status, or structure of, any species or stock that would lead to a different analysis for this activity, species-specific factors are identified and analyzed.

In making a negligible impact determination, NMFS considers:

- The number of anticipated injuries, serious injuries, or mortalities;
- The number, nature, and intensity, and duration of Level B harassment; and
- The context in which the takes occur (*e.g.,* impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);
- The status of stock or species of marine mammals (*i.e.*, depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);
- Impacts on habitat affecting rates of recruitment/survival; and
- The effectiveness of monitoring and mitigation measures to reduce the number or severity of incidental take.

As discussed in the Potential Effects section, temporary or permanent threshold shift, non-auditory physical or physiological effects, ship strike, entanglement are not expected to occur. Given the required mitigation and related monitoring, no injuries or mortalities are anticipated to occur to any species as a result of EMALL's proposed survey in Cook Inlet, and none are authorized. Animals in the area are not expected to incur hearing impairment (*i.e.*, TTS or PTS) or non-auditory physiological effects due to low source levels and the fact that most marine mammals would more likely avoid a loud sound source rather than swim in such close proximity as to result in TTS or PTS. The most likely effect from the proposed action is localized, short-term behavioral disturbance from active acoustic sources. The number of takes that are anticipated and authorized are expected to be limited to short-term Level B behavioral harassment for all stocks for which take is authorized. This is largely due to the short time scale of the proposed activity, the low source levels for many of the technologies proposed to be used, as well as the required mitigation. The technologies do not operate continuously over a 24-hour period. Rather, airguns are operational for a few hours at a time for 30 days, with the sub-bottom profiler boomer operating for 72 days, and the vibracore operating over 60 days.

The addition of five vessels, and noise due to vessel operations associated with the survey, would not be outside the present experience of marine mammals in Cook Inlet, although levels may increase locally. Potential impacts to marine mammal habitat were discussed previously in this document (see the ''Anticipated Effects on Habitat'' section). Although some disturbance is possible to food sources of marine mammals, the impacts are anticipated to be minor enough as to not affect annual rates of recruitment or survival of marine mammals in the area. Based on the size of Cook Inlet where feeding by marine mammals occurs versus the localized area of the marine survey activities, any missed feeding opportunities in the direct project area would be minor based on the fact that other feeding areas exist elsewhere.

Taking into account the mitigation measures that are planned, effects on cetaceans are generally expected to be restricted to avoidance of a limited area around the survey operation and short-term changes in behavior, falling within the MMPA definition of ''Level B harassment.'' Shut-downs are required for belugas and groups of killer whales or harbor porpoises when they approach the 160dB disturbance zone, to further reduce potential impacts to these populations. Visual observation by trained PSOs is also implemented to reduce the impact of the proposed activity by informing operators of marine mammals approaching the relevant disturbance or injury zones. Animals are not expected to permanently abandon any area that is surveyed, and any behaviors that are interrupted during the activity are expected to resume once the activity ceases. Only a small portion of marine mammal habitat will be affected at any time, and other areas within Cook Inlet will be available for necessary biological functions.

Odontocete (including Cook Inlet beluga whales, killer whales, and harbor porpoises) reactions to seismic energy pulses are usually assumed to be limited to shorter distances from the airgun(s) than are those of mysticetes, in part because odontocete low-frequency hearing is assumed to be less sensitive than that of mysticetes. This information supports the idea that the numerated takes for odonotocetes are likely on the lower end of severity in the terms of responses that rise to the level of a take.

Beluga Whales

Cook Inlet beluga whales are listed as endangered under the ESA. This stock

is also considered depleted under the MMPA. The estimated annual rate of decline for Cook Inlet beluga whales was 0.6 percent between 2002 and 2012. The authorization of take by Level B harassment of 34 Cook Inlet beluga whales represents 10 percent of the population.

Belugas in the Canadian Beaufort Sea in summer appear to be fairly responsive to seismic energy, with few being sighted within 10–20 km (6–12 mi) of seismic vessels during aerial surveys (Miller *et al.*, 2005). However, as noted above, Cook Inlet belugas are more accustomed to anthropogenic sound than beluga whales in the Beaufort Sea. Therefore, the results from the Beaufort Sea surveys are not necessarily applicable to potential reactions of Cook Inlet beluga whales. Also, due to the dispersed distribution of beluga whales in Cook Inlet during winter and the concentration of beluga whales in upper Cook Inlet from late April through early fall, belugas would likely occur in small numbers in the majority of EMALL's proposed survey area during the majority of EMALL's annual operational timeframe of March through December. For the same reason, as well as the mitigation measure that requires shutting down for belugas seen approaching the 160 dB disturbance zone, and the likelihood of avoidance at high levels, it is unlikely that animals would be exposed to received levels capable of causing injury.

Given the large number of vessels in Cook Inlet and the apparent habituation to vessels by Cook Inlet beluga whales and the other marine mammals that may occur in the area, vessel activity from the two source vessels, tug and jack-up rig and associated vessel noise is not expected to have effects that could cause significant or long-term consequences for individual marine mammals or their populations, given that vessels will operate for a maximum of 102 days.

In addition, NMFS has seasonally restricted survey operations in the area known to be important for beluga whale feeding, calving, or nursing. The primary location for these biological life functions occurs in the Susitna Delta region of upper Cook Inlet. NMFS required EMALL to implement a 16 km (10 mi) seasonal exclusion from survey operations in this region from April 15–October 15. The highest concentrations of belugas are typically found in this area from early May through September each year. NMFS has incorporated a 2-week buffer on each end of this seasonal use timeframe to account for any anomalies in distribution and marine mammal usage.

Killer Whales

The authorization of take by Level B harassment of 13 killer whales represents only 3.77 percent of the population. Killer whales are not encountered as frequently in Cook Inlet as some of the other species in this analysis, however when sighted they are usually in groups. The addition of a mitigation measure to shutdown if a group of 5 or more killer whales is seen approaching the 160 dB zone is intended to minimize any impact to an aggregation of killer whales if encountered. The killer whales in the survey area are also thought to be transient killer whales and therefore rely on the habitat in the EMALL survey area less than other resident species.

Harbor Porpoise

The authorization of take by Level B harassment for 54 harbor porpoises represents only 0.17 percent of the population. Harbor porpoises are among the most sensitive marine mammal species with regard to behavioral response and anthropogenic noise. They are known to exhibit behavioral responses to operation of seismic airguns, pingers, and other technologies at low thresholds. However, they are abundant in Cook Inlet and therefore the authorized take is unlikely to affect recruitment or status of the population in any way. In addition, mitigation measures include shutdowns for groups of more than 5 harbor porpoises that will minimize the amount of take to the local harbor porpoise population. This mitigation as well as the short duration and low source levels of the proposed activity will reduce the impact to the harbor porpoises found in Cook Inlet.

Harbor Seal

The authorization of take by Level B harassment for 4,643 harbor seals represents 20.27 percent of a stable population. Observations during other anthropogenic activities in Cook Inlet have reported large congregations of harbor seals hauling out in upper Cook Inlet. However, mitigation measures, such as vessel speed, course alteration, and visual monitoring, and time-area restrictions will be implemented to help reduce impacts to the animals. Additionally, this activity does not encompass a large number of known harbor seal haulouts, particularly as this activity proposes operations traversing across the Inlet, as opposed to entirely nearshore activities. While some harbor seals will likely be exposed, the required mitigation along with their smaller aggregations in water than on shore should minimize impacts to the harbor seal population. Additionally, the short duration of the survey, and the use of visual observers to inform shutdowns and ramp up delays should further reduce the severity of behavioral reactions to Cook Inlet harbor seals. Therefore, the exposure of pinnipeds to sounds produced by this phase of EMALL's proposed survey is not anticipated to have an effect on annual rates of recruitment or survival on those species or stocks.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the required monitoring and mitigation measures, NMFS finds that the total annual marine mammal take from EMALL's proposed survey will have a negligible impact on the affected marine mammal species or stocks (see Table 8).

Although NMFS believes it is unlikely the operation of the vibracore would result in the take of marine mammals and does not propose to authorize take by vibracore in the **Federal Register**, the analysis has been included in this document for public comment. The vibracoring activity is proposed to occur at 60 locations across the Inlet from the Forelands, north to the upper end of Cook Inlet. However, the actual noise-producing activity will only occur for only 90 seconds at a time, during which PSOs will be observing for marine mammals and passive acoustic monitoring will be required during nighttime vibracoring. The limited scope and duration of vibracoring makes it extremely unlikely that take by Level B harassment would occur during the vibracore portion of the operation. Nonetheless, we included the potential take from vibracore in our analysis above.

Small Numbers Analysis

The requested takes authorized annually represent 10 percent of the Cook Inlet beluga whale population of approximately 340 animals (Shelden *et al.*, 2015), 3.77 percent of the Gulf of Alaska, Aleutian Island and Bering Sea stock of killer whales (345 transients), and 0.17 percent of the Gulf of Alaska stock of approximately 31,046 harbor porpoises. The take requests presented for harbor seals represent 20.27 percent of the Cook Inlet/Shelikof stock of approximately 22,900 animals. These take estimates represent small numbers relative to the affected species or stock sizes as shown in Table 8.

In addition to the quantitative methods used to estimate take, NMFS also considered qualitative factors that further support the ''small numbers''

determination, including: (1) The seasonal distribution and habitat use patterns of Cook Inlet beluga whales, which suggest that for much of the time only a small portion of the population would be accessible to impacts from EMALL's activity, as most animals are found in the Susitna Delta region of Upper Cook Inlet from early May through September; (2) other cetacean species are not common in the survey area; (3) the required mitigation requirements, which provide spatio-temporal limitations that avoid impacts to large numbers of belugas feeding and calving in the Susitna Delta; (4) the required monitoring requirements and mitigation measures described earlier in this document for all marine mammal species that will reduce the amount of takes; and (5) monitoring results from previous activities that indicated low numbers of beluga whale sightings within the Level B disturbance exclusion zone and low levels of Level B harassment takes of other marine mammals. Therefore, NMFS determined that the numbers of animals likely to be taken are small.

Impact on Availability of Affected Species for Taking for Subsistence Uses

Relevant Subsistence Uses

The subsistence harvest of marine mammals transcends the nutritional and economic values attributed to the animal and is an integral part of the cultural identity of the region's Alaska Native communities. Inedible parts of the whale provide Native artisans with materials for cultural handicrafts, and the hunting itself perpetuates Native traditions by transmitting traditional skills and knowledge to younger generations (NOAA, 2007).

The Cook Inlet beluga whale has traditionally been hunted by Alaska Natives for subsistence purposes. For several decades prior to the 1980s, the Native Village of Tyonek residents were the primary subsistence hunters of Cook Inlet beluga whales. During the 1980s and 1990s, Alaska Natives from villages in the western, northwestern, and North Slope regions of Alaska either moved to or visited the south central region and participated in the yearly subsistence harvest (Stanek, 1994). From 1994 to 1998, NMFS estimated 65 whales per year (range 21–123) were taken in this harvest, including those successfully taken for food and those struck and lost. NMFS concluded that this number was high enough to account for the estimated 14 percent annual decline in the population during this time (Hobbs *et al.*, 2008). Actual mortality may have been higher, given the difficulty of estimating the number of whales struck and lost during the hunts. In 1999, a moratorium was enacted (Pub. L. 106–31) prohibiting the subsistence take of Cook Inlet beluga whales except through a cooperative agreement between NMFS and the affected Alaska Native organizations. Since the Cook Inlet beluga whale harvest was regulated in 1999 requiring cooperative agreements, five beluga whales have been struck and harvested. Those beluga whales were harvested in 2001 (one animal), 2002 (one animal), 2003 (one animal), and 2005 (two animals). The Native Village of Tyonek agreed not to hunt or request a hunt in 2007, when no co-management agreement was to be signed (NMFS, 2008a).

On October 15, 2008, NMFS published a final rule that established long-term harvest limits on Cook Inlet beluga whales that may be taken by Alaska Natives for subsistence purposes (73 FR 60976). That rule prohibits harvest for a 5-year interval period if the average stock abundance of Cook Inlet beluga whales over the prior five-year interval is below 350 whales. Harvest levels for the current 5-year planning interval (2013–2017) are zero because the average stock abundance for the previous five-year period (2008–2012) was below 350 whales. Based on the average abundance over the 2002–2007 period, no hunt occurred between 2008 and 2012 (NMFS, 2008a). The Cook Inlet Marine Mammal Council, which managed the Alaska Native Subsistence fishery with NMFS, was disbanded by a unanimous vote of the Tribes' representatives on June 20, 2012. At this time, no harvest is expected in 2015 or, likely, in 2016.

Data on the harvest of other marine mammals in Cook Inlet are lacking. Some data are available on the subsistence harvest of harbor seals, harbor porpoises, and killer whales in Alaska in the marine mammal stock assessments. However, these numbers are for the Gulf of Alaska including Cook Inlet, and they are not indicative of the harvest in Cook Inlet.

There is a low level of subsistence hunting for harbor seals in Cook Inlet. Seal hunting occurs opportunistically among Alaska Natives who may be fishing or travelling in the upper Inlet near the mouths of the Susitna River, Beluga River, and Little Susitna. Some detailed information on the subsistence harvest of harbor seals is available from past studies conducted by the Alaska Department of Fish & Game (Wolfe *et al.*, 2009). In 2008, 33 harbor seals were taken for harvest in the Upper Kenai-Cook Inlet area. In the same study, reports from hunters stated that harbor seal populations in the area were increasing (28.6%) or remaining stable (71.4%). The specific hunting regions identified were Anchorage, Homer, Kenai, and Tyonek, and hunting generally peaks in March, September, and November (Wolfe *et al.*, 2009).

Potential Impacts on Availability for Subsistence Uses

Section 101(a)(5)(D) also requires NMFS to determine that the taking will not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

The primary concern is the disturbance of marine mammals through the introduction of anthropogenic sound into the marine environment during the proposed survey. Marine mammals could be behaviorally harassed and either become more difficult to hunt or temporarily abandon traditional hunting grounds. However, the proposed survey will not have any impacts to beluga harvests as none currently occur in Cook Inlet. Additionally, subsistence harvests of other marine mammal species are limited in Cook Inlet.

Plan of Cooperation or Measures To Minimize Impacts to Subsistence Hunts

50 CFR 216.04(a)(12) requires IHA applicants for activities that take place in Arctic waters to provide Plan of Cooperation or information that identifies what measures have been taken and/or will be taken to minimize adverse effects on the availability of marine mammals for subsistence uses. The entire upper Cook unit and a portion of the lower Cook unit falls north of 60° N, or within the region NMFS has designated as an Arctic subsistence use area. EMALL provided detailed information in Section 8 of their application regarding their plan to cooperate with local subsistence users and stakeholders regarding the potential effects of their proposed activity. There are several villages in EMALL's proposed project area that have traditionally hunted marine mammals,

primarily harbor seals. Tyonek is the only tribal village in upper Cook Inlet with a tradition of hunting marine mammals, in this case harbor seals and beluga whales. However, for either species the annual recorded harvest since the 1980s has averaged about one or fewer of either species (Fall *et al.* 1984, Wolfe *et al.* 2009, SRBA and HC 2011), and there is currently a moratorium on subsistence harvest of belugas. Further, many of the seals that are harvested are done incidentally to salmon fishing or moose hunting (Fall *et al.* 1984, Merrill and Orpheim 2013), often near the mouths of the Susitna Delta rivers (Fall *et al.* 1984) north of EMALL's proposed seismic survey area.

Villages in lower Cook Inlet adjacent to EMALL's proposed survey area (Kenai, Salamatof, and Nikiski) have either not traditionally hunted beluga whales, or at least not in recent years, and rarely do they harvest sea lions. These villages more commonly harvest harbor seals, with Kenai reporting an average of about 13 per year between 1992 and 2008 (Wolfe *et al.* 2009). According to Fall *et al.* (1984), many of the seals harvested by hunters from these villages were taken on the west side of the inlet during hunting excursions for moose and black bears.

Although marine mammals remain an important subsistence resource in Cook Inlet, the number of animals annually harvested is low, and are primarily harbor seals. Much of the harbor seal harvest occurs incidental to other fishing and hunting activities, and at areas outside of the EMALL's proposed survey areas such as the Susitna Delta or the west side of lower Cook Inlet. Also, EMALL is unlikely to conduct activity in the vicinity of any of the river mouths where large numbers of seals haul out.

EMALL and NMFS recognize the importance of ensuring that Alaska Natives and federally recognized tribes are informed, engaged, and involved during the permitting process and will continue to work with the Alaska Natives and tribes to discuss operations and activities.

Prior to offshore activities EMALL will to consult with nearby communities such as Tyonek, Salamatof, and the Kenaitze Indian Tribe to attend and present the program description prior to operations within those areas.

If a conflict does occur with project activities involving subsistence or fishing, the project manager will immediately contact the affected party to resolve the conflict.

Unmitigable Adverse Impact Analysis and Determination

The project will not have any effect on beluga whale harvests because no beluga harvest will take place in 2016. Additionally, the proposed seismic survey area is not an important native subsistence site for other subsistence species of marine mammals thus, the number harvested is expected to be extremely low. The timing and location of subsistence harvest of Cook Inlet harbor seals may coincide with EMALL's project, but because this subsistence hunt is conducted opportunistically and at such a low level (NMFS, 2013c), EMALL's program is not expected to have an impact on the subsistence use of harbor seals. Moreover, the proposed survey would result in only temporary disturbances. Accordingly, the specified activity would not impact the availability of these other marine mammal species for subsistence uses.

NMFS anticipates that any effects from EMALL's proposed survey on marine mammals, especially harbor seals and Cook Inlet beluga whales, which are or have been taken for subsistence uses, would be short-term, site specific, and limited to inconsequential changes in behavior and mild stress responses. NMFS does not anticipate that the authorized taking of affected species or stocks will reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (1) Causing the marine mammals to abandon or avoid hunting areas; (2) directly displacing subsistence users; or (3) placing physical barriers between the marine mammals and the subsistence hunters; and that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met. Based on the description of the specified activity, the measures described to minimize adverse effects on the availability of marine mammals for subsistence purposes, and the required mitigation and monitoring measures, NMFS has determined that there will not be an unmitigable adverse impact on subsistence uses from EMALL's proposed activities.

Endangered Species Act

There is one marine mammal species listed as endangered under the ESA with confirmed or possible occurrence in the proposed project area: The Cook Inlet beluga whale. In addition, the proposed action could occur within 10 miles of designated critical habitat for the Cook Inlet beluga whale. NMFS's Permits and Conservation Division has initiated consultation with NMFS' Alaska Region Protected Resources Division under section 7 of the ESA. This consultation will be concluded prior to issuing any final authorization.

National Environmental Policy Act

NMFS has prepared a Draft Environmental Assessment (EA) for the take of marine mammals incidental to issuance of IHAs for the proposed oil and gas activities in Cook Inlet. The Draft EA has been made available for public comment concurrently with this proposed authorization (see **ADDRESSES**). NMFS will finalize the EA and either conclude with a finding of no significant impact (FONSI) or prepare an Environmental Impact Statement prior to issuance of the final authorization (if issued).

Proposed Authorization

As a result of these preliminary determinations, we propose to issue an IHA to EMALL for taking marine mammals incidental to a geophysical and geotechnical survey in Cook Inlet, Alaska, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The proposed IHA language is provided next.

This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

Incidental Harassment Authorization

Exxon Mobil Alaska LNG LLC (EMALL), 3201 C Street; Suite 506, Anchorage, Alaska 99501, is hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1371(a)(5)(D)), to harass small numbers of marine mammals incidental to specified activities associated with a marine geophysical and geotechnical survey in Cook Inlet, Alaska, contingent upon the following conditions:

1. This Authorization is valid from March 1, 2016, through December 31, 2016.

2. This Authorization is valid only for EMALL's activities associated with survey operations that shall occur within the areas denoted as Marine Terminal Survey Area and Pipeline Survey Area as depicted in the attached Figure 1 of EMALL's October 2015 application to the National Marine Fisheries Service.

3. *Species Authorized and Level of Take*

(a) The incidental taking of marine mammals, by Level B harassment only,

is limited to the following species in the waters of Cook Inlet:

(i) Odontocetes: see Table 1 (attached) for authorized species and take numbers.

(ii) Pinnipeds: see Table 1 (attached) for authorized species and take numbers.

(iii) If any marine mammal species are encountered during activities that are not listed in Table 1 (attached) for authorized taking and are likely to be exposed to sound pressure levels (SPLs) greater than or equal to 160 dB re 1 μPa (rms) for impulsive sound of 120 dB re 1μPa (rms), then the Holder of this Authorization must alter speed or course or shut-down the sound source to avoid take.

(b) The taking by injury (Level A harassment), serious injury, or death of any of the species listed in Table 1 or the taking of any other species of marine mammal is prohibited and may result in the modification, suspension or revocation of this Authorization.

(c) If the number of detected takes of any marine mammal species listed in Table 1 is met or exceeded, EMALL shall immediately cease survey operations involving the use of active sound sources (*e.g.,* airguns, profilers etc.) and notify NMFS.

4. The authorization for taking by harassment is limited to the following acoustic sources (or sources with comparable frequency and intensity) absent an amendment to this Authorization:

(a) EdgeTech3200 Sub-bottom profiler chirp;

(b) Applied Acoustics AA301 Sub-bottom profiler boomer;

(c) A 60 in^3 airgun;

5. The taking of any marine mammal in a manner prohibited under this Authorization must be reported immediately to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS or her designee at (301) 427–8401.

6. The holder of this Authorization must notify the Chief of the Permits and Conservation Division, Office of Protected Resources, or her designee at least 48 hours prior to the start of survey activities (unless constrained by the date of issuance of this Authorization in which case notification shall be made as soon as possible) at 301–427–8484 or to *Sara.Young@noaa.gov.*

7. *Mitigation and Monitoring Requirements:* The Holder of this Authorization is required to implement the following mitigation and monitoring requirements when conducting the specified activities to achieve the least practicable impact on affected marine mammal species or stocks:

(a) Utilize a minimum of two NMFS-qualified PSOs per source vessel (one on duty and one off-duty) to visually watch for and monitor marine mammals near the seismic source vessels during daytime operations (from nautical twilight-dawn to nautical twilight-dusk) and before and during start-ups of sound sources day or night. Two PSVOs will be on each source vessel, and two PSVOs will be on a support vessel to observe the exclusion and disturbance zones. PSVOs shall have access to reticle binoculars (7x50) and long-range binoculars (40x80). PSVO shifts shall last no longer than 4 hours at a time. PSVOs shall also make observations during daytime periods when the sound sources are not operating for comparison of animal abundance and behavior, when feasible. When practicable, as an additional means of visual observation, EMALL's vessel crew may also assist in detecting marine mammals.

(b) Record the following information when a marine mammal is sighted:

(i) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (*e.g.,* none, avoidance, approach, paralleling, etc.), and behavioral pace;

(ii) Time, location, heading, speed, activity of the vessel (including type of equipment operating), Beaufort sea state and wind force, visibility, and sun glare; and

(iii) The data listed under Condition 7(d)(ii) shall also be recorded at the start and end of each observation watch and during a watch whenever there is a change in one or more of the variables.

(c) Establish a 160 dB re 1 μPa (rms) ''disturbance zone'' for belugas, and groups of five or more harbor porpoises and killer whales as well as a 180 dB re 1 μPa (rms) and 190 dB re 1 μPa (rms) ''exclusion zone'' (EZ) for cetaceans and pinnipeds respectively before equipment is in operation.

(d) Visually observe the entire extent of the EZ (180 dB re 1 μPa [rms] for cetaceans and 190 dB re 1 μPa [rms] for pinnipeds) using NMFS-qualified PSVOs, for at least 30 minutes (min) prior to starting the survey (day or night). If the PSVO finds a marine mammal within the EZ, EMALL must delay the seismic survey until the marine mammal(s) has left the area. If the PSVO sees a marine mammal that surfaces, then dives below the surface, the PSVO shall wait 30 min. If the PSVO sees no marine mammals during that time, they should assume that the animal has moved beyond the EZ. If for any reason the entire radius cannot be seen for the entire 30 min (*i.e.,* rough seas, fog, darkness), or if marine mammals are near, approaching, or in the EZ, the sound sources may not be started.

(e) Alter speed or course during survey operations if a marine mammal, based on its position and relative motion, appears likely to enter the relevant EZ. If speed or course alteration is not safe or practicable, or if after alteration the marine mammal still appears likely to enter the EZ, further mitigation measures, such as a shutdown, shall be taken.

(f) Shutdown the sound source(s) if a marine mammal is detected within, approaches, or enters the relevant EZ. A shutdown means all operating sound sources are shut down (*i.e.,* turned off).

(g) Survey activity shall not resume until the PSVO has visually observed the marine mammal(s) exiting the EZ and is not likely to return, or has not been seen within the EZ for 15 min for species with shorter dive durations (small odontocetes and pinnipeds) or 30 min for species with longer dive durations (large odontocetes, including killer whales and beluga whales).

(h) Marine geophysical surveys may continue into night and low-light hours if such segment(s) of the survey is initiated when the entire relevant EZs can be effectively monitored visually (*i.e.,* PSVO(s) must be able to see the extent of the entire relevant EZ).

(i) No initiation of survey operations involving the use of sound sources is permitted from a shutdown position at night or during low-light hours (such as in dense fog or heavy rain).

(j) If a beluga whale is visually sighted approaching or within the relevant160dB disturbance zone, survey activity will not commence or the sound source(s) shall be shut down until the animals are no longer present within the 160-dB zone.

(h) Whenever aggregations or groups of killer whales and/or harbor porpoises are detected approaching or within the 160-dB disturbance zone, survey activity will not commence or the sound source(s) shall be shut-down until the animals are no longer present within the 160-dB zone. An aggregation or group of whales/porpoises shall consist of five or more individuals of any age/sex class.

(i) EMALL must not operate within 10 miles (16 km) of the mean higher high water (MHHW) line of the Susitna Delta (Beluga River to the Little Susitna River) between April 15 and October 15 (to avoid any effects to belugas in an important feeding and breeding area).

(j) Survey operations involving the use of airguns, sub-bottom profiler, or vibracore must cease if takes of any marine mammal are met or exceeded.

8. *Reporting Requirements:* The Holder of this Authorization is required to:

(a) Submit a weekly field report, no later than close of business (Alaska time) each Thursday during the weeks when in-water survey activities take place. The field reports will summarize species detected, in-water activity occurring at the time of the sighting, behavioral reactions to in-water activities, and the number of marine mammals taken. The weekly reports will also contain information about which km² grid cells that EMALL has operated in that week, along with the corresponding densities from the Goetz et al 2012 model to indicate how many belugas may have been taken by these operations. The weekly report will also include the number of belugas that may have been taken from previous weeks to track when EMALL is approaching their cap of 34 belugas.

(b) Submit a monthly report, no later than the 15th of each month, to NMFS' Permits and Conservation Division for all months during which in-water seismic survey activities occur. These reports must contain and summarize the following information:

(i) Dates, times, locations, heading, speed, weather, sea conditions (including Beaufort sea state and wind force), and associated activities during all operations and marine mammal sightings;

(ii) Species, number, location, distance from the vessel, and behavior of any marine mammals, as well as associated activity (type of equipment in use and number of shutdowns), observed throughout all monitoring activities;

(iii) An estimate of the number (by species) of: (A) pinnipeds that have been exposed to the activity (based on visual observation) at received levels greater than or equal to 160 dB re 1 μPa (rms) and/or 190 dB re 1 μPa (rms) with a discussion of any specific behaviors those individuals exhibited; and (B) cetaceans that have been exposed to the activity (based on visual observation) at received levels greater than or equal to 120 dB or 160 dB re 1 μPa (rms) and/or 180 dB re 1 μPa (rms) with a discussion of any specific behaviors those individuals exhibited.

(iv) A description of the implementation and effectiveness of the: (A) terms and conditions of the Biological Opinion's Incidental Take Statement (ITS); and (B) mitigation measures of this Authorization. For the Biological Opinion, the report shall confirm the implementation of each Term and Condition, as well as any conservation recommendations, and describe their effectiveness, for minimizing the adverse effects of the action on Endangered Species Act-listed marine mammals.

(c) Submit a draft Technical Report on all activities and monitoring results to NMFS' Permits and Conservation Division within 90 days of the completion of the seismic survey. The Technical Report will include the following information:

(i) Summaries of monitoring effort (*e.g.*, total hours, total distances, and marine mammal distribution through the study period, accounting for sea state and other factors affecting visibility and detectability of marine mammals);

(ii) Analyses of the effects of various factors influencing detectability of marine mammals (*e.g.*, sea state, number of observers, and fog/glare);

(iii) Species composition, occurrence, and distribution of marine mammal sightings, including date, water depth, numbers, age/size/gender categories (if determinable), group sizes, and ice cover;

(iv) Analyses of the effects of survey operations; and

(v) Sighting rates of marine mammals during periods with and without survey activities (and other variables that could affect detectability), such as: (A) initial sighting distances versus survey activity state; (B) closest point of approach versus survey activity state; (C) observed behaviors and types of movements versus survey activity state; (D) numbers of sightings/individuals seen versus survey activity state; (E) distribution around the source vessels versus survey activity state; and (F) estimates of take by Level B harassment based on presence in the relevant 120 dB or 160 dB harassment zone.

(d) Submit a final report to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, within 30 days after receiving comments from NMFS on the draft report. If NMFS decides that the draft report needs no comments, the draft report shall be considered to be the final report.

(e) EMALL must immediately report to NMFS if 25 belugas are detected within the relevant 120 dB or 160 dB re 1 μPa (rms) disturbance zone during survey operations to allow NMFS to consider making necessary adjustments to monitoring and mitigation.

9. (a) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this Authorization, such as an injury (Level A harassment), serious injury or mortality (*e.g.*, ship-strike, gear interaction, and/or entanglement), EMALL shall immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, or her designees by phone or email (telephone: 301–427–8401 or *Sara.Young@noaa.gov*), the Alaska Regional Office (telephone: 907–271–1332 or *Barbara.Mahoney@noaa.gov*), and the Alaska Regional Stranding Coordinators (telephone: 907–586–7248 or *Aleria.Jensen@noaa.gov* or *Barbara.Mahoney@noaa.gov*). The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) The name and type of vessel involved;

(iii) The vessel's speed during and leading up to the incident;

(iv) Description of the incident;

(v) Status of all sound source use in the 24 hours preceding the incident;

(vi) Water depth;

(vii) Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, and visibility);

(viii) Description of marine mammal observations in the 24 hours preceding the incident;

(ix) Species identification or description of the animal(s) involved;

(x) The fate of the animal(s); and

(xi) Photographs or video footage of the animal (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with EMALL to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. EMALL may not resume their activities until notified by NMFS via letter or email, or telephone.

(b) In the event that EMALL discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.*, in less than a moderate state of decomposition as described in the next paragraph), EMALL will immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, her designees, and the NMFS Alaska Stranding Hotline (see contact information in Condition 9(a)). The report must include the same information identified in the Condition 9(a) above. Activities may continue while NMFS reviews the circumstances

of the incident. NMFS will work with EMALL to determine whether modifications in the activities are appropriate.

(c) In the event that EMALL discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in Condition 2 of this Authorization (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), EMALL shall report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, her designees, the NMFS Alaska Stranding Hotline (1–877–925–7773), and the Alaska Regional Stranding Coordinators within 24 hours of the discovery (see contact information in Condition 9(a)). EMALL shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Activities may continue while NMFS reviews the circumstances of the incident.

10. EMALL is required to comply with the Reasonable and Prudent Measures and Terms and Conditions of the ITS corresponding to NMFS' Biological Opinion issued to both U.S. Army Corps of Engineers and NMFS' Office of Protected Resources.

11. A copy of this Authorization and the ITS must be in the possession of all contractors and PSOs operating under the authority of this Incidental Harassment Authorization.

12. Penalties and Permit Sanctions: Any person who violates any provision of this Incidental Harassment Authorization is subject to civil and criminal penalties, permit sanctions, and forfeiture as authorized under the MMPA.

13. This Authorization may be modified, suspended or withdrawn if the Holder fails to abide by the conditions prescribed herein or if the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals, or if there is an unmitigable adverse impact on the availability of such species or stocks for subsistence uses.

TABLE 1—AUTHORIZED TAKE NUMBERS FOR EACH MARINE MAMMAL SPECIES IN COOK INLET

Species	Authorized take in the Cook Inlet action area
Odontocetes	
Beluga whale (*Delphinapterus leucas*)	34
Killer whale (*Orcinus orca*)	13
Harbor porpoise (*Phocoena phocoena*)	54
Pinnipeds	
Harbor seal (*Phoca vitulina richardsi*)	4,643

Request for Public Comments

We request comment on our analysis, the draft authorization, and any other aspect of the Notice of Proposed IHA for EMALL. Please include with your comments any supporting data or literature citations to help inform our final decision on EMALL's request for an MMPA authorization.

Dated: January 29, 2016.

Perry F. Gayaldo,

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

[FR Doc. 2016–01967 Filed 2–4–16; 8:45 am]

BILLING CODE 3510–22–P

FEDERAL REGISTER

Vol. 81 Friday,

No. 24 February 5, 2016

Part IV

The President

Executive Order 13717—Establishing a Federal Earthquake Risk Management Standard

Federal Register
Vol. 81, No. 24
Friday, February 5, 2016

Presidential Documents

Title 3—

The President

Executive Order 13717 of February 2, 2016

Establishing a Federal Earthquake Risk Management Standard

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Earthquake Hazards Reduction Act of 1977, as amended, and section 121(a) of title 40, United States Code, and to improve the Nation's resilience to earthquakes, I hereby direct the following:

Section 1. *Policy.* It is the policy of the United States to strengthen the security and resilience of the Nation against earthquakes, to promote public safety, economic strength, and national security. To that end, the Federal Government must continue to take proactive steps to enhance the resilience of buildings that are owned, leased, financed, or regulated by the Federal Government. When making investment decisions related to Federal buildings, each executive department and agency (agency) responsible for implementing this order shall seek to enhance resilience by reducing risk to the lives of building occupants and improving continued performance of essential functions following future earthquakes. The Federal Government recognizes that building codes and standards primarily focus on ensuring minimum acceptable levels of earthquake safety for preserving the lives of building occupants. To achieve true resilience against earthquakes, however, new and existing buildings may need to exceed those codes and standards to ensure, for example, that the buildings can continue to perform their essential functions following future earthquakes. Agencies are thus encouraged to consider going beyond the codes and standards set out in this order to ensure that buildings are fully earthquake resilient.

Sec. 2. *Requirements for Earthquake Safety of New Federal Buildings, Improvements to Existing Federal Buildings, and Federally Leased, Financed, or Regulated Buildings.*

(a) *New Buildings and Alterations to Existing Buildings.* Each agency responsible for the design and construction of a new building or an alteration to an existing building shall ensure that the building is designed, constructed, or altered, respectively, in accord with appropriate earthquake-resistant design and construction codes and standards as set forth in sections 3(a) and 3(b) of this order.

(b) *Space Leased for Federal Occupancy.* Each agency responsible for the lease of a building shall, to the extent permitted by law, ensure that it leases only buildings that have been designed and constructed in accord with the appropriate earthquake-resistant design and construction standards that apply to the type of lease at issue, as set forth in section 3(c) of this order.

(c) *Federal Assistance Programs.* Each agency assisting in the financing, through Federal grants or loans, or guaranteeing the financing, through loan or mortgage insurance programs, of a newly constructed building shall consider updating its procedures for providing the assistance to be consistent with section 3(a) of this order, to assure appropriate consideration of earthquake safety.

(d) *Federally Regulated Buildings.* Each agency with responsibility for regulating the structural safety of a new building shall consider using earthquake-resistant design and construction standards for the new building consistent with section 3(a) of this order.

Sec. 3. *Codes, Standards, and Concurrent Requirements*. (a) Commencing within 90 days after the date of this order, each agency shall ensure that every new building for which the agency has not started programming is in compliance with the earthquake-resistant design provisions of the 2015 editions of the International Building Code (IBC) or the International Residential Code (IRC), nationally recognized building codes promulgated by the International Code Council (ICC), or equivalent codes, consistent with the provisions of and to the extent required by 40 U.S.C. 3312. When the ICC releases a new version of the IRC or IBC, each agency that constructs buildings shall determine whether the new version is a nationally recognized code for the purposes of 40 U.S.C. 3312(b), as expeditiously as practicable, but not later than 2 years after the release of the new version. If an agency determines that a new version is a nationally recognized code, it shall ensure that any building, for which the agency has not started programming, shall be in compliance with that new version or an equivalent code.

(b) Each agency that owns an existing Federal building shall adopt the *Standards of Seismic Safety for Existing Federally Owned and Leased Buildings* (Standards), which are developed, issued, and maintained by the Interagency Committee on Seismic Safety in Construction (ICSSC), as the minimum level acceptable for managing the earthquake risks in that building. Any agency that has not adopted the Standards at the time of this order shall adopt the Standards no later than 90 days from the date of this order. All agencies shall adopt subsequent editions of the Standards as expeditiously as practicable, but no later than 2 years following their issuance.

(c) Each agency that leases space in an existing building shall adopt the Standards as the minimum level acceptable for managing the earthquake risks in that building. This requirement shall apply to existing leases or leases existing at the time of issuance of updated Standards only to the extent appropriate, as determined by the leasing agency. With respect to leases for a building being constructed to accommodate a Federal agency under the authority in 40 U.S.C. 585(a), the leasing agency shall ensure that the building complies with the earthquake-resistant design and construction standards that would apply to a building constructed by the agency pursuant to section 3(a) of this order. With respect to such leases entered into under authority other than 40 U.S.C. 585(a), the leasing agency shall ensure that the building complies with the earthquake-resistant design and construction standards that would apply to a building constructed by the agency pursuant to section 3(a) of this order, to the extent permitted by law.

(d) Agencies may require higher performance levels than exist in the codes and standards described in sections 3(a), (b), and (c) of this order.

Sec. 4. *Agency and Committee Responsibilities.* (a) The ICSSC shall be composed of representatives of all Federal agencies engaged in construction, financing of construction, or related activities. The National Earthquake Hazards Reduction Program (NEHRP) Lead Agency, currently the National Institute of Standards and Technology (NIST), shall lead the ICSSC, and shall lead the development and maintenance of ICSSC guidelines to assist the Federal agencies with implementing earthquake risk reduction measures in their construction programs.

(b) Agencies whose activities are covered by this order shall designate one or more Seismic Safety Coordinator(s) to serve as focal points for the agency's compliance with this order and to participate in the ICSSC as appropriate. Within 30 days of the date of this order, each agency shall identify its Seismic Safety Coordinator(s) to the Director of NIST.

(c) The Director of NIST, on behalf of the ICSSC, shall issue implementing guidelines to assist agency compliance with this order within 8 months of the date of this order. The implementing guidelines shall provide specific guidance, including guidance about the roles and responsibilities of the agencies under section 2 of this order. The implementing guidelines shall

also describe the responsibilities and necessary qualifications of the Seismic Safety Coordinator.

(d) The Director of NIST, on behalf of the ICSSC, shall provide assistance in interpreting the implementing guidelines to the Federal departments and agencies.

(e) The ICSSC shall publish updated Standards for assessing and enhancing the earthquake resilience of existing buildings as required by this order. The ICSSC shall review and update the Standards as needed to comply with this order at the maximum interval of every 6 years. Participation in the ICSSC shall continue to be open to all agencies with programs affected by this order. The Director of NIST shall provide support for the secretariat of the ICSSC and determine the frequency and scope of the ICSSC meetings as necessary to support this order.

(f) Agencies whose activities are covered by this order shall submit biennial reports to the Director of the Office of Management and Budget (OMB) and the Director of NIST on their progress in implementing the order, commencing 2 years from the date of this order.

(g) Agency compliance shall be summarized in the NEHRP reports to the Congress.

Sec. 5. *Revocation.* Executive Order 12699 of January 5, 1990 (Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction), as amended, and Executive Order 12941 of December 1, 1994 (Seismic Safety of Existing Federally Owned or Leased Buildings) are hereby revoked.

Sec. 6. *Definitions.* As used in this order:

(a) ''building'' means any structure, fully or partially enclosed, used or intended for sheltering persons or property;

(b) ''alteration to an existing building'' means an action that alters, as defined in 40 U.S.C. 3301(a)(1), a building and that significantly extends the building's useful life and totals more than the replacement values established in the Standards for the building's assigned Seismic Design Category; and

(c) ''programming'' means developing and validating project assumptions, scope, budgets, and implementation strategy for a building.

Sec. 7. *Exemption Authority.* (a) The head of an agency may exempt a building from sections 2 and 3 of this order:

(i) to the extent the head of an agency determines that exempting such building is substantially related to an important law enforcement purpose; or

(ii) to the extent the head of an agency determines that exempting such building is necessary to address an extraordinary circumstance relating to national security or public safety.

(b) Even when otherwise eligible for an exemption under this section, each agency shall strive to comply with the purposes, goals, and requirements set forth in this order to the maximum extent practicable.

(c) If the head of an agency issues an exemption under this section, the agency must notify the Director of OMB in writing within 30 days of issuance of the exemption under this subsection.

Sec. 8. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party

against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) Nothing in this order shall apply to assistance provided for emergency work essential to save lives and protect property and public health and safety, performed pursuant to agencies' statutory authorities, and sections 402, 403, 502, and 503 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the ''Stafford Act'') (42 U.S.C. 5170a, 5170b, 5192, and 5193), or for temporary housing assistance programs and individual and family grants performed pursuant to section 408 of the Stafford Act (42 U.S.C. 5174). This order shall, however, apply to other provisions of the Stafford Act after a Presidentially declared major disaster or emergency when assistance actions involve new construction or alterations to an existing building.

(e) This order applies only to buildings within the United States and its territories and possessions.

THE WHITE HOUSE,
February 2, 2016.

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