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7 CFR Parts 4274, 4279, 4280, 4284, 4285 and 4290

RIN 0505–AA15

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

AGENCY: Office of the Chief Financial Officer, Farm Service Agency, Commodity Credit Corporation, National Institute of Food and Agriculture, Rural Utilities Service, Rural Business-Cooperative Service, Rural Housing Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The Office of the Chief Financial Officer, Farm Service Agency, Commodity Credit Corporation, National Institute of Food and Agriculture, Rural Utilities Service, Rural Business-Cooperative Service and Rural Housing Service finalize their portion of the uniform federal assistance rule and amend specific regulations to reference the conforming changes published by the Office of Management and Budget (OMB) in the **Federal Register** on December 19, 2014.

DATES: This rule is effective February 16, 2016.

FOR FURTHER INFORMATION CONTACT: Tyson Whitney, Office of the Chief Financial Officer, Director, Transparency and Accountability Reporting Division, United States Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250–9011, 202–720–8978, *tyson.whitney@cfo.usda.gov.*

SUPPLEMENTARY INFORMATION: OMB is streamlining the Federal government's guidance on Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards. In a final rule published in the **Federal Register** on December 26, 2013, (78 FR 78590) OMB adopted final guidance, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), that supersedes and streamlines requirements from OMB Circulars A–21, A–87, A–110, and A–122 (which were located previously in title 2 of the Code of Federal Regulation (CFR)); Circulars A–89, A–102, and A–133; and the guidance in Circular A–50 on Single Audit Act follow-up. The final guidance is located in title 2 part 200.

On December 19, 2014, OMB published a joint interim final rule in the **Federal Register,** (79 FR 75871). OMB made technical corrections to the Uniform Guidance, and Federal awarding agencies, including the Department of Agriculture, Office of the Chief Financial Officer, Farm Service Agency, Commodity Credit Corporation, National Institute of Food and Agriculture, Rural Utilities Service, Rural Business-Cooperative Service and Rural Housing Service, implemented the guidance in their respective chapters and titles in the CFR.

OMB's joint interim final rule requested additional comments on the rule. USDA received 13 comments. Of the 13 comments, one comment was directly related to USDA, Rural Housing Service (RHS). RHS will address this comment below as part of the preamble to 7 CFR 1944.422 of this final rule. The remaining comments were applicable to OMB and other Federal agencies. Notification was sent to OMB for resolution.

As part of the December 2014 rulemaking, the Office of the Chief Financial Officer adopted 2 CFR part 200, along with an agency-specific addendum in a new 2 CFR part 400. The Department of Agriculture added 2 CFR parts 415, 416, 418 and 422. In addition, the Office of the Chief Financial Officer removed parts 3015, 3016, 3018, 3019, 3022 and 3052 from title 7 of the CFR, as they became obsolete with the publication of the interim final rule. See 79 FR 75981, December 19, 2014. Title 2 of the CFR parts 400, 415, 416, 418 and 422 as described in the interim final rule are adopted with no changes.

The Farm Service Agency 7 CFR parts 761 and 785, and Commodity Credit Corporation 7 CFR parts 1407 and 1485 as described in the interim final rule are adopted with no changes.

The National Institute of Food and Agriculture 7 CFR parts 3400, 3401, 3402, 3403, 3405, 3406, 3407, 3415, 3430, and 3431 as described in the interim final rule are adopted with no changes.

The Rural Utilities Service 7 CFR parts 1703, 1709, 1710, 1717, 1724, 1726, 1737, 1738, 1739, 1740, 1773, 1779, and 1782 as described in the interim final rule are adopted with no changes. The changes to 7 CFR parts 1774, 1775, 1776, 1778, 1780, and 1783 as described in the interim final rule are

adopted with technical changes to address the following issues. First, there were specific new regulations (including 2 CFR parts 200, 400, or other 400 series regulations) that should have had been referenced in the conforming changes published in the December 19, 2014, rule, but which were inadvertently not included. An example is that the Emergency and Imminent Community Water Assistance Grants regulations (7 CFR part 1778) should have had a conforming change reference to 2 CFR parts 200 and 400. Second, there were some streamlining measures implemented by OMB that might be interpreted by some as not applicable to 7 CFR part 1780 without the technical corrections. Examples include the change from $100,000 to $150,000 for the Simplified Acquisition Threshold for small purchase procedures, an increase in the associated threshold for the use of construction surety bonds, the addition of micro-purchases, and changes to contract clauses. Current language at 7 CFR 1780.72(a) states that small purchase procedures are applicable to procurement under $100,000 rather than referencing the Simplified Acquisition Threshold. The technical corrections would enable the use of the OMB streamlining measures. A standard contract clause that had been in 7 CFR 3016.36 requiring compliance with state energy plans was removed by OMB and should also be removed from 7 CFR 1780.75.

The Rural Housing Service, Rural Business-Cooperatives Service, Rural Utilities Service and Farm Service Agency 7 CFR parts 1942, 1951, and 1980 as described in the interim final rule are adopted with no changes. The regulation in 7 CFR part 1944 as described in the interim final rule is adopted with a technical change to 7 CFR 1944.422 in response to the following comment:

Comment: It appears that the USDA Rural Development requirement for an audit to be submitted within 90 days of the end of the grantee's fiscal year (§ 1944.422) has not been brought in line with the overall deadline for audits contained in § 200.512(a)(1). It is almost impossible for USDA funded affordable housing NFE's to complete the audit process and have even a draft Single Audit report within 90 days of the end of their fiscal year. Many of these organizations have related LLC's for which they are general partners and they must wait for the completion of those related entities' audit before completing the overall organization's audit. Why was this unreasonable audit deadline not reviewed or revised with the publication of the interim rule?

Response: USDA Rural Development agrees the regulation must be clear and consistent. The omission of language in 7 CFR 1944.422 was an oversight. We amended 7 CFR 1944.422 to address the oversight.

The Rural Housing Service 7 CFR parts 3570 and 3575 as described in the interim final rule are adopted with no changes.

The Rural Business-Cooperative Service and Rural Utilities Service 7 CFR parts 4274, 4279, 4280, 4284, 4285, and 4290 as described in the interim final rule are adopted with no changes.

Because the changes identified in the preamble are merely technical, advance notice and public comment are unnecessary and we find good cause to make these necessary changes effective immediately upon publication.

Regulatory Analysis

For the regulatory analysis regarding this rulemaking, please refer to the analysis prepared by OMB in the interim final rule, which is incorporated herein. See 79 FR 75876, December 19, 2014.

Executive Order 12866 Determination

Pursuant to Executive Order 12866, OMB has determined this final rule to be not significant. OMB has not reviewed this rule.

List of Subjects in 2 CFR Parts 400, 415, 416, 418, and 422; 7 CFR Parts 761, 785, 1407, 1485, 1703, 1709, 1710, 1717, 1724, 1726, 1737, 1738, 1739, 1740, 1773, 1774, 1775, 1776, 1778, 1779, 1780, 1782, 1783, 1942, 1944, 1951, 1980, 3015, 3016, 3018, 3019, 3022, 3052, 3400, 3401, 3402, 3403, 3405, 3406, 3407, 3415, 3430, 3431, 3570, 3575, 4274, 4279, 4280, 4284, 4285, and 4290

Accounting, Administrative practice and procedure, Agriculture, Auditing, Business and industry, Colleges and universities, Community development, Cost principles, Economic development, Government Contracts, Grants administration, Grant programs, Grant programs housing and community development, Hospitals, Indians, Loan programs—agriculture, Nonprofit organizations, State and local governments, Reporting and recordkeeping requirements, Research misconduct, Rural areas.

For the reasons discussed above, the interim rule adding 2 CFR parts 400, 415, 416, 418, and 422, removing 7 CFR parts 3015, 3016, 3018, 3019, 3022, and 3052, and amending 7 CFR parts 761, 785, 1407, 1485, 1703, 1709, 1710, 1717, 1724, 1726, 1737, 1738, 1739, 1740, 1773, 1774, 1775, 1776, 1778, 1779, 1780, 1782, 1783, 1942, 1944, 1951, 1980, 3400, 3401, 3402, 3403, 3405, 3406, 3407, 3415, 3430, 3431, 3570, 3575, 4274, 4279, 4280, 4284, 4285, and 4290, which was published at 79 FR 75871 on December 19, 2014, is adopted as a final rule with the following changes:

Title 7—Agriculture

PART 1774—SPECIAL EVALUATION ASSISTANCE FOR RURAL COMMUNITIES AND HOUSEHOLDS PROGRAM (SEARCH)

■ 1. The authority citation for part 1774 continues to read as follows:

Authority: 7 U.S.C. 1926(a)(2)(C).

Subpart A—General Provisions

■ 2. Amend § 1774.8 by revising paragraphs (g) through (j) and adding paragraph (k) to read as follows:

§ 1774.8 Other Federal Statutes.

* * * * *

(g) 2 CFR part 415—General Program Administrative Requirements.

(h) 2 CFR part 180, as adopted by USDA through 2 CFR part 417, Nonprocurement Debarment and Suspension, implementation of Executive Order 12549 on debarment and suspension.

(i) 2 CFR part 418, New Restrictions on Lobbying, prohibiting the use of appropriated funds to influence Congress or a Federal agency in connection with the making of any Federal grant and other Federal contracting and financial transactions.

(j) 2 CFR part 421, Requirements for Drug-Free Workplace (Financial Assistance), implementing the Drug-Free Workplace Act of 1988 (41 U.S.C 8102).

(k) 7 CFR part 15b, USDA implementation of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, prohibiting discrimination on the basis of physical or mental handicap in Federally assisted programs.

PART 1775—TECHNICAL ASSISTANCE GRANTS

■ 3. The authority citation for part 1775 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

Subpart A—General Provisions

■ 4. Amend § 1775.8 by adding paragraphs (g) and (k) to read as follows:

§ 1775.8 Other Federal statutes.

* * * * *

(g) 2 CFR part 415—General Program Administrative Requirements.

* * * * *

(k) 2 CFR part 200, subpart F—Audit Requirements.

* * * * *

PART 1776—HOUSEHOLD WATER WELL SYSTEM GRANT PROGRAM

■ 5. The authority citation for part 1776 continues to read as follows:

Authority: 7 U.S.C. 1926e.

Subpart A—General

■ 6. Revise § 1776.2 to read as follows:

§ 1776.2 Uniform Federal Assistance Provisions.

(a) This program is subject to the general provisions that apply to all grants made by USDA and that are set forth in 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, as adopted by USDA through 2 CFR part 400, as well as the following:

(1) 2 CFR part 415—General Program Administrative Requirements.

(2) 2 CFR part 180, as adopted by USDA through 2 CFR part 417, Nonprocurement Debarment and Suspension, implementing Executive Order 12549 on debarment and suspension.

(3) 2 CFR part 418, New Restrictions on Lobbying, prohibiting the use of appropriated funds to influence Congress or a Federal agency in connection with the making of any Federal grant and other Federal contracting and financial transactions.

(4) 2 CFR part 421, Requirements for Drug-Free Workplace (Financial Assistance), implementing the Drug-Free Workplace Act of 1988 (41 U.S.C 8102).

(b) [Reserved]

PART 1778—EMERGENCY AND IMMINENT COMMUNITY WATER ASSISTANCE GRANTS

■ 7. The authority citation for part 1778 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

■ 8. Amend § 1778.14 by revising paragraph (e) and adding paragraphs (g) through (i) to read as follows:

§ 1778.14 Other considerations.

* * * * *

(e) *Governmentwide debarment and suspension (nonprocurement).* All projects must comply with the requirements of 2 CFR part 180, as adopted by USDA through 2 CFR part 417, Nonprocurement Debarment and Suspension, implementing Executive Order 12549 on debarment and suspension.

* * * * *

(g) *Uniform administrative requirements.* All projects funded under this part are subject to 2 CFR part 200, as adopted by USDA through 2 CFR part 400, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and 2 CFR part 415, General Program Administrative Requirements.

(h) *Restrictions on lobbying.* All projects funded under this part are subject to 2 CFR part 418, New Restrictions on Lobbying.

(i) *Requirements for drug-free workplace.* This program is subject to 2 CFR part 421, Requirements for Drug-Free Workplace (Financial Assistance).

PART 1780—WATER AND WASTE LOANS AND GRANTS

■ 9. The authority citation for part 1780 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

Subpart A—General Policies and Requirements

■ 10. Amend § 1780.1 as follows:
■ a. Revise paragraph (l)(3);
■ b. Remove paragraphs (l)(4) and (5); and
■ c. Revise paragraph (m).

The revisions read as follows:

§ 1780.1 General.

* * * * *

(l) * * *

(3) 2 CFR part 421-Requirements for Drug-Free Workplace (Financial Assistance).

* * * * *

(m) Applicants for loan or grant assistance will be required to comply with the following requirements as applicable:

(1) 2 CFR part 200, subpart F, ''Audit Requirements.''

(2) 2 CFR part 180, as adopted by USDA through 2 CFR part 417, Nonprocurement Debarment and Suspension, implementation of Executive Order 12549 and Executive Order 12689 on debarment and suspension.

(3) 2 CFR part 418, New Restrictions on Lobbying.

■ 11. Amend § 1780.3 by adding, in alphabetical order, the definition for ''Simplified acquisition threshold'' to read as follows:

§ 1780.3 Definitions and grammatical rules of construction.

(a) * * *

* * * * *

Simplified acquisition threshold means the dollar amount below which an applicant or owner may purchase property or services using small purchase methods as defined further at 2 CFR 200.88.

* * * * *

Subpart C—Planning, Designing, Bidding, Contracting, Constructing and Inspections

■ 12. Amend § 1780.72 by revising the introducty text to read as follows:

§ 1780.72 Procurement methods.

Procurement shall be made by one of the following methods and in accordance with requirements of 2 CFR 200.320: Micro-purchases, procurement by small purchase procedures, procurement by sealed bids (formal advertising), procurement by competitive proposals, or procurement by noncompetitive proposals. The sealed bid method is the preferred method for procuring construction.

* * * * *

■ 13. Amend § 1780.75 as follows:
■ a. In paragraph (a), remove ''Contracts other than small purchases'' and add ''Contracts for more than the Simplified Acquisition Threshold'' in its place;
■ b. In paragraph (c), remove ''exceeding $100,000,'' and add ''exceeding the Simplified Acquisition Threshold,'' in its place;
■ c. Remove and reserve paragraphs (f) and (g);
■ d. Revise paragraph (k); and
■ e. Add paragraphs (l) through (o).

The revision and additions reads as follows:

§ 1780.75 Contract provisions.

* * * * *

(k) *Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1388).* Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(l) *Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708).* Where applicable, all contracts awarded

by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR part 5). Under 40 U.S.C. 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market.

(m) *Debarment and suspension.* A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR part 180, as supplemented by 2 CFR part 417, ''Debarment and Suspension.'' SAM exclusion records contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(n) *Byrd anti-lobbying amendment (31 U.S.C. 1352).* Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(o) *Procurement of recovered materials.* A public body, such as a state government, state agency, municipality, county, district, authority, or other political subdivision of a state, territory or commonwealth, must ensure its contracts include provisions requiring compliance with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

PART 1783—REVOLVING FUNDS FOR FUNDING WATER AND WASTEWATER PROJECTS (REVOLVING FUND PROGRAM)

■ 14. The authority citation for part 1783 continues to read as follows:

Authority: 7 U.S.C. 1926 (a)(2)(B).

Subpart A—General

■ 15. Amend § 1783.2 by adding paragraphs (c), (d), and (e) to read as follows:

§ 1783.2 What Uniform Federal Assistance Provisions apply to the Revolving Fund Program?

* * * * *

(c) 2 CFR part 180, as adopted by USDA through 2 CFR part 417, Nonprocurement Debarment and Suspension, implementing Executive Order 12549 and Executive Order 12689 on debarment and suspension.

(d) This program is subject to 2 CFR part 418, New Restrictions on Lobbying, prohibiting the use of appropriated funds to influence Congress or a Federal agency in connection with the making of any Federal grant and other Federal contracting and financial transactions.

(e) This program is subject to 2 CFR part 421, Requirements for Drug-Free Workplace (Financial Assistance), implementing the Drug-Free Workplace Act of 1988 (41 U.S.C. 8102).

PART 1944—HOUSING

■ 16. The authority for part 1944 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 1480.

Subpart I—Self-Help Technical Assistance Grants

§ 1944.422 [Amended]

■ 17. Amend § 1944.422 in the introductory text by removing ''within 90 days of the end of the grantee's fiscal year, grant period, or termination of the grant.'' and adding ''the earlier of 30 calendar days after receipt of the auditor's report or nine months after the end of the grantee's audit period.'' in its place.

Jon M. Holladay,

Chief Financial Officer.

[FR Doc. 2016–02473 Filed 2–12–16; 8:45 am]

BILLING CODE 3410–KS–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No.: FAA–2014–0001; Amdt. No. 25–141]

RIN 2120–AK29

Harmonization of Airworthiness Standards—Fire Extinguishers and Class B and F Cargo Compartments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is amending certain airworthiness regulations for transport category airplanes by upgrading fire safety standards for Class B cargo compartments; establishing fire safety standards for a new type of cargo compartment, Class F; and updating related standards for fire extinguishers. This amendment is based on recommendations from the Aviation Rulemaking Advisory Committee (ARAC) and the National Transportation Safety Board (NTSB), and the changes address designs for which airworthiness directives (ADs) have been issued by both the FAA and the French civil aviation authority, Direction Générale de l'Aviation Civile (DGAC).

This amendment eliminates certain regulatory differences between the airworthiness standards of the FAA and the European Aviation Safety Agency (EASA), without affecting current industry design practices. These changes ensure an acceptable level of safety for these types of cargo compartments by standardizing certain requirements and procedures.

DATES: Effective April 18, 2016.

ADDRESSES: For information on where to obtain copies of rulemaking documents

and other information related to this final rule, see ''How To Obtain Additional Information'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Stephen M. Happenny, Propulsion/Mechanical Systems Branch, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 1601 Lind Ave. SW., Renton, WA 98055–4056; telephone (425) 227–2147; facsimile (425) 227 1232; email: *stephen.happenny@faa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards for the design and performance of aircraft that the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it prescribes new safety standards for the design and operation of transport category airplanes.

I. Overview of Final Rule

The FAA is amending Title 14, Code of Federal Regulations (14 CFR) part 25 as described below. This action harmonizes part 25 requirements for fire extinguishers and cargo compartments with the corresponding requirements in EASA Certification Specifications and Acceptable Means of Compliance for Large Aeroplanes (CS–25).

This amendment defines a new classification of cargo compartment, Class F, with certification standards similar to those for Class C compartments. Class F cargo compartments have no size limit, but must be located on the main deck of the airplane. They must have a liner that meets the fire resistance requirements for Class C compartments, unless the proposed design provides other means to contain a fire and protect critical systems and structure. If a Class F cargo compartment is accessible to crewmembers in flight, at least one readily accessible fire extinguisher must be available for the crew's use. If a proposed Class F cargo compartment incorporates a built-in fire extinguishing system, the applicant must conduct flight tests to demonstrate that there are means to extinguish or control a fire without requiring a crewmember to enter the compartment, and hazardous quantities of extinguishing agent are excluded from any compartment occupied by crew or passengers. The floor panels of Class F cargo compartments must also be self-extinguishing under certain flammability tests in appendix F to part 25, and ceiling and sidewall liner panels must meet the flame penetration resistance test requirements of part III of appendix F.

In addition, this amendment requires Class B cargo compartments to have a defined firefighting access point that will allow a crewmember to fight a fire without stepping into the compartment. This requirement will indirectly limit the size of those compartments.

Finally, this amendment clarifies what the FAA considers ''adequate'' capacity for built-in fire extinguishing systems.

Manufacturers and modifiers seeking FAA type certification already use the principles of these changes through equivalent level of safety findings and special conditions. Harmonizing FAA and EASA requirements will benefit these applicants by providing a single set of requirements, thereby reducing the cost and complexity of certification and codifying a consistent level of safety.

The changes apply to new airplane designs only, not to existing airplanes. Applicability to derivative airplanes or changed products will be determined according to 14 CFR 21.101, ''Designation of applicable regulations.''

II. Background

A. Statement of the Problem

This rulemaking addresses the problem of fire safety of cargo compartments on passenger airplanes, specifically the need to detect and extinguish cargo compartment fires in a manner that is prompt, reliable, and without hazard to crew or passengers. The EASA enacted standards addressing those issues, and this amendment harmonizes with those standards.

The revised standards stem from actions following a 1987 accident that were discussed in detail in the notice of proposed rulemaking (NPRM), published in the **Federal Register** July 7, 2014 (79 FR 38266). In summary, a fire occurred in the Class B cargo compartment of a Boeing Model 747–244B airplane operated by South African Airways. It was carrying both passengers and cargo on the main deck, a configuration known as a ''combi'' and classified under FAA regulations as a Class B cargo compartment. The airplane crashed in the Indian Ocean about 140 miles northeast of Mauritius. All people aboard the airplane perished.

The South African Board of Inquiry reported that (1) there was clear indication that a fire broke out on a right-hand front pallet (one of six) in the main deck cargo hold, and (2) the fire could not be controlled and consequently led to the crash.

An FAA Review Team evaluated the fire protection requirements in Class B cargo compartments at that time and issued the following findings and conclusions: [1]

1. Existing rules, policies, and procedures for the certification of Class B cargo or baggage compartments for smoke and fire protection were inadequate.
2. The required quantity of fire extinguishing agent and the number of portable fire extinguishers were inadequate.
3. The use of pallets to carry cargo in Class B compartments was no longer acceptable.
4. While entry into the cargo compartment was available, not all cargo was accessible.
5. The reliance on crewmembers to fight a cargo fire had to be discontinued.

This accident led to further investigations and the formation of industry and FAA study groups, including the ARAC and associated working groups, the Cargo Standards Harmonization Working Group (CSHWG) and the Mechanical Systems Harmonization Working Group (MSHWG). The findings and recommendations from these groups underscored the need to limit the size of, and enhance fire detection and suppression in, Class B compartments. They also recommended creating a new classification of cargo compartments on the main deck (Class F cargo compartment) with enhanced fire detection and suppression, and standardization of guidance for testing of fire extinguishing agent concentration.

The ARAC, in a related tasking, recommended harmonization of FAA regulations with EASA standards for cargo compartments and associated fire extinguishers.

[1] FAA Review Team report, ''Evaluation of Transport Airplane Main Deck Cargo Compartment Fire Protection Certification Procedures,'' June 1, 1988, available in the docket.

These findings and recommendations, and the FAA's support of the harmonization effort with EASA, formed the basis for this rulemaking.

B. Related Actions

In response to the South African Airways accident, the FAA and the DGAC issued airworthiness directives (ADs) that require operational and procedural changes, additional equipment, and enhanced fire detection and suppression systems on applicable large, main-deck combi airplanes. These ADs provide options to the operators of the affected airplanes for achieving an adequate level of safety. The enhanced fire detection and suppression system standards of the ADs require modification of the design of Class B cargo compartments to either comply with the requirements for a Class C cargo compartment or incorporate other specified safeguards.

This amendment and associated guidance material encompass the enhanced standards and options included in the ADs.

C. National Transportation Safety Board (NTSB) Recommendations

The NTSB investigated the South African 747–244B accident and issued the following safety recommendations:

1. A–88–61. Until fire detection and suppression methods for Class B cargo compartment fires were evaluated and revised, as necessary, the NTSB recommended that the FAA require all cargo carried in Class B cargo compartments of U.S.-registered transport category airplanes be carried in fire resistant containers.

The FAA addressed this recommendation with current AD 93–07–15. The revisions in this amendment to the cargo compartment fire protection requirements and to part 25, appendix F, part I for fire testing requirements also address this recommendation.

2. A–88–62. The NTSB recommended that the FAA research the fire detection and suppression methods needed to protect transport category airplanes from catastrophic fires in Class B compartments.

To address this recommendation, the FAA and Europe's Joint Aviation Authorities (JAA), the predecessor to EASA, researched whether Class B cargo compartments might be unsafe. Both authorities concluded that entering the compartment to combat a fire was ineffective for cargo compartments larger than 200 cubic feet in volume and that tests with actual fires should be conducted to more closely establish the maximum safe size. The conclusions of these and other tests, as detailed in the NPRM, were that, when standing at an access point, the person fighting the fire must be able to reach any part of the compartment with the contents of a hand fire extinguisher, and that access should be a function of how the compartment was configured rather than by volume. The revisions to § 25.857(b)(2) in this amendment address these conclusions.

3. A–88–63. The NTSB recommended that the FAA establish fire resistance requirements for the ceiling and sidewall liners in Class B cargo compartments of transport category airplanes that equal or exceed the requirements for Class C as set forth in 14 CFR part 25, appendix F, part III.

The current AD and the revisions to cargo compartment classifications in this amendment address this recommendation.

D. Summary of the NPRM

On June 26, 2014, the FAA issued an NPRM to amend §§ 25.851, 25.855, and 25.857. The **Federal Register** published NPRM Notice No. 14–06, Docket No. FAA–2014–0001, on July 7, 2014 (79 FR 38266). In the NPRM, the FAA proposed to:

1. Extend the hand fire extinguisher and built-in fire extinguisher requirements for Class A, B, C, or E cargo or baggage compartments to a new Class F accessible cargo or baggage compartment;

2. Revise the requirements for built-in fire extinguishing and suppression systems to clarify that the capacity of the system must be adequate to respond to a fire that could occur in any part of the cargo compartment where cargo or baggage is placed;

3. Extend the material standards and design considerations for cargo compartment interiors and the requirement for flight test to demonstrate compliance with § 25.857 regarding the dissipation of extinguishing agent to include the new Class F cargo compartments (with designs that incorporate a built-in fire extinguisher/suppression system); and

4. Indirectly limit the size of a Class B cargo compartment by requiring a defined firefighting access point that will allow a crewmember to fight a fire without stepping into the compartment.

The comment period closed on October 6, 2014.

E. General Overview of Comments

The FAA received eight (8) comments from five (5) commenters representing airplane manufacturers, material manufacturers, and pilots. All of the commenters generally supported the proposed changes; however, some commenters suggested changes, as discussed more fully in the discussion of the final rule below. The Air Line Pilots Association International and SABIC Innovative Plastics concurred with the proposal without comment.

III. Discussion of the Final Rule and Public Comments

A. New Class F Cargo Compartments

This final rule establishes a new classification, Class F, for cargo or baggage compartments. The design requirements for Class F cargo compartments are set forth in new § 25.857(f). We are also amending §§ 25.851 and 25.855, and appendix F to part 25 to include the new Class F compartment in their applicability.

1. ''Cargo Compartment Classification,'' (§ 25.857)

With one modification from what the FAA proposed in the NPRM, § 25.857(f) requires Class F compartments to be located on the main deck; have a separate approved smoke or fire detection system that provides a warning on the flight deck; have a means to exclude smoke, flames, or extinguishing agent from crew or passenger compartments; and have a means to control or extinguish a fire without requiring a crewmember to enter the compartment. This new class of cargo compartments is added to harmonize with EASA and provide a flexible option for cargo compartment certification.[2]

While the FAA originally proposed in the NPRM that Class F cargo compartments be readily accessible in flight, it is not adopting that proposed requirement. One of the purposes of this rulemaking is to harmonize with EASA. As noted in a comment by Boeing Commercial Airplanes (Boeing), EASA's rule does not include that requirement. The FAA concluded that requiring Class F cargo compartments to be readily accessible in flight would go beyond EASA's rule (CS 25.855 and 25.857, equivalent to 14 CFR 25.855 and 25.857) and associated Acceptable Means of Compliance (AMC). It would also be

[2] For example, the requirement that a Class F compartment have a means to control or extinguish a fire without crewmember entry allows flexibility in design. A proposed design may rely on a crewmember to control or extinguish a fire using a hand fire extinguisher without entering the compartment, similar to Class B compartments, or it could employ another means of compliance such as a built-in fire extinguishing/suppression system similar to Class C compartments. The FAA anticipates analyzing a variety of proposed designs for Class F cargo compartments. Alternative processes for approval, such as special conditions and equivalent level of safety findings, will remain available.

unduly restrictive. For example, the FAA currently certifies certain compartments that are not accessible in flight by using the Class C compartment requirements. As explained in the NPRM, a Class F cargo compartment located on the main deck and using a built-in fire suppression system would meet the requirements of a Class C cargo compartment, without accessibility. Therefore, accessibility in flight is an option, but not a requirement, for Class F cargo compartments.

Boeing also commented that requiring Class F cargo compartments to be located on the main deck would not harmonize with EASA's rule. The FAA's requirement is consistent with EASA's certification policy. EASA's AMC states that, ''It is not envisaged that lower deck cargo compartments be approved as Class F cargo compartments.'' The FAA agrees with EASA's position; however, instead of stating this position in guidance material as EASA did, the FAA opted to include it in the regulation. Since this is a harmonization rule, the FAA confirmed with EASA [3] that the FAA rule has the same intent as the corresponding EASA rule and AMC. Therefore, § 25.857(f) requires that Class F cargo compartments be located on the main deck of the airplane.[4]

2. ''Fire Extinguishers'' (§ 25.851)

As proposed in the NPRM, § 25.851(a)(3), ''Hand fire extinguishers,'' adds Class F cargo compartments that are accessible in flight to the types of cargo compartments that must have hand fire extinguishers. This requirement is consistent with the FAA's prior regulatory practice for accessible cargo compartments and is harmonized with EASA's corresponding regulation.

Embraer commented that the proposed § 25.851(a)(3) would require an applicant to have one hand fire extinguisher in Class F cargo compartments despite any other fire extinguishing means that may be present, such as a built-in fire extinguishing system or fire containment covers.

This comment overlooks one of the conditions for requiring a hand fire extinguisher. Only those Class F cargo compartments that are accessible in flight must meet this requirement, so that hand fire extinguishers would not be required for all Class F compartments. Even for compartments that are accessible in flight and have a built-in fire extinguishing system, the presence of a hand fire extinguisher should, in most circumstances, mitigate the additional risk presented by accessibility.[5]

Section 25.851(b)(2), ''Built-in fire extinguishers,'' describes the required capacity of built-in fire extinguishing systems. The FAA revises paragraph (b)(2), as proposed in the NPRM, to clarify what the FAA will accept as ''adequate'' capacity of built-in fire extinguishing systems. The revised rule states that a built-in fire extinguishing system is adequate if there is sufficient quantity of agent to extinguish the fire or suppress the fire anywhere baggage or cargo is placed within the cargo compartment for the time required to land and evacuate the airplane. The FAA is taking this step to harmonize with EASA and because testing has shown that current methods of compliance are inadequate.

Boeing recommended against this requirement because it is not included in EASA CS 25.851(b)(2). The FAA is adopting this clarification to ensure its enforceability. The FAA coordinated this addition with EASA [6] and ensured that this rule has the same effect as the corresponding EASA rule and AMC.

3. ''Cargo and Baggage Compartments,'' (§ 25.855)

Sections 25.855(b) and (c) now include the new Class F compartment in those compartments that are required to have a liner that meets the flame penetration standards required for Class C cargo compartments, unless the proposed design provides other means to contain a fire and protect critical systems and structure.

One material manufacturer, Du Pont Protection Technologies (Du Pont), recommended, in addition to requiring such liners, the enhancement of material standards and design considerations for Class B and F cargo compartment interiors. Specifically, Du Pont suggested requiring the use of fire resistant unit load devices and fire containment covers that meet part 25, appendix F, part III flame penetration resistance test requirements in all Class F cargo compartments in addition to, rather than as an alternative to, requiring cargo compartment liners that meet the same test criteria. While the FAA appreciates the commenter's intent of providing improved fire protection, the proposed additional requirements are unnecessarily burdensome and restrictive, and therefore not adopted.

Section 25.855(h)(3) is revised to extend the requirement for flight tests to those Class F cargo compartments that have built-in fire extinguishers in order to demonstrate compliance with § 25.857.

Also, as a minor correction from what was proposed in the NPRM, this rule changes ''or'' to ''and'' to clarify that the flight test requirement in § 25.855(h)(3) applies to both Class C compartments and applicable Class F compartments. The rule now states, ''The dissipation of the extinguishing agent in all Class C compartments and, if applicable, in any Class F compartment.''

4. Flammability Requirements of Class F Compartment Floor Panels (Appendix F to Part 25)

The FAA is including Class F as a compartment that must meet the flammability standards for certain materials used in interior compartments of airplanes. Specifically, Class F floor panels must meet the standards in part I of appendix F to part 25, ''Test Criteria and Procedures for Showing Compliance with § 25.853 or § 25.855,'' paragraphs (a)(1)(ii) and (a)(2)(iii).

B. Class B Cargo or Baggage Compartments

As proposed in the NPRM, § 25.857(b)(1) now requires sufficient access in flight to enable a crewmember, standing at any one access point and without stepping into a Class B compartment, to extinguish a fire occurring in any part of the compartment using a hand fire extinguisher. As discussed in the NPRM, this requirement will have the effect of limiting the size of Class B compartments.

C. Differences Between the NPRM and the Final Rule

The rule text as proposed in the NPRM is adopted with one exception. As explained above, Class F cargo or baggage compartments are not required to be readily accessible in flight.

E. Advisory Material

On July 9, 2014, the FAA published and solicited public comments on two proposed advisory circulars (ACs) that describe acceptable means for showing compliance with the NPRM's proposed regulations. The comment period for the proposed ACs closed on October 6, 2014. The FAA received 7 comments

[3] Details of the communication are in the docket.

[4] An editorial change from ''is located on the main deck'' to ''must be located on the main deck'' is adopted in this rule.

[5] An exception would be a proposed Class F cargo compartment for which the combination of accessibility and use of a hand fire extinguisher would create additional risk. For example, a proposed design that included a fire-resistant cargo container with a built-in fire suppression unit would likely be safer if the compartment and container were left unopened.

[6] Details of the communications are in the docket.

from 2 commenters representing airplane and helicopter manufacturers on proposed AC 25.851–1; and 12 comments from 5 commenters representing airplane manufacturers, an airplane equipment manufacturer, and industry standards committees on proposed AC 25.857–1. All of the commenters generally supported the proposed ACs; however, some commenters suggested changes. The FAA added clarification to the guidance in the ACs but did not change the regulatory requirements as a result of the comments to the proposed ACs. Concurrent with this final rule, the FAA is issuing the following final ACs to provide guidance material for the new regulations adopted by this amendment:

- AC 25.851–1, ''Built-in Fire Extinguishing/Suppression Systems in Class C and Class F Cargo Compartments.''
- AC 25.857–1, ''Class B and F Cargo Compartments.''

IV. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Orders 12866 and 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as codified in 5 U.S.C. 603 *et seq.,* requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), as codified in 2 U.S.C. 1532, requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

Department of Transportation (DOT) Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble if a full regulatory evaluation of the costs and benefits is not prepared. Such a determination has been made for this final rule. The reasoning for this determination follows.

The FAA tasked the ARAC through the Cargo Standards Harmonization Working Group and the Mechanical Systems Harmonization Working Group to review existing part 25 cargo compartments and fire extinguisher regulations and to recommend changes that would eliminate differences between the U.S. and the European airworthiness standards, while maintaining or improving the level of safety in the current regulations. The FAA agrees with the ARAC recommendations to harmonize airworthiness standards for cargo compartments and associated fire extinguishers with the corresponding EASA regulations, which were incorporated into the CS–25 requirements in 2007 and 2009. The final rule eliminates differences between the U.S. and European airworthiness standards.

The final rule applies to new airplane designs only and revises §§ 25.851, ''Fire extinguishers;'' 25.855, ''Cargo or baggage compartments;'' 25.857, ''Cargo compartment classification;'' and part 25, appendix F, part I, ''Test Criteria and Procedures for Showing Compliance with § 25.853, or § 25.855.'' A review of U.S. manufacturers of transport category airplanes revealed that these manufacturers intend to fully comply with the EASA standards (or are already complying). In the NPRM, the FAA stated this rule imposes no more than minimal cost, and cost-savings could occur. The FAA asked for comment on the cost estimates and received none. The FAA has therefore determined that this final rule will impose at most minimal cost with possible cost-savings and does not warrant a full regulatory evaluation.

The FAA has also determined that this final rule is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866 and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.'' To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify, and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

Small Business Administration size standards specify aircraft manufacturing firms having less than 1,500 employees as small. However, there are no U.S. manufacturers of part 25 airplanes with less than 1,500 employees. Moreover, the final rule has no cost. The FAA made a similar determination for the initial regulatory flexibility analysis, and we received no comments. Therefore, as provided in § 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this rule and has

determined that the rule is in accord with the Trade Agreements Act as the rule uses European standards as the basis for U.S. standards.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $155.0 million in lieu of $100 million. This rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new requirement for information collection associated with this final rule.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations.

Executive Order (EO) 13609, Promoting International Regulatory Cooperation, [77 FR 26413, May 4, 2012] promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policy and agency responsibilities of Executive Order 13609, Promoting International Regulatory Cooperation. The agency has determined that this action eliminates differences between U.S. aviation standards and those of other civil aviation authorities by creating a single set of certification requirements for transport category airplanes that is acceptable in both the United States and Europe.

G. Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312f of Order 1050.1E and involves no extraordinary circumstances.

V. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The agency determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it is not be a ''significant energy action'' under the executive order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

VI. How To Obtain Additional Information

A. Rulemaking Documents

An electronic copy of a rulemaking document may be obtained by using the Internet—

1. Search the Federal eRulemaking Portal (*http://www.regulations.gov*);

2. Visit the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/* or

3. Access the Government Printing Office's Web page at *http://www.gpo.gov/fdsys/.*

Copies may also be obtained by sending a request (identified by notice, amendment, or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680.

B. Comments Submitted to the Docket

Comments received may be viewed by going to *http://www.regulations.gov* and following the online instructions to search the docket number for this action. Anyone is able to search the electronic form of all comments received into any of the FAA's 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.).

C. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document, may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the Internet, visit *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Amendment

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

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

■ 1. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

■ 2. Amend § 25.851 by revising paragraphs (a)(3) and (b)(2) to read as follows:

§ 25.851 Fire extinguishers.

(a) * * *

(3) At least one readily accessible hand fire extinguisher must be available for use in each Class A or Class B cargo or baggage compartment and in each Class E or Class F cargo or baggage compartment that is accessible to crewmembers in flight.

* * * * *

(b) * * *

(2) The capacity of each required built-in fire extinguishing system must be adequate for any fire likely to occur in the compartment where used,

considering the volume of the compartment and the ventilation rate. The capacity of each system is adequate if there is sufficient quantity of agent to extinguish the fire or suppress the fire anywhere baggage or cargo is placed within the cargo compartment for the duration required to land and evacuate the airplane.

■ 3. Amend § 25.855 by revising paragraphs (b), (c), and (h)(3) to read as follows:

§ 25.855 Cargo or baggage compartments.

* * * * *

(b) Each of the following cargo or baggage compartments, as defined in § 25.857, must have a liner that is separate from, but may be attached to, the airplane structure:

(1) Any Class B through Class E cargo or baggage compartment, and

(2) Any Class F cargo or baggage compartment, unless other means of containing a fire and protecting critical systems and structure are provided.

(c) Ceiling and sidewall liner panels of Class C cargo or baggage compartments, and ceiling and sidewall liner panels in Class F cargo or baggage compartments, if installed to meet the requirements of paragraph (b)(2) of this section, must meet the test requirements of part III of appendix F of this part or other approved equivalent methods.

* * * * *

(h) * * *

(3) The dissipation of the extinguishing agent in all Class C compartments and, if applicable, in any Class F compartments.

* * * * *

■ 4. Amend § 25.857 by revising paragraph (b)(1) and adding paragraph (f) to read as follows:

§ 25.857 Cargo compartment classification.

* * * * *

(b) * * *

(1) There is sufficient access in flight to enable a crewmember, standing at any one access point and without stepping into the compartment, to extinguish a fire occurring in any part of the compartment using a hand fire extinguisher;

* * * * *

(f) Class F. A Class F cargo or baggage compartment must be located on the main deck and is one in which—

(1) There is a separate approved smoke detector or fire detector system to give warning at the pilot or flight engineer station;

(2) There are means to extinguish or control a fire without requiring a crewmember to enter the compartment; and

(3) There are means to exclude hazardous quantities of smoke, flames, or extinguishing agent from any compartment occupied by the crew or passengers.

■ 5. Amend appendix F to part 25 by revising the heading for part I and paragraphs (a)(1)(ii) and (a)(2)(iii) under part 1 to read as follows:

APPENDIX F TO PART 25

Part I—Test Criteria and Procedures for Showing Compliance With § 25.853 or § 25.855

(a) * * *

(1) * * *

(ii) Floor covering, textiles (including draperies and upholstery), seat cushions, padding, decorative and non-decorative coated fabrics, leather, trays and galley furnishings, electrical conduit, air ducting, joint and edge covering, liners of Class B and E cargo or baggage compartments, floor panels of Class B, C, E, or F cargo or baggage compartments, cargo covers and transparencies, molded and thermoformed parts, air ducting joints, and trim strips (decorative and chafing), that are constructed of materials not covered in paragraph (a)(1)(iv) below, must be self-extinguishing when tested vertically in accordance with the applicable portions of part I of this appendix or other approved equivalent means. The average burn length may not exceed 8 inches, and the average flame time after removal of the flame source may not exceed 15 seconds. Drippings from the test specimen may not continue to flame for more than an average of 5 seconds after falling.

* * * * *

(2) * * *

(iii) A cargo or baggage compartment defined in § 25.857 as Class B, C, E, or F must have floor panels constructed of materials which meet the requirements of paragraph (a)(1)(ii) of part I of this appendix and which are separated from the airplane structure (except for attachments). Such panels must be subjected to the 45 degree angle test. The flame may not penetrate (pass through) the material during application of the flame or subsequent to its removal. The average flame time after removal of the flame source may not exceed 15 seconds, and the average glow time may not exceed 10 seconds.

* * * * *

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44702 in Washington, DC, on January 29, 2016.

Michael P. Huerta,

Administrator.

[FR Doc. 2016–03000 Filed 2–12–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0044]

RIN 1625–AA00

Safety Zone; James River, Newport News, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the navigable waters of the James River, in the vicinity of the James River Reserve Fleet, in support of United States Navy explosives training on the M/V SS DEL MONTE. This safety zone will restrict vessel movement in the specified area during the explosives training. This action is necessary to provide for the safety of life and property on the surrounding navigable waters during the United States Navy explosives training.

DATES: This rule is effective from 8 a.m. on February 29, 2016 through 4 p.m. on March 4, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0044 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Barbara Wilk, Waterways Management Division Chief, Sector Hampton Roads, U.S. Coast Guard; telephone 757–668–5580, email *HamptonRoadsWaterway@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 information about the training starting on February 29, 2016 was not received by the Coast Guard with sufficient time to allow for an opportunity to comment on the proposed rule. This military training is necessary to train and qualify Navy personnel in the use of explosives. This training is imperative to ensure that Navy personnel located within the Fifth Coast Guard District are properly trained and qualified before conducting military and national security operations for use in securing ports and waterways. Navy policy requires that Navy personnel meet and maintain certain qualification standards before being allowed to carry out certain missions. Delaying the effective date of this safety zone would be contrary to the public interest as immediate action is needed to ensure the safety of the training participants, patrol vessels, and other vessels transiting the military exercise area. The Coast Guard will provide advance notifications to users of the affected waterway via marine information broadcasts and local notice to mariners.

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**. Failure to conduct this required training at this time will result in a lapse in personnel qualification standards and, consequently, the inability of Navy personnel to carry out important national security functions. Due to the need for immediate action, the restriction on vessel traffic is necessary to protect life, property and the environment. Delaying the effective date would be contrary to the safety zone's intended objectives of protecting persons and vessels, and enhancing public and maritime safety.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Hampton Roads (COTP) has determined that potential hazards associated with the military training starting on February 29, 2016 will be a safety concern for anyone within a 1500-foot radius of the M/V SS DEL MONTE. This rule is needed to protect the participants, patrol vessels, and other vessels transiting the navigable waters of the James River, in the vicinity of the James River Reserve Fleet, from hazards associated with military explosives operations. The potential hazards to mariners within the safety zone include shock waves, flying shrapnel, and loud noises.

IV. Discussion of the Rule

The Captain of the Port of Hampton Roads is establishing a safety zone on James River, in the vicinity of the James River Reserve Fleet, in Newport News, VA. The safety zone will encompass all navigable waters within a 1500 foot radius of the M/V SS DEL MONTE location at position 37°06′11″ N., 076°38′40″ W. (NAD 1983). This safety zone still allows for navigation on the waterway. This safety zone will be established and enforced from 8 a.m. on February 29, 2016 through 4 p.m. on March 4, 2016. Access to the safety zone will be restricted during the effective period. Except for participants and vessels authorized by the Captain of the Port or his Representative, no person or vessel may enter or remain in the regulated area.

The Captain of the Port will give notice of the enforcement of the safety zone by all appropriate means to provide the widest dissemination of notice to the affected segments of the public. This includes publication in the Local Notice to Mariners and Marine Information Broadcasts.

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.

Although this safety zone restricts vessel traffic through the regulated area, the effect of this rule will not be significant because: (i) This rule will only be impact a small designated area during a time of year when vessel traffic is normally low; and (ii) the Coast Guard will make extensive notification to the maritime community via marine information broadcasts so mariners may adjust their plans accordingly.

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 4 days that will prohibit entry within 1500 feet of the M/V SS DEL MONTE along the James River. 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 (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, 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0701 to read as follows:

165.T05–0202 Safety Zone, James River; Newport News, VA.

(a) *Definitions.* For the purposes of this section, *Captain of the Port* means the Commander, Sector Hampton Roads. *Representative* means any Coast Guard commissioned, warrant or petty officer who has been authorized to act on the behalf of the Captain of the Port. *Participants* mean individuals and vessels involved in explosives training.

(b) *Locations.* The following area is a safety zone:

(1) All waters in the vicinity of the of the James River Reserve Fleet, in the James River, within a 1500 foot radius of the M/V SS DEL MONTE in approximate position 37°06′11″ N., 076°38′40″ W. (NAD 1983).

(c) *Regulations.* (1) All persons are required to comply with the general regulations governing safety zones in § 165.23 of this part.

(2) With the exception of participants, entry into or remaining in this safety zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(3) All vessels underway within this safety zone at the time it is implemented are to depart the zone immediately.

(4) The Captain of the Port, Hampton Roads or his representative can be contacted at telephone number (757) 668–5555.

(5) The Coast Guard and designated James River Reserve Fleet security vessels enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65Mhz) and channel 16 (156.8 Mhz).

(6) This section applies to all persons or vessels wishing to transit through the safety zone except participants and vessels that are engaged in the following operations:

(i) Enforcing laws;

(ii) Servicing aids to navigation; and

(iii) Emergency response vessels.

(7) The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(d) *Enforcement period.* This rule will be enforced from 8 a.m. on February 29, 2016 through 4 p.m. on March 4, 2016.

Dated: January 13, 2016.

Christopher S. Keane,

Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.

[FR Doc. 2016–03090 Filed 2–12–16; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2015–0670; FRL–9942–31–Region 8]

Approval and Promulgation of Air Quality Implementation Plans; 2008 Ozone NAAQS Interstate Transport for Colorado, Montana, North Dakota and South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) submissions from the states of Colorado, Montana, North Dakota and South Dakota that are intended to demonstrate that the SIP for each respective state meets certain interstate transport requirements of the Clean Air Act (Act or CAA) for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS). These submissions address the requirement that each SIP contain adequate provisions prohibiting air emissions that will have certain adverse air quality effects in other states. The EPA is approving these SIPs for all four states as containing adequate provisions to ensure that air emissions in the states do not significantly contribute to nonattainment or interfere with maintenance of the 2008 8-hour ozone NAAQS in any other state.

DATES: This final rule is effective on March 17, 2016.

ADDRESSES: EPA has established a docket for this action under Docket Identification Number EPA–R08–OAR–2015–0670. All documents in the docket are listed on the *http://www.regulations.gov* index. Although listed in the index, some information may not be publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado, 80202–1129. EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Adam Clark, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129, (303) 312–7104, *clark.adam@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On November 23, 2015, the EPA proposed to approve submittals from Colorado, Montana, North Dakota and South Dakota as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS (80 FR 72937). An explanation of the CAA requirements, a detailed analysis of the states' submittals, and the EPA's rationale for approval of each submittal were all provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for this proposed rule ended on December 23, 2015. The EPA received no comments on the proposal.

II. Final Action

The EPA is approving the following submittals as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2008 8-hour ozone NAAQS: Colorado's December 31, 2012 submission; Montana's January 3, 2013 submission; North Dakota's March 8, 2013 submission; and South Dakota's May 30, 2013 submission. This action is being taken under section 110 of the CAA.

III. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 18, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: January 25, 2016. Signed:

Debra H. Thomas,

Acting Regional Administrator, Region 8.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart G—Colorado

■ 2. Section 52.352 is amended by adding paragraph (d) to read as follows:

§ 52.352 Interstate transport.

* * * * *

(d) Addition to the Colorado State Implementation Plan of the Colorado Interstate Transport SIP regarding 2008 Ozone Standards for both of the CAA section 110(a)(2)(D)(i)(I) requirements submitted to EPA on December 31, 2012.

Subpart BB—Montana

■ 3. Section 52.1393 is amended by adding paragraph (c) to read as follows:

§ 52.1393 Interstate transport requirements.

* * * * *

(c) EPA is approving both elements of CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS, which was submitted to EPA on January 3, 2013.

Subpart JJ—North Dakota

■ 4. Section 52.1833 is amended by adding paragraph (e) to read as follows:

§ 52.1833 Section 110(a)(2) infrastructure requirements.

* * * * *

(e) EPA is approving both elements of CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS, which was submitted to EPA on March 8, 2013.

Subpart QQ—South Dakota

■ 5. Section 52.2170, paragraph (e), is amended by adding the entry ''XIX. Section 110(a)(2)(D)(i)(I) Infrastructure Requirements for the 2008 8-hour Ozone NAAQS'' to read as follows:

§ 52.2170 Identification of plan.

* * * * *

(e) * * *

Rule title	State effective date	EPA Effective date	Final rule citation, date	Comments
*	*	*	*	*
XIX. Section 110(a)(2)(D)(i)(I) Interstate Transport Requirements for the 2008 8-hour Ozone NAAQS.	5/21/13	3/2/15	80 FR 4799, 1/29/15	

[FR Doc. 2016–02959 Filed 2–12–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2015–0840; FRL–9942–39–Region 7]

Approval of Iowa's State Implementation Plan (SIP); Electronic Reporting Consistent With the Cross-Media Electronic Reporting Rule (CROMERR)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a SIP revision submitted by the State of Iowa. The revision pertains to the approval of Iowa's CROMERR submission which was published in the **Federal Register** on December 9, 2015, and will revise the Iowa SIP to provide for electronic submittal of emission inventory data.

DATES: This direct final rule will be effective April 18, 2016, without further notice, unless EPA receives adverse comment by March 17, 2016. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2015–0840, to *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913–551–7039, or by email at *Hamilton.heather@epa.gov.*

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

I. Background

On November 4, 2008, Iowa submitted several revisions to EPA for approval into the SIP. On December 30, 2009, EPA took direct final action to approve the revisions to the SIP. (74 FR 68692). However, EPA did not act on several state administrative regulations that provided for electronic submittal of emissions inventory information, construction permit applications, and Title V operating permit applications, as Iowa had not obtained approval of its electronic document receiving system as required by the Cross-Media Electronic Reporting Rule (CROMERR) found at 40 CFR part 3 (70 FR 59848). Therefore, EPA did not take action on the electronic emissions inventory submittal provisions of Iowa Administrative Code (IAC) 567–21.1(3).

On December 9, 2015, EPA approved Iowa's CROMERR application for electronic reporting of emissions information through its State and Local Emissions Inventory System (SLEIS). (80 FR 76474). Accordingly, EPA is approving IAC 567–21–1(3) in to the SIP to allow for electronic submittal of emissions inventory data.

II. EPA's Evaluation

Section 110(1) of the Federal Clean Air Act (CAA) states that each revision to an implementation plan submitted by a state under this chapter shall be adopted by such state after reasonable notice and public hearing. In the November 4, 2008, submittal for rule IAC 567–21.1(3), Iowa provided

documentation that reasonable notice and a public hearing were provided. No comments were received.

The EPA's regulations require states to revise the SIP to satisfy the requirements of 40 CFR part 3 (Cross-Media Electronic Reporting) in order to provide electronic documents to EPA in lieu of a paper document. Iowa submitted the CROMERR application to EPA on January 13, 2010, and amended the application on September 22, 2015. The application requests revisions to the state's EPA-authorized air program to allow electronic reporting of emissions inventories under 40 CFR part 52. EPA evaluated the application and determined that it meets the applicable requirements of the EPA air quality regulations because it is consistent with EPA's requirements for electronic reporting. The notice of EPA's decision to approve Iowa's application was published in the **Federal Register** on December 9, 2015, (80 FR 76474). This direct final action approves IAC 567–21.1(3) *Emissions Inventory* in to the Federally-approved SIP.

III. Final Action

EPA is approving a revision to the Iowa SIP by approving IAC 567–21.1(3) that allows electronic reporting of emissions inventories. Iowa's CROMERR submission was approved by the EPA on December 9, 2015.

We are publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the ''Proposed Rules'' section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve the SIP revision if relevant adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule.

Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Iowa's Chapter 21 rule 567–21.1 ''Compliance Schedule'' described in the direct final amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 18, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 1, 2016.

Mark Hague,

Regional Administrator, Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart Q—Iowa

■ 2. Amend § 52.820(c) by revising entry 567–21.1 to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED IOWA REGULATIONS

Iowa citation	Title	State effective date	EPA Approval date	Explanation
Iowa Department of Natural Resources Environmental Protection Commission [567]				
*	*	*	*	*
Chapter 21—Compliance				
567–21.1	Compliance Schedule	10/15/08	02/16/16 and [Insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

[FR Doc. 2016–02957 Filed 2–12–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2015–0398; FRL–9942–15–Region 10]

Approval of Regional Haze BART Alternative Measure: Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve the Best Available Retrofit Technology (BART) alternative measure for the BP Cherry Point Refinery located near Ferndale, Washington. The BART alternative measure increases the oxides of nitrogen (NO_X) emission limit from the R–1 HC Reactor Heater (R–1 Heater), a BART-eligible source currently subject to BART emission limits on NO_X. To offset the increase in NO_X emissions from this emission unit, the NO_X emission limits on the 1st Stage Hydrocracker Fractionator Reboiler (R–1 Reboiler), also a BART-eligible source subject to BART emission limits on NO_X, will be reduced. The net effect of these changes is a decrease of 10.4 tons per year (tpy) of allowable NO_X emissions from sources subject to BART at the BP Cherry Point Refinery.

DATES: This final rule is effective March 17, 2016.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–EPA–R10–OAR–2015–0398. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and is publicly available only in hard copy form. Publicly available docket materials are available at *http://www.regulations.gov* or at EPA Region 10, Office of Air, Waste and Toxics, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: For information please contact John Chi at (206) 553–1185, or *chi.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background Information
II. Final Action
III. Incorporation by Reference
IV. Statutory and Executive Orders Review

I. Background Information

On May 14, 2015, Washington submitted the BART alternative measure and the EPA proposed to approve it on November 16, 2015 (80 FR 70718). An explanation of the CAA requirements, a detailed analysis of the submittal, and the EPA's reasons for approval were provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for this proposed rule ended on December 16, 2015. The EPA received one comment in support of this action and no adverse comments.

II. Final Action

The EPA is approving the BART alternative measure for the BP Cherry Point Refinery located near Ferndale, Washington by incorporating by reference the conditions of Revision 2 identified below. The EPA is removing the BP Cherry Point Refinery, BART Compliance Order No. 7836 currently in the Federally approved SIP at 40 CFR 52.2470(d) and replacing it with provisions of the BP Cherry Point Refinery, BART Compliance Order No. 7836 Revision 2. The EPA is also approving new Condition 9 of the BART Compliance Order 7836 Revision 2 relating to decommissioned units. The conditions of the BP BART Compliance Order Revision 2 that are proposed for incorporation by reference are:

Condition 1: 1.1, 1.1.1, 1.2, 1.2.1, 1.2.2;

Condition 2: 2.1, 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.5, 2.2, 2.2.1, 2.2.2, 2.3, 2.3.1, 2.3.2, 2.4, 2.4.1, 2.4.2, 2.4.2.1, 2.5, 2.5.1, 2.5.1.1, 2.5.1.2, 2.5.2, 2.5.3, 2.5.4, 2.6, 2.6.1, 2.6.2, 2.6.3, 2.7, 2.7.1, 2.7.2, 2.7.3, 2.7.4, 2.8, 2.8.1, 2.8.2,2.8.3, 2.8.4, 2.8.5, 2.8.6;

Condition 3, 3.1, 3.1.1, 3.1.2, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4;

Condition 4, 4.1, 4.1.1, 4.1.1.1, 4.1.1.2, 4.1.1.3, 4.1.1.4;

Condition 5, 5.1, 5.2;

Condition 6, 6.1, 6.2, 6.3;

Condition 7; and

Condition 9.

III. Incorporation by Reference

In accordance with requirements of 1 CFR 51.5, the EPA is revising our

incorporation by reference located in 40 CFR 52.2470(d)—''EPA-Approved State Source-Specific Requirements'' to reflect the approval of the BART alternative measure for the BP Cherry Point Refinery and the provision relating to decommissioned units. Due to the fact that the conditions in the original BART Order were renumbered in Revision 1, which was not submitted as a SIP revision, the EPA is removing the original IBR entry for ''BP Cherry Point Refinery'' in its entirety and incorporating in its place the specified conditions of Revision 2 included in the docket for this action. The end result is that all of the conditions in the Original BART order remain in the SIP (but with different numbers) except as discussed in the notice of the proposed rulemaking with respect to the BART alternative measure and the addition of Condition 9. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

IV. Statutory and Executive Orders Review

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

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

The SIP is not approved to apply on any Indian reservation land in Washington except as specifically noted below and is also not approved to apply in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 18, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 27, 2016.

Dennis J. McLerran,

Regional Administrator, Region 10.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart WW—Washington

■ 2. In § 52.2470:

■ a. In paragraph (d), the table is amended by revising the entry for ''BP Cherry Point Refinery.''

■ b. In paragraph (e), table 2 is amended by adding an entry entitled ''Regional Haze State Implementation Plan—BP Cherry Point Refinery BART Revision'' to the end of the table.

The revisions read as follows:

§ 52.2470 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED STATE OF WASHINGTON SOURCE-SPECIFIC REQUIREMENTS

Name of source	Order/Permit number	State effective date	EPA approval date	Explanation
*	*	*	*	*
BP Cherry Point Refinery.	Administrative Order No. 7836, Revision 2.	5/13/15	2/16/16 [Insert **Federal Register** citation].	The following conditions: 1.1, 1.1.1, 1.2, 1.2.1, 1.2.2, 2.1, 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.5, 2.2, 2.2.1, 2.2.2, 2.3, 2.3.1, 2.3.2, 2.4, 2.4.1, 2.4.2, 2.4.2.1, 2.5, 2.5.1, 2.5.1.1, 2.5.1.2, 2.5.2, 2.5.3, 2.5.4, 2.6, 2.6.1, 2.6.2, 2.6.3, 2.7, 2.7.1, 2.7.2, 2.7.3, 2.7.4, 2.8, 2.8.1, 2.8.2,2.8.3, 2.8.4, 2.8.5, 2.8.6, 3, 3.1, 3.1.1, 3.1.2, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, 4, 4.1, 4.1.1, 4.1.1.1, 4.1.1.2, 4.1.1.3, 4.1.1.4, 5, 5.1, 5.2, 6, 6.1, 6.2, 6.3, 7, 9
*	*	*	*	*

(e) * * *

TABLE 2—ATTAINMENT, MAINTENANCE, AND OTHER PLANS

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
*	*	*	*	*
Regional Haze State Implementation Plan—BP Cherry Point Refinery BART Revision.	Statewide	5/14/15	2/16/16 [Insert **Federal Register** citation].	

[FR Doc. 2016–02953 Filed 2–12–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2015–0001; Internal Agency Docket No. FEMA–8419]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Patricia Suber, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4149.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a

flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Pennsylvania:				
Abington, Township of, Montgomery County.	420695	August 13, 1971, Emerg; September 30, 1977, Reg; March 2, 2016, Susp.	March 2, 2016 ..	March 2, 2016.
Ambler, Borough of, Montgomery County.	420947	December 6, 1973, Emerg; November 2, 1977, Reg; March 2, 2016, Susp.	.....do*	Do.
Bridgeport, Borough of, Montgomery County.	420948	October 4, 1973, Emerg; January 3, 1979, Reg; March 2, 2016, Susp.	.....do	Do.
Bryn Athyn, Borough of, Montgomery County.	421899	March 10, 1976, Emerg; February 17, 1982, Reg; March 2, 2016, Susp.	.....do	Do.
Cheltenham, Township of, Montgomery County.	420696	October 1, 1971, Emerg; November 22, 1976, Reg; March 2, 2016, Susp.	.....do	Do.
Collegeville, Borough of, Montgomery County.	421900	October 29, 1974, Emerg; February 15, 1980, Reg; March 2, 2016, Susp.	.....do	Do.
Conshohocken, Borough of, Montgomery County.	420949	April 10, 1973, Emerg; December 15, 1977, Reg; March 2, 2016, Susp.	.....do	Do.
Douglass, Township of, Montgomery County.	421911	July 25, 1974, Emerg; May 15, 1984, Reg; March 2, 2016, Susp.	.....do	Do.
East Greenville, Borough of, Montgomery County.	421901	August 20, 1975, Emerg; June 25, 1976, Reg; March 2, 2016, Susp.	.....do	Do.
East Norriton, Township of, Montgomery County.	420950	December 19, 1973, Emerg; September 30, 1977, Reg; March 2, 2016, Susp.	.....do	Do.
Franconia, Township of, Montgomery County.	422494	October 24, 1974, Emerg; March 15, 1982, Reg; March 2, 2016, Susp.	.....do	Do.
Green Lane, Borough of, Montgomery County.	421902	November 22, 1974, Emerg; September 2, 1981, Reg; March 2, 2016, Susp.	.....do	Do.
Hatboro, Borough of, Montgomery County.	420697	February 16, 1973, Emerg; June 15, 1977, Reg; March 2, 2016, Susp.	.....do	Do.
Hatfield, Borough of, Montgomery County.	420698	June 2, 1972, Emerg; August 15, 1978, Reg; March 2, 2016, Susp.	.....do	Do.
Hatfield, Township of, Montgomery County.	420699	April 21, 1972, Emerg; November 15, 1979, Reg; March 2, 2016, Susp.	.....do	Do.
Horsham, Township of, Montgomery County.	420700	May 9, 1973, Emerg; November 16, 1977, Reg; March 2, 2016, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Jenkintown, Borough of, Montgomery County.	422717	N/A, Emerg; January 10, 1997, Reg; March 2, 2016, Susp.	.....do	Do.
Lansdale, Borough of, Montgomery County.	420951	December 19, 1973, Emerg; May 1, 1978, Reg; March 2, 2016, Susp.	.....do	Do.
Limerick, Township of, Montgomery County.	421912	November 7, 1974, Emerg; March 16, 1981, Reg; March 2, 2016, Susp.	.....do	Do.
Lower Frederick, Township of, Montgomery County.	420952	January 28, 1974, Emerg; September 30, 1977, Reg; March 2, 2016, Susp.	.....do	Do.
Lower Gwynedd, Township of, Montgomery County.	420953	September 26, 1973, Emerg; October 14, 1977, Reg; March 2, 2016, Susp.	.....do	Do.
Lower Merion, Township of, Montgomery County.	420701	December 10, 1971, Emerg; February 1, 1978, Reg; March 2, 2016, Susp.	.....do	Do.
Lower Moreland, Township of, Montgomery County.	420702	November 17, 1972, Emerg; March 1, 1978, Reg; March 2, 2016, Susp.	.....do	Do.
Lower Pottsgrove, Township of, Montgomery County.	421908	August 1, 1974, Emerg; January 2, 1981, Reg; March 2, 2016, Susp.	.....do	Do.
Lower Providence, Township of, Montgomery County.	420703	March 30, 1973, Emerg; July 2, 1979, Reg; March 2, 2016, Susp.	.....do	Do.
Lower Salford, Township of, Montgomery County.	421170	April 30, 1974, Emerg; February 3, 1982, Reg; March 2, 2016, Susp.	.....do	Do.
Marlborough, Township of, Montgomery County.	421913	August 14, 1974, Emerg; September 2, 1981, Reg; March 2, 2016, Susp.	.....do	Do.
Montgomery, Township of, Montgomery County.	421226	August 30, 1973, Emerg; May 15, 1984, Reg; March 2, 2016, Susp.	.....do	Do.
Narberth, Borough of, Montgomery County.	421903	August 30, 1974, Emerg; January 16, 1981, Reg; March 2, 2016, Susp.	.....do	Do.
New Hanover, Township of, Montgomery County.	421914	August 1, 1974, Emerg; September 16, 1981, Reg; March 2, 2016, Susp.	.....do	Do.
Norristown, Borough of, Montgomery County.	425386	July 9, 1971, Emerg; December 22, 1972, Reg; March 2, 2016, Susp.	.....do	Do.
North Wales, Borough of, Montgomery County.	420704	February 19, 1974, Emerg; September 30, 1977, Reg; March 2, 2016, Susp.	.....do	Do.
Pennsburg, Borough of, Montgomery County.	422496	February 28, 1977, Emerg; March 2, 1988, Reg; March 2, 2016, Susp.	.....do	Do.
Perkiomen, Township of, Montgomery County.	421915	October 29, 1974, Emerg; February 3, 1982, Reg; March 2, 2016, Susp.	.....do	Do.
Plymouth, Township of, Montgomery County.	420955	December 3, 1971, Emerg; February 15, 1978, Reg; March 2, 2016, Susp.	.....do	Do.
Pottstown, Borough of, Montgomery County.	420705	June 6, 1973, Emerg; September 30, 1977, Reg; March 2, 2016, Susp.	.....do	Do.
Royersford, Borough of, Montgomery County.	421904	August 7, 1974, Emerg; November 5, 1980, Reg; March 2, 2016, Susp.	.....do	Do.
Salford, Township of, Montgomery County.	422497	August 29, 1975, Emerg; February 3, 1982, Reg; March 2, 2016, Susp.	.....do	Do.
Schwenksville, Borough of, Montgomery County.	421905	July 11, 1975, Emerg; September 30, 1981, Reg; March 2, 2016, Susp.	.....do	Do.
Skippack, Township of, Montgomery County.	421149	April 9, 1974, Emerg; March 1, 1982, Reg; March 2, 2016, Susp.	.....do	Do.
Souderton, Borough of, Montgomery County.	421906	July 24, 1974, Emerg; May 25, 1978, Reg; March 2, 2016, Susp.	.....do	Do.
Springfield, Township of, Montgomery County.	425388	March 26, 1971, Emerg; July 7, 1972, Reg; March 2, 2016, Susp.	.....do	Do.
Towamencin, Township of, Montgomery County.	422236	June 21, 1974, Emerg; July 2, 1980, Reg; March 2, 2016, Susp.	.....do	Do.
Trappe, Borough of, Montgomery County.	421907	January 20, 1975, Emerg; January 20, 1982, Reg; March 2, 2016, Susp.	.....do	Do.
Upper Dublin, Township of, Montgomery County.	420708	August 18, 1972, Emerg; January 3, 1979, Reg; March 2, 2016, Susp.	.....do	Do.
Upper Frederick, Township of, Montgomery County.	421916	November 15, 1974, Emerg; August 17, 1981, Reg; March 2, 2016, Susp.	.....do	Do.
Upper Gwynedd, Township of, Montgomery County.	420956	December 27, 1973, Emerg; March 1, 1978, Reg; March 2, 2016, Susp.	.....do	Do.
Upper Hanover, Township of, Montgomery County.	421917	February 13, 1975, Emerg; January 20, 1982, Reg; March 2, 2016, Susp.	.....do	Do.
Upper Merion, Township of, Montgomery County.	420957	December 17, 1973, Emerg; November 16, 1977, Reg; March 2, 2016, Susp.	.....do	Do.
Upper Moreland, Township of, Montgomery County.	421909	November 14, 1974, Emerg; September 2, 1982, Reg; March 2, 2016, Susp.	.....do	Do.
Upper Pottsgrove, Township of, Montgomery County.	421910	October 10, 1974, Emerg; September 30, 1980, Reg; March 2, 2016, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Upper Providence, Township of, Montgomery County.	420709	January 21, 1972, Emerg; July 3, 1978, Reg; March 2, 2016, Susp.	.....do	Do.
Upper Salford, Township of, Montgomery County.	421918	May 24, 1976, Emerg; May 17, 1982, Reg; March 2, 2016, Susp.	.....do	Do.
West Conshohocken, Borough of, Montgomery County.	420710	May 4, 1973, Emerg; November 2, 1977, Reg; March 2, 2016, Susp.	.....do	Do.
West Norriton, Township of, Montgomery County.	420711	December 23, 1971, Emerg; September 30, 1977, Reg; March 2, 2016, Susp.	.....do	Do.
West Pottsgrove, Township of, Montgomery County.	421133	March 8, 1974, Emerg; November 1, 1979, Reg; March 2, 2016, Susp.	.....do	Do.
Whitemarsh, Township of, Montgomery County.	420712	November 12, 1971, Emerg; December 1, 1977, Reg; March 2, 2016, Susp.	.....do	Do.
Whitpain, Township of, Montgomery County.	420713	April 14, 1972, Emerg; January 5, 1978, Reg; March 2, 2016, Susp.	.....do	Do.
Worcester, Township of, Montgomery County.	421919	March 4, 1975, Emerg; March 16, 1981, Reg; March 2, 2016, Susp.	.....do	Do.
Region IX				
Arizona:				
Navajo County, Unincorporated Areas ..	040066	January 30, 1975, Emerg; June 1, 1982, Reg; March 2, 2016, Susp.	.....do	Do.

*-do- = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: January 12, 2016.

Roy E. Wright,

Deputy Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2016–03032 Filed 2–12–16; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 150626556–5886–02]

RIN 0648–BD81

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coral, Coral Reefs, and Live/Hard Bottom Habitats of the South Atlantic Region; Amendment 8; Correction

Correction

In rule document 2015–25488, appearing on pages 60565–60566 in the Issue of Wednesday, October 7, 2015, make the following corrections:

§ 622.224 [Corrected]

(1) On page 60566 in the second column, Amendatory instruction 2 should read as follows:

■ 2. In § 622.224, the entries for the Origin, point 7, and 8 in the table in paragraph (b)(1) and paragraph (b)(1)(i)(C) are revised to read as follows:

(2) On the same page the table should read:

Point	North lat.	West long.
Origin	29°43′29.82″	80°14′48.06″
* *	*	* *
7	28°56′01.86″	80°08′53.64″
8	28°52′44.40″	80°08′53.04″
* *	*	* *

[FR Doc. C1–2015–25488 Filed 2–12–16; 8:45 am]

BILLING CODE 1505–01–D

Proposed Rules

Federal Register
Vol. 81, No. 30
Tuesday, February 16, 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.

FEDERAL TRADE COMMISSION

16 CFR Chapter I

Regulatory Review Schedule

AGENCY: Federal Trade Commission.

ACTION: Notice of intent to request public comments.

SUMMARY: As part of its ongoing, systematic review of all Federal Trade Commission rules and guides, the Commission announces a modified ten-year regulatory review schedule. No Commission determination on the need for, or the substance of, the rules and guides listed below should be inferred from this notice.

DATES: February 16, 2016.

FOR FURTHER INFORMATION CONTACT: Jock Chung, (202) 326–2984, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, 600 Pennsylvania Ave. NW., Washington, DC 20850. Further details about particular rules or guides may be obtained from the contact person listed below for the rule or guide.

SUPPLEMENTARY INFORMATION: To ensure that its rules and industry guides remain relevant and are not unduly burdensome, the Commission reviews them on a ten-year schedule. Each year the Commission publishes its review schedule, with adjustments made in response to public input, changes in the marketplace, and resource demands.

When the Commission reviews a rule or guide, it publishes a notice in the **Federal Register** seeking public comment on the continuing need for the rule or guide, as well as the rule's or guide's costs and benefits to consumers and businesses. Based on this feedback, the Commission may modify or repeal the rule or guide to address public concerns or changed conditions, or to reduce undue regulatory burden.

The Commission posts information about its review schedule on its Web site [1] to facilitate comment. This Web site provides links in one location to **Federal Register** notices requesting comments and comments for rules and guides that are currently under review. The Web site also contains an updated review schedule, a list of rules and guides previously eliminated in the regulatory review process, and the Commission's regulatory review plan.

Modified Ten-Year Schedule for Review of FTC Rules and Guides

For 2016, the Commission intends to initiate reviews of, and solicit public comments on, the following rules:

(1) Standards for Safeguarding Customer Information, 16 CFR part 314. Agency Contact: David Lincicum, (202) 326–2773, Federal Trade Commission, Bureau of Consumer Protection, Division of Privacy and Identity Protection, 600 Pennsylvania Ave. NW., Washington, DC 20580.

(2) CAN–SPAM Rule, 16 CFR part 316. Agency Contact: Christopher Brown, (202) 326–2825, Federal Trade Commission, Bureau of Consumer Protection, Division of Marketing Practices, 600 Pennsylvania Ave. NW., Washington, DC 20580.

(3) Labeling and Advertising of Home Insulation, 16 CFR part 460. Agency Contact: Hampton Newsome, (202) 326–2889, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, 600 Pennsylvania Ave. NW., Washington, DC 20580.

(4) Disposal of Consumer Report Information and Records, 16 CFR part 682. Agency Contact: Tiffany George, (202) 326–3040, Federal Trade Commission, Bureau of Consumer Protection, Division of Privacy and Identity Protection, 600 Pennsylvania Ave. NW., Washington, DC 20580.

The Commission is currently reviewing 9 of the 65 rules and guides within its jurisdiction. During 2015, it completed reviews of 12 rules and guides.

A copy of the Commission's modified regulatory review schedule for 2016 through 2026 is appended. The Commission, in its discretion, may modify or reorder the schedule in the future to incorporate new rules, or to respond to external factors (such as changes in the law) or other considerations.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

Appendix

Regulatory Review

MODIFIED TEN-YEAR SCHEDULE

16 CFR Part	Topic	Year to review
23	Guides for the Jewelry, Precious Metals, and Pewter Industries	Currently Under Review.
259	Guide Concerning Fuel Economy Advertising for New Automobiles	Currently Under Review.
304	Rules and Regulations under the Hobby Protection Act	Currently Under Review.
308	Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992 [Pay Per Call Rule].	Currently Under Review.
310	Telemarketing Sales Rule	Currently Under Review.
315	Contact Lens Rule	Currently Under Review.
423	Care Labeling of Textile Wearing Apparel and Certain Piece Goods	Currently Under Review.
455	Used Motor Vehicle Trade Regulation Rule	Currently Under Review.
456	Ophthalmic Practice Rules (Eyeglass Rule)	Currently Under Review.
314	Standards for Safeguarding Customer Information	2016.
316	CAN–SPAM Rule	2016.
460	Labeling and Advertising of Home Insulation	2016.
682	Disposal of Consumer Report Information and Records	2016.

[1] *http://www.ftc.gov/enforcement/rules/regulatory-review.*

MODIFIED TEN-YEAR SCHEDULE—Continued

16 CFR Part	Topic	Year to review
233	Guides Against Deceptive Pricing	2017.
238	Guides Against Bait Advertising	2017.
251	Guide Concerning Use of the Word ''Free'' and Similar Representations	2017.
410	Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets	2017.
18	Guides for the Nursery Industry	2018.
311	Test Procedures and Labeling Standards for Recycled Oil	2018.
436	Disclosure Requirements and Prohibitions Concerning Franchising	2018.
681	Identity Theft [Red Flag] Rules	2018.
24	Guides for Select Leather and Imitation Leather Products	2019.
453	Funeral Industry Practices	2019.
14	Administrative Interpretations, General Policy Statements, and Enforcement Policy Statements	2020.
255	Guides Concerning Use of Endorsements and Testimonials in Advertising	2020.
313	Privacy of Consumer Financial Information	2020.
317	Prohibition of Energy Market Manipulation Rule	2020.
318	Health Breach Notification Rule	2020.
432	Power Output Claims for Amplifiers Utilized in Home Entertainment Products	2020.
444	Credit Practices	2020.
640	Duties of Creditors Regarding Risk-Based Pricing	2020.
641	Duties of Users of Consumer Reports Regarding Address Discrepancies	2020.
642	Prescreen Opt-Out Notice	2020.
660	Duties of Furnishers of Information to Consumer Reporting Agencies	2020.
680	Affiliate Marketing	2020.
698	Model Forms and Disclosures	2020.
801	[Hart-Scott-Rodino Antitrust Improvements Act] Coverage Rules	2020.
802	[Hart-Scott-Rodino Antitrust Improvements Act] Exemption Rules	2020.
803	[Hart-Scott-Rodino Antitrust Improvements Act] Transmittal Rules	2020.
437	Business Opportunity Rule	2021.
260	Guides for the Use of Environmental Marketing Claims	2022.
312	Children's Online Privacy Protection Rule	2022.
254	Guides for Private Vocational and Distance Education Schools	2023.
309	Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles	2023.
429	Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations	2023.
20	Guides for the Rebuilt, Reconditioned, and Other Used Automobile Parts Industry	2024.
240	Guides for Advertising Allowances and Other Merchandising Payments and Services [Fred Meyer Guides].	2024.
300	Rules and Regulations under the Wool Products Labeling Act of 1939	2024.
301	Rules and Regulations under Fur Products Labeling Act	2024.
303	Rules and Regulations under the Textile Fiber Products Identification Act	2024.
425	Use of Prenotification Negative Option Plans	2024.
435	Mail, Internet, or Telephone Order Merchandise	2024.
424	Retail Food Store Advertising and Marketing Practices [Unavailability Rule]	2024.
239	Guides for the Advertising of Warranties and Guarantees	2025.
306	Automotive Fuel Ratings, Certification and Posting	2025.
305	Energy Labeling Rule	2025.
433	Preservation of Consumers' Claims and Defenses [Holder in Due Course Rule]	2025.
500	Regulations under Section 4 of the Fair Packaging and Labeling Act	2025.
501	Exemptions from Requirements and Prohibitions under Part 500	2025.
502	Regulations under Section 5(c) of the Fair Packaging and Labeling Act	2025.
503	Statements of General Policy or Interpretation [under the Fair Packaging and Labeling Act]	2025.
700	Interpretations of Magnuson-Moss Warranty Act	2025.
701	Disclosure of Written Consumer Product Warranty Terms and Conditions	2025.
702	Pre-Sale Availability of Written Warranty Terms	2025.
703	Informal Dispute Settlement Procedures	2025

[FR Doc. 2016–02894 Filed 2–12–16; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926

[Docket No. OSHA–H005C–2006–0870–0353]

RIN 1218–AB76

Occupational Exposure to Beryllium

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

ACTION: Proposed rule; notice of informal public hearing; Date change.

SUMMARY: OSHA is rescheduling the informal public hearing on its proposed rule ''Occupational Exposure to Beryllium and Beryllium Compounds.'' The public hearing will now begin on Monday March 21, 2016 at 2 p.m., local time. The public hearing notice was published in the **Federal Register** on December 30, 2015. The proposed rule was published in the **Federal Register** on August 7, 2015 and the 90-day public

comment period ended on November 5, 2015. The December 30, 2015 **Federal Register** notice of informal public hearing describes the procedures that will govern this hearing *http://www.regulations.gov/#!documentDetail;D=OSHA-H005C-2006-0870-1706.* All other information from this **Federal Register** notice remains the same.

DATES: *Informal public hearing.* The hearing will begin on March 21, 2016 at 2 p.m., local time. If necessary, the hearing will continue from 9:30 a.m. to 5 p.m., local time, on subsequent days, in Washington, DC. The original public hearing start date of February 29, 2016 is withdrawn.

ADDRESSES: *Informal public hearing.* The Washington, DC hearing will be held in the Cesar Chavez Auditorium at the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: *Press inquiries:* Kimberly Darby, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone 202–693–1892.

Technical information: Maureen Ruskin, OSHA, Office of Chemical Hazards-Metals, Room N–3718, U.S. Department of Labor, 200 Constitution Avenue NW., Washington DC 20210; telephone (202) 693–1955.

Hearing inquiries: Gretta Jameson, OSHA, Office of Communications, Room N–3647; 200 Constitution Avenue NW., Washington, DC 20210; telephone 202–693–2176, email *Jameson.Gretta@dol.gov.*

SUPPLEMENTARY INFORMATION: On August 7, 2015, OSHA published a proposed rule to amend its existing exposure limits for occupational exposure in general industry to beryllium and beryllium compounds (80 FR 47565). The proposed rule would promulgate a substance-specific standard for general industry, regulating occupational exposure to beryllium and beryllium compounds. OSHA accepted comments concerning the proposed rule during the comment period, which ended on November 5, 2015. Commenters shared information and suggestions on a variety of topics, and the Non-Ferrous Founders' Society also requested that OSHA schedule an informal public hearing on the proposed rule.

On December 30, 2015, OSHA published a notice of informal hearing and invited interested persons in the rulemaking to participate by providing oral testimony and documentary evidence at the informal hearing. The Agency requested those interested persons submit a notice of intent to appear and all documentary evidence by January, 29, 2016.

The original hearing date of February 29, 2016 has been rescheduled to March 21, 2016 at 2:00pm. If necessary, the hearing will continue from 9:30 a.m. to 5:00 p.m., local time, on subsequent days, in Washington, DC.

Authority and Signature

This document was prepared under the direction of David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)), Secretary of Labor's Order 1–2012 (77 FR 3912), and 29 CFR part 1911.

Signed at Washington, DC, on February 5, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–02782 Filed 2–12–16; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2016–0026]

RIN 1625–AA00

Safety Zone, Block Island Wind Farm; Rhode Island Sound, RI

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a 500-yard safety zone around each of five locations where the Block Island Wind Farm (BIWF) wind turbine generator (WTG) towers, nacelles, blades and subsea cables will be installed in the navigable waters of the Rhode Island Sound, RI, from April 1 to October 31, 2016. These safety zones are intended to safeguard mariners from the hazards associated with construction of the BIWF. Vessels would be prohibited from entering into, transiting through, mooring, or anchoring within these safety zones while construction vessels and associated equipment are present at any of the BIWF WTG sites, unless authorized by the Captain of the Port (COTP), Southeastern New England or the COTP's designated representative. We invited your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before March 17, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2016–0026 using the *Federal e-Rulemaking 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, contact Mr. Edward G. LeBlanc, Chief of the Waterways Management Division at Coast Guard Sector Southeastern New England, telephone 401–435–2351, email *Edward.G.LeBlanc@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Acronyms

BIWF Block Island Wind Farm
CFR Code of Federal Regulations
COTP Captain of The Port
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
NPRM Notice of proposed rulemaking
NTM Notice To Mariners
Pub. L. Public Law
§ Section
U.S.C. United States Code
WTG Wind Turbine Generator

II. Background, Purpose, and Legal Basis

On January 6, 2016, the Coast Guard was notified by Deepwater Wind Inc, developer of the Block Island Wind Farm, that the second phase of construction activities are planned from April 1 to October 31, 2016, to install turbines, nacelles, blades, and subsea cables at each of the five WTG sites. The Coast Guard published a safety zone regulation, similar to this proposed rule, which applied to the first phase (installation of foundations) of construction of the BIWF in 2015. The Coast Guard is now proposing a similar rule for the second phase of BIWF construction.

This rule is necessary to provide for the safety of life and navigation, for construction and support vessels, BIWF workers, mariners, and the boating public during construction activities in the vicinity of the BIWF in Rhode Island Sound, RI.

The legal basis for the proposed rule is 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, which collectively authorize the Coast Guard to establish safety zones.

III. Discussion of Proposed Rule

The Coast Guard proposes to establish a 500-yard safety zone around each of five locations where the BIWF WTG towers, nacelles, blades, and subsea cables will be installed in the navigable waters of the Rhode Island Sound, RI, from 1 April to 31 October 2016. Locations of these platforms are:

Platform	Latitude	Longitude
WTG 1 ...	41°7′32.74″ N.	71°30′27.04″ W.
WTG 2 ...	41°7′11.57″ N.	71°30′50.22″ W.
WTG 3 ...	41°6′52.96″ N.	71°31′16.18″ W.
WTG 4 ...	41°6′36.54″ N.	71°31′44.62″ W.
WTG 5 ...	41°6′22.79″ N.	71°32′15.50″ W.

These safety zones are intended to safeguard mariners from the hazards associated with construction of the BIWF, and are of similar dimensions and duration as safety zones established in 2015 for the same purpose, during the first phase of construction of the BIWF. Vessels will be prohibited from entering into, transiting through, mooring, or anchoring within these safety zones while construction vessels and associated equipment are present unless authorized by the COTP, Southeastern New England or the COTP's designated representative.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and 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 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 regulatory action determination is based on a number of factors. The safety zones are only 500 yards in diameter, centered on each of five WTG locations, and enforced only when construction vessels are on scene or when construction activities are taking place. Also, construction of the five WTG sites is sequential, not concurrent, so that construction vessels and activities (and hence, safety zones) are present at only one or two sites at any given time. The Coast Guard will publicize these safety zones well in advance via the Local Notice to Mariners, and Deepwater Wind will update its Web site daily to keep mariners informed of what safety zones, if any, may be enforced. Lastly, safety zones of the same size and duration were implemented for the first phase of the BIWF construction in 2015 with no significant impact to mariners or small entities.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

This proposed rule would not call for 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 (NEPA) (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 safety zones that would prohibit entry within 500 yards of each WTG site of the BIWF while construction vessels and associated equipment are present at any of the BIWF WTG sites and maybe

categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. A preliminary environmental analysis checklist is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

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

Documents mentioned in this 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 or a final rule is published.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for Part 165 reads 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.T0026 to read as follows:

§ 165.T0026 Safety Zone, Block Island Wind Farm; Rhode Island Sound, RI.

(a) *Location.* Areas within a 500-yard radius of the following five positions are safety zones:

Platform	Latitude	Longitude
WTG 1 ...	41°7′32.74″ N.	71°30′27.04″ W.
WTG 2 ...	41°7′11.57″ N.	71°30′50.22″ W.
WTG 3 ...	41°6′52.96″ N.	71°31′16.18″ W.
WTG 4 ...	41°6′36.54″ N.	71°31′44.62″ W.
WTG 5 ...	41°6′22.79″ N.	71°32′15.50″ W.

(b) *Enforcement period.* From April 1 to October 31, 2016, vessels will be prohibited from entering into any of these safety zones, when enforced, during construction activity of five Block Island Wind Farm (BIWF) wind turbine generators (WTG) located in the positions listed in 2(a) above.

(c) *Definitions.* The following definitions apply to this section:

(1) *Designated representative.* A ''designated representative'' is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port, Sector Southeastern New England (COTP), to act on his or her behalf.

(d) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 as well as the following regulations apply to the safety zones established in conjunction with the construction of the BIWF; Rhode Island Sound, RI. These regulations may be enforced for the duration of construction.

(2) Vessels must not enter into, transit through, moor, or anchor in these safety zones during periods of enforcement unless authorized by the COTP, Southeastern New England or the COTP's designated representative. Vessels permitted to transit must operate at a no-wake speed, in a manner which will not endanger construction vessels or associated equipment.

(3) Failure to comply with a lawful direction from the COTP, Southeastern New England or the COTP's designated representative may result in expulsion from the area, citation for failure to comply, or both.

Dated: January 22, 2016.

J.T. Kondratowicz,

Captain, U.S. Coast Guard, Captain of the Port Southeastern New England.

[FR Doc. 2016–03091 Filed 2–12–16; 8:45 am]

BILLING CODE 9110–04–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3001

[Docket No. RM2016–6; Order No. 3048]

Procedures Related to Motions; Correction

AGENCY: Postal Regulatory Commission.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the **DATES** section to a proposed rule published in the **Federal Register** of February 1, 2016. The Commission did not intend to permit interested persons to file reply comments. The Commission is seeking initial comments only.

DATES: *Comments are due:* March 2, 2016. There will be no reply comment period.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

Correction

In proposed rule FR Doc. 2016–01735, beginning on page 5085 in the issue of February 1, 2016, make the following correction to the Dates section. On page 5085 in the first column, revise the **DATES** to read as follows:

DATES: *Comments are due:* March 2, 2016. There will be no reply comment period.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–02950 Filed 2–12–16; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2015–0840; FRL–9942–38–Region 7]

Approval of Iowa's Air State Implementation Plan (SIP); Electronic Reporting Consistent With the Cross Media Electronic Reporting Rule (CROMERR)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a SIP revision submitted by the State of Iowa. The revision pertains to the approval of Iowa's CROMERR submission which was published in the **Federal Register** on December 9, 2015, and will revise the Iowa SIP to provide for electronic submittal of emission inventory data.

DATES: Comments on this proposed action must be received in writing by March 17, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2015–0840, to *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913–551–7039, or by email at *Hamilton.heather@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 1, 2016.

Mark Hague,

Regional Administrator, Region 7.

[FR Doc. 2016–02958 Filed 2–12–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 231

[Docket DARS–2015–0070]

RIN 0750–AI81

Defense Federal Acquisition Regulation Supplement: Enhancing the Effectiveness of Independent Research and Development (DFARS Case 2016–D002)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to improve the effectiveness of independent research and development investments by the defense industrial base that are reimbursed as allowable costs.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 18, 2016, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2016–D002, using any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2016–D002'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2016–D002.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2016–D002'' on your attached document.
- *Email: osd.dfars@mail.mil.* Include DFARS Case 2016–D002 in the subject line of the message.
- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, telephone 571–372–6099.

SUPPLEMENTARY INFORMATION:

I. Background

Better Buying Power (BBP) is the implementation of best practices to strengthen DoD's buying power, improve industry productivity, and provide an affordable, value-added military capability to the warfighter (see *http://bbp.dau.mil/.*) Launched in 2010, BBP encompasses a set of fundamental acquisition principles to achieve greater efficiencies through affordability, cost control, elimination of unproductive processes and bureaucracy, and

promotion of competition. BBP initiatives also incentivize productivity and innovation in industry and Government, and improve tradecraft in the acquisition of services.

The Independent Research and Development (IR&D) initiative outlined in BBP 3.0 is intended to improve the effectiveness of IR&D investments by the defense industrial base that are reimbursed as allowable costs. As stated in the Under Secretary of Defense for Acquisition, Technology, and Logistics BBP 3.0 Implementation Memorandum, dated April 9, 2015 (see *http://bbp.dau.mil/references.html*), IR&D investments need to meet the complementary goals of providing defense companies an opportunity to exercise independent judgement on investments in promising technologies that will provide a competitive advantage, including the creation of intellectual property, while at the same time pursuing technologies that may improve the military capability of the United States. To achieve this goal, both DoD and the industrial base need to work together to ensure that DoD has visibility into the opportunity created by Government-reimbursed IR&D efforts performed by defense contractors.

In accordance with 10 U.S.C. 2372(f), contractor IR&D investments are not directed by the Government—they are identified by individual companies and are intended to advance a particular company's ability to develop and deliver superior and more competitive products to the warfighter. However, these efforts can have the best payoff, both for DoD and for individual performing companies, when the Government is well informed of the investments that companies are making, and when companies are well informed about related investments being made elsewhere in the Government's research and development portfolios and about Government plans for potential future acquisitions where this IR&D may be relevant.

II. Discussion and Analysis

DoD is proposing to revise DFARS 231.205–18, Independent Research and Development and Bid and Proposal Costs, to require that proposed new IR&D efforts be communicated to appropriate DoD personnel prior to the initiation of these investments, and that results from these investments should also be shared with appropriate DoD personnel. The intent of such engagement is not to reduce the independence of IR&D investment selection, nor to establish a bureaucratic requirement for Government approval prior to initiating an IR&D project. Instead, the objective of this engagement is to ensure that both IR&D performers and their potential DoD customers have sufficient awareness of each other's efforts and to provide industry with some feedback on the relevance of proposed and completed IR&D work.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act 5 U.S.C. 601, *et seq*. However, an initial regulatory flexibility analysis has been prepared and is summarized as follows:

DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to improve the effectiveness of independent research and development (IR&D) investments by the defense industrial base that are reimbursed as allowable costs in accordance with Federal Acquisition Regulation 31.205–18(c). The IR&D initiative outlined in Better Buying Power 3.0 is intended to improve the effectiveness of IR&D investments by the defense industrial base that are reimbursed as allowable costs. To achieve this goal, both DoD and the industrial base need to work together to ensure the Department has visibility into the opportunity created by Government-reimbursed IR&D efforts performed by defense contractors. The rule proposes to revise DFARS 231.205–18, Independent Research and Development and Bid and Proposal Costs, to require that proposed new IR&D efforts be communicated to appropriate DoD personnel prior to the initiation of these investments, and that results from these investments should also be shared with appropriate DoD personnel.

At this time DoD is unable to estimate the number of small entities to which this rule will apply. However, DoD does not expect the rule to have a significant economic impact on a substantial number of small entities, because DFARS 231.205–18(c)(iii) applies only to major contractors, which are defined as those whose covered segments allocated a total of more than $11,000,000 in independent research and development and bid and proposal costs to covered contracts during the preceding fiscal year.

There is no change to reporting and recordkeeping as a result of this rule. The recordkeeping is limited to that required to properly record and report IR&D projects to the Defense Technical Information Center (DTIC) using DTIC's online IR&D database.

The rule does not duplicate, overlap, or conflict with any other Federal rules. There are no known significant alternative approaches to the rule that would meet the requirements.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2016–D002), in correspondence.

V. Paperwork Reduction Act

The rule affects the information collection requirements at Defense Federal Acquisition Regulation Supplement (DFARS) 231.205–18, currently approved under the Office of Management and Budget (OMB) Control Number 0704–0483, entitled, ''Independent Research and Development Technical Descriptions,'' in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35); however, the impact of this rule is negligible. Currently, contractors are required to (1) report Independent Research and Development (IR&D) projects to the Defense Technical Information Center (DTIC) using the DTIC's on-line IR&D database and (2) update these inputs at least annually and when the project is completed. This rule merely changes the web address for submission of this report and requires major contractors to include in the report the name of the Government employee with which a technical interchange was held prior to initiation of the IR&D effort and the date of such interchange.

List of Subjects in 48 CFR Parts 231

Government procurement.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 231 is proposed to be amended as follows:

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

■ 1. The authority citation for part 231 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. In section 231.205–18, revise paragraph (c)(iii)(C) to read as follows:

231.205–18 Independent research and development and bid and proposal costs.

* * * * *

(c) * * *

(iii) * * *

(C) For annual IR&D costs to be allowable—

(*1*) The IR&D projects generating the costs must be reported to the Defense Technical Information Center (DTIC) using the DTIC's on-line input form and instructions at *http://www.defenseinnovationmarketplace.mil/;*

(*2*) The inputs must be updated with a summary of results at least annually and when the project is completed;

(*3*) Copies of the input and updates must be made available for review by the cognizant administrative contracting officer (ACO) and the cognizant Defense Contract Audit Agency auditor to support the allowability of the costs;

(*4*) Contractors that do not meet the threshold as a major contractor are encouraged to use the DTIC on-line input form to report IR&D projects to provide DoD with visibility into the technical content of the contractors' IR&D activities; and

(*5*) For IR&D projects initiated in the contractor's fiscal year 2017 and later, as a prerequisite for the subsequent determination of allowability, major contractors must—

(*i*) Engage in a technical interchange with a technical or operational DoD Government employee before IR&D costs are generated so that contractor plans and goals for IR&D projects benefit from the awareness of and feedback by a DoD employee who is informed of related ongoing and future potential interest opportunities; and

(*ii*) Use the online input form for IR&D projects reported to DTIC to document the technical interchange, which includes the name of the DoD Government employee and the date the technical interchange occurred.

* * * * *

[FR Doc. 2016–03039 Filed 2–12–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2015–0170; FFXES11130000–156–FF08E00000]

RIN 1018–BA71

Endangered and Threatened Wildlife and Plants; Removing the San Miguel Island Fox, Santa Rosa Island Fox, and Santa Cruz Island Fox From the Federal List of Endangered and Threatened Wildlife, and Reclassifying the Santa Catalina Island Fox From Endangered to Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; availability of draft post-delisting monitoring plan.

SUMMARY: We, the U.S. Fish and Wildlife Service (USFWS), propose to remove the San Miguel Island fox (*Urocyon littoralis littoralis*), Santa Rosa Island fox (*U. l. santarosae*), and Santa Cruz Island fox (*U. l. santacruzae*) from the Federal List of Endangered and Threatened Wildlife and to reclassify the Santa Catalina Island fox (*U. l. catalinae*) from an endangered species to a threatened species. This determination is based on a thorough review of the best available scientific and commercial information, which indicates that the threats to the San Miguel Island fox, Santa Rosa Island fox, and Santa Cruz Island fox have been eliminated or reduced to the point that each of the subspecies no longer meets the definition of an endangered species or a threatened species under the Endangered Species Act of 1973, as amended (Act), and that the threats to the Santa Catalina Island fox have been reduced to the point that the subspecies can be reclassified as a threatened species. We are seeking information and comments from the public regarding this proposed rule and the draft post-delisting monitoring plan for the San Miguel Island fox, Santa Rosa Island fox, and Santa Cruz Island fox.

DATES: We will accept comments received or postmarked on or before April 18, 2016. We must receive requests for public hearings, in writing, at the address shown in the **FOR FURTHER INFORMATION CONTACT** section by April 1, 2016.

ADDRESSES: *Comment submission:* You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R8–ES–2015–0170, which is the docket number for this rulemaking. Then click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-deliver to: Public Comments Processing, Attn: FWS–R8–ES–2015–0170; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Information Requested section, below, for more information).

Document availability: A copy of the Recovery Plan for Four Subspecies of Island Fox (*Urocyon littoralis*) referenced throughout this document can be viewed at *http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=A08I,* at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2015–0170, or at the Ventura Fish and Wildlife Office's Web site at *http://www.fws.gov/Ventura/.* The post-delisting monitoring plan for the northern Channel Island fox subspecies (San Miguel, Santa Rosa, and Santa Cruz Island foxes) consists of two documents: the epidemic response plan for northern Channel Island foxes (Hudgens *et al.* 2013, entire) and the golden eagle management strategy (NPS 2015a, entire). These documents will also be posted on *http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=A08I,* at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2015–0170, and the Ventura Fish and Wildlife Office's Web site at *http://www.fws.gov/Ventura/.*

FOR FURTHER INFORMATION CONTACT: Stephen P. Henry, Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003; by telephone 805–644–1766; or by facsimile 805–644–3958. If you use a

telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Information Requested

We intend any final action resulting from this proposal will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other governmental agencies, tribes, the scientific community, industry, or other interested parties concerning this proposed rule. We particularly seek comments concerning:

(1) Additional information on the distribution, population size, and population trends of the San Miguel Island fox, Santa Rosa Island fox, Santa Cruz Island fox, and Santa Catalina Island fox (collectively referred to as ''island foxes'' below).

(2) Relevant information concerning any current or likely future threats (or lack thereof) to the island foxes.

(3) Current or planned activities within the range of the island foxes and their possible impacts.

(4) Regional climate change models and whether they are reliable and credible to use in assessing the effects of climate change on the island foxes and their habitats.

(5) Our draft post-delisting monitoring plan.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include. Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, may not meet the standard of information required by section 4(b)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*), which directs that determinations as to whether any species is an endangered or threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**. If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearings

Section 4(b)(5) of the Act provides for one or more public hearings on this proposal, if requested. We must receive your request within 45 days after the date of this **Federal Register** publication. Send your request to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings, as well as how to obtain reasonable accommodation, in the **Federal Register** and local newspapers at least 15 days before the hearing.

Previous Federal Actions

On December 10, 2001, we published a proposal to list four subspecies of island foxes as endangered species (66 FR 63654). Please refer to this proposed rule for information on Federal actions prior to December 10, 2001. On March 5, 2004, we published a final rule listing the four subspecies of island foxes as endangered species (69 FR 10335). Please refer to the final Recovery Plan for Four Subspecies of Island Fox (*Urocyon littoralis*) (USFWS 2015, entire) for a detailed description of Federal actions concerning this species. We did not designate critical habitat for the four subspecies of island fox, as explained in our November 9, 2005, final critical habitat determination (70 FR 67924).

We published a notice announcing the initiation of a review of the status of the San Miguel Island fox, Santa Rosa Island fox, Santa Cruz Island fox, and Santa Catalina Island fox under section 4(c)(2) of the Act on March 9, 2015 (80 FR 12521), with the notice announcing the availability of the final recovery plan. This proposed rule to remove the San Miguel Island fox, Santa Rosa Island fox, and the Santa Cruz Island fox from the Federal List of Endangered and Threatened Wildlife, and to reclassify the Santa Catalina Island fox from an endangered species to a threatened species, also constitutes a status review for each subspecies.

Background

The Recovery Plan for Four Subspecies of Island Fox (*Urocyon littoralis*) (Recovery Plan) (USFWS 2015, entire) was prepared by USFWS working with a Recovery Team that included public agency representatives, landowners, conservancies, zoological institutions, non-profits, and academics. The Recovery Plan includes discussion of the following: Species description and taxonomy, habitat use, social organization, reproduction, distribution and abundance, threats to the subspecies, and recovery strategies. Detailed information from the Recovery Plan is summarized in the following sections of this proposed rule: Background, Recovery and Recovery Plan Implementation, and Summary of Factors Affecting the Species. See the Recovery Plan for more information on the species' ecology, species' biological needs, and analysis of the threats that may be impacting the subspecies.

The island fox (*Urocyon littoralis*), a diminutive relative of the gray fox (*U. cinereoargenteus*), is endemic to the California Channel Islands. Island foxes inhabit the six largest of the eight Channel Islands (San Miguel Island, Santa Rosa Island, Santa Cruz Island, Santa Catalina Island, San Nicolas Island, and San Clemente Island) and are recognized as distinct subspecies on each of the six islands (see Figure 1, below). Islands inhabited by island foxes are owned by four major landowners: The National Park Service (NPS), the U.S. Navy (Navy), The Nature Conservancy (TNC), and the Santa Catalina Island Conservancy (CIC), all of whom have management authority for wildlife on their lands (Figure 1). The NPS, TNC, and CIC manage the islands where the listed subspecies occur.

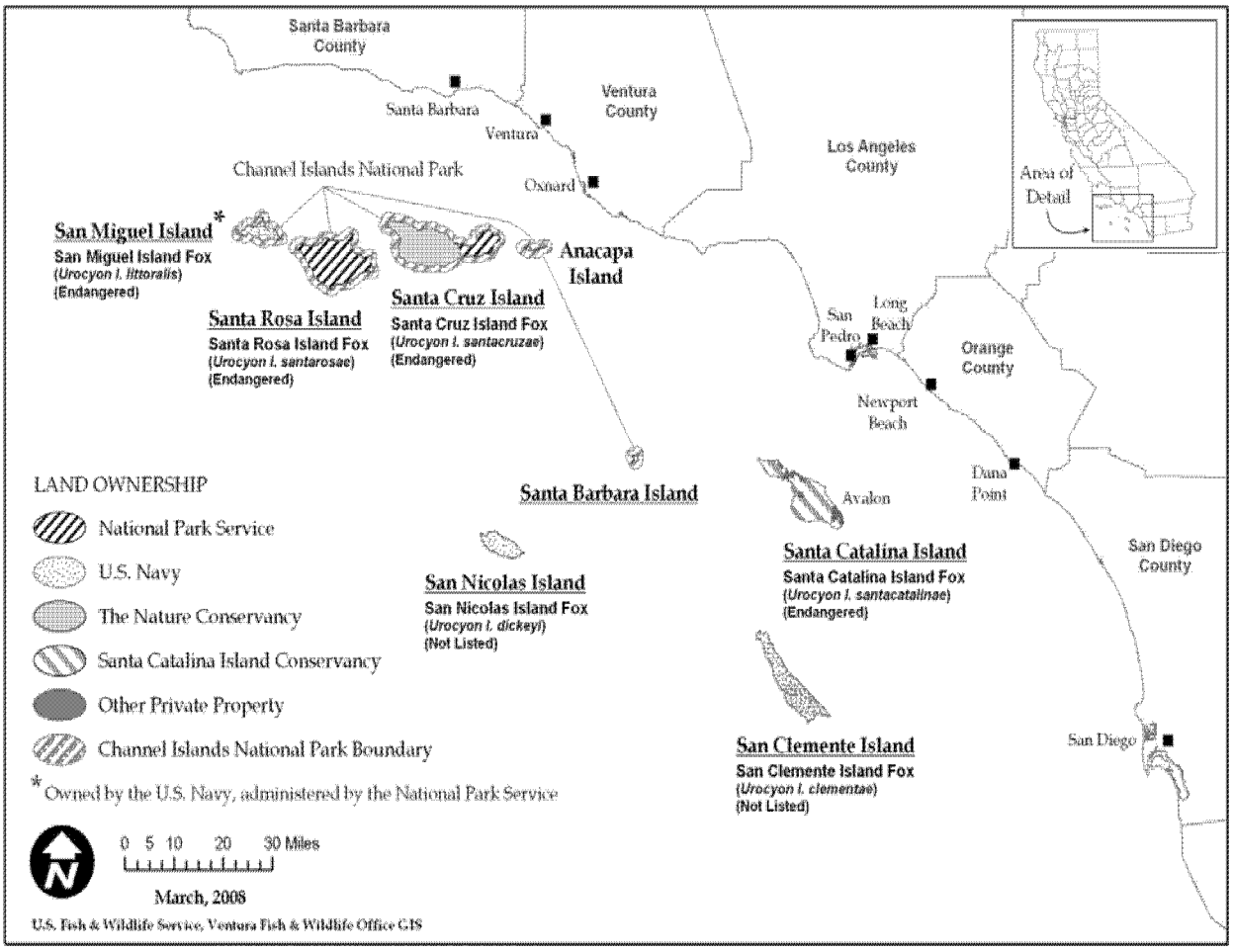

Figure 1. Channel Islands Land Ownership from the Recovery Plan (USFWS 2015, p. 4)

Both morphologic and genetic distinctions support the classification of separate subspecies of island foxes for each island (Collins 1993, entire; Gilbert *et al.* 1990, entire; Goldstein *et al.* 1999, entire; Wayne *et al.* 1991a, entire). The island fox is a habitat generalist, occurring in all natural habitats on the Channel Islands, although it prefers areas of diverse topography and vegetation (von Bloeker 1967, pp. 257–258; Laughrin 1977, p. 33; Collins and Laughrin 1979, p. 12). The island fox is primarily nocturnal, but more diurnal than the mainland gray fox (Collins and Laughrin 1979, p. 12.46; Crooks and Van Vuren 1995, p. 305; Fausett 1993, p. 30), possibly a result of historical absence of predators and freedom from human harassment (Laughrin 1977, pp. 19–20).

Even in the absence of catastrophic events, island fox populations may have fluctuated markedly over time (Laughrin 1980, entire). Residents of Santa Cruz Island occasionally noted periods of island fox scarcity and abundance (Laughrin 1980, p. 745). Santa Catalina Island fox population levels were low in 1972, and again in 1977 (Laughrin 1980, p. 747); however, by 1994, the adult Santa Catalina Island fox population was estimated at over 1,300 individuals (Roemer *et al.* 1994, p. 393). Demographic analysis indicated that island fox survival was positively related to the previous year's winter rainfall in the drier southern islands and negatively related to current and previous year's winter rainfall in the wetter northern islands (San Miguel, Santa Rosa, and Santa Cruz Island) (Bakker *et al.* 2009, p. 87; USFWS 2015 Appendix 2). Thus, indirect evidence suggests effects of climate on island fox survival.

The four federally listed island fox subspecies (San Miguel, Santa Rosa, Santa Cruz, and Santa Catalina Island foxes) all experienced precipitous population declines in the latter half of the 1990s (Roemer 1999, pp. 124–125, 169–171; Timm *et al.* 2000, pp. 6–7, 16–17; Coonan *et al.* 2000, entire; 2005a, pp. 263–264; Roemer *et al.* 2001, entire). San Miguel Island foxes declined from 450 individuals in 1994, to 15 in 1999/2000; Santa Rosa Island foxes declined from 1,780 individuals in 1994, to 15 in 1999/2000; Santa Cruz Island foxes declined from 1,465 individuals in 1994, to 55 in 1999/2000; and Santa Catalina Island foxes declined from 1,342 individuals in 1994, to 103 in 1999/2000. Island fox populations on the northern Channel Islands (San Miguel, Santa Rosa, and Santa Cruz Islands) declined by 90 to 95 percent and, prior to removal of foxes from the wild for captive breeding, were estimated to have a 50 percent chance of extinction over 5 to 10 years (Roemer 1999, p. 147; Roemer *et al.* 2001, p. 312). Thus, by 1999, researchers considered island fox subspecies on the northern Channel Islands to be critically endangered (Roemer 1999, p. 180). The Santa Catalina Island subspecies was considered to be critically endangered by 2000 (Timm *et al.* 2000, entire).

The decline of island foxes in the northern Channel Islands (San Miguel, Santa Rosa, and Santa Cruz Islands) is considered a consequence of

hyperpredation by nonnative golden eagles (Roemer *et al.* 2001, entire). The presence of nonnative prey species (feral pigs on Santa Cruz Island, and mule deer and elk on Santa Rosa Island) and an open ecological niche created by the extirpation of bald eagles (*Haliaeetus leucocephalus*) from the islands as a result of dichlorodiphenyltrichloroethane (DDT) poisoning (USFWS 2004, p. 10343) enabled golden eagles to colonize the islands successfully and prey heavily on island foxes, which evolved in the absence of predators. In contrast, the decline of island foxes on Santa Catalina Island is considered a consequence of canine distemper virus (CDV). Analysis of CDV isolated from a Santa Catalina Island fox during the late 1990s epidemic indicated it was most closely related to the strain found in mainland raccoons (Timm *et al.* 2009, p. 339), and a number of stowaway raccoons have been removed from Santa Catalina Island (King and Duncan 2014, p. 20). Therefore, the catastrophic population decline of Santa Catalina Island foxes was likely caused by CDV transmitted from a raccoon accidentally transported from the mainland (Timm *et al.* 2009, p. 341). Other sources of mortality of island foxes have been identified, particularly for foxes on Santa Catalina Island, such as motor vehicle strikes, interactions with feral cats and dogs, and drought, but were not considered to have contributed substantially to declines of the four subspecies of island foxes.

In response to the catastrophic declines of 1999/2000, captive breeding was implemented on all islands. All known remaining island foxes on San Miguel and Santa Rosa Islands were brought into captivity in 1999 and 2000, respectively. By 2004, captive populations from both islands exceeded the target captive population size of 40 animals and allowed initial releases back to the wild (Coonan and Schwemm 2009, p. 366; Coonan *et al.* 2005a, p. 168–169). On Santa Cruz Island, 18 representative adult island foxes were brought into captivity in 2001, and the population grew to 62 individuals by 2005; releases of captive-born foxes were subsequently concluded in July 2008 (Hudgens and Sanchez 2009, p. 16). On Santa Catalina Island, 27 foxes were brought into captivity from the isolated west end of the island in 2000. From 2001 to 2004, foxes were released from captivity, including 37 captive-born pups and 20 of the original wild-captured adults (Schmidt *et al.* 2005, p. 17). Additionally, 32 foxes were moved from the west end of Santa Catalina Island to the depleted east end, with subsequent high survival. The success of these programs allowed all the captive breeding facilities to close by 2008.

For more information about the biology and historical population status and observed declines of island fox populations, please see the Recovery Plan (USFWS 2015, pp. 5–19).

Recovery and Recovery Plan Implementation

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species unless we determine that such a plan will not promote the conservation of the species. Under section 4(f)(1)(B)(ii), recovery plans must, to the maximum extent practicable, include: ''objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of [section 4 of the Act], that the species be removed from the list.'' However, revisions to the list (adding, removing, or reclassifying a species) must reflect determinations made in accordance with sections 4(a)(1) and 4(b) of the Act. Section 4(a)(1) requires that the Secretary determine whether a species is an endangered species or a threatened species (or not) because of one or more of five threat factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or human-made factors affecting its continued existence. Section 4(b) of the Act requires that the determination be made ''solely on the basis of the best scientific and commercial data available.'' Recovery criteria should therefore indicate when a species is no longer an endangered species or threatened species because of any of the five statutory factors.

Thus, while recovery plans provide important guidance to the USFWS, States, and other partners on methods of minimizing threats to listed species and measurable objectives against which to measure progress towards recovery, they are not regulatory documents and cannot substitute for the determinations and promulgation of regulations required under section 4(a)(1) of the Act. A decision to revise the status of or remove a species from the Federal List of Endangered and Threatened Wildlife (50 CFR 17.11) is ultimately based on an analysis of the best scientific and commercial data then available to determine whether a species is no longer an endangered species or a threatened species, regardless of whether that information differs from the recovery plan.

The Recovery Plan (USFWS 2015, pp. 47–53) includes the recovery goals, recovery objectives, and recovery criteria that we outline below to reclassify the island fox subspecies from endangered to threatened and to remove island fox subspecies from the List of Endangered and Threatened Wildlife. We summarize these goals and then discuss progress toward meeting the recovery objectives.

Recovery Goal

The goal of the Recovery Plan is to recover the San Miguel Island fox, the Santa Rosa Island fox, the Santa Cruz Island fox, and the Santa Catalina Island fox so they can be delisted (removed from the Federal List of Endangered and Threatened Wildlife) when existing threats to each respective subspecies have been ameliorated such that their populations have been stabilized and have increased. The interim goal is to recover these subspecies to the point that they can be downlisted from endangered to threatened status. Each listed subspecies may be considered for downlisting or delisting independently of the other subspecies.

Recovery Objectives

Recovery objectives identify mechanisms for measuring progress toward and achieving the recovery goal for each subspecies.

Recovery Objective 1: Each federally listed subspecies of island fox exhibits demographic characteristics consistent with long-term viability.

Recovery Objective 2: Land managers are able to respond in a timely fashion to predation by nesting golden eagles or significant predation rates by transient golden eagles, to potential or incipient disease outbreaks, and to other identified threats using the best available technology.

In order for any one of the four listed subspecies of island fox to be considered for downlisting from endangered to threatened status, recovery objective 1 should be met for that subspecies. In order for any one of the four listed subspecies of island fox to be considered for delisting, recovery objective 1 and recovery objective 2 should be met for that subspecies.

Recovery Criteria

Island fox recovery criteria are measurable standards for determining whether a subspecies has achieved its recovery objectives and may be

considered for downlisting or delisting. Criteria presented in the Recovery Plan (USFWS 2015, pp. 50–53) represent our best assessment of the conditions most likely to result in a determination that downlisting or delisting of the San Miguel Island fox, Santa Rosa Island fox, Santa Cruz Island fox, and the Santa Catalina Island fox is warranted. Achieving the prescribed recovery criteria is an indication that a subspecies is no longer an endangered species or a threatened species. Each recovery criterion applies to all four subspecies, except where noted otherwise.

As presented in the Recovery Plan (USFWS 2015, pp. 50–55), the discussion of criteria below is organized by factors under 4(a)(1) to demonstrate how criteria indicate threats under that factor have been ameliorated.

Factor A: The present destruction, modification or curtailment of its habitat or range.

There are no recovery criteria for this factor. Herbivory by nonnative species resulted in habitat degradation on the Channel Islands. While habitat degradation was not identified as a primary threat to island foxes, presence of nonnative herbivores responsible for habitat degradation provided a prey base for golden eagles to become established and predate island foxes on the northern Channel Islands. If threats under Factors C and E are ameliorated, the habitat improvements expected to occur with removal of herbivores responsible for habitat degradation may provide a long-term benefit to the island fox subspecies; however, these habitat improvements are not necessary for recovery.

Factor B: Overutilization for commercial, scientific or educational purposes.

Overutilization is not a currently known threat for these subspecies; therefore, there are no recovery criteria that address threats under this factor.

Factor C: Disease or predation.

Disease and predation were identified as primary threats to island foxes. To address recovery objective 2, the magnitude and imminence of disease and predation threats must be reduced. The Recovery Plan (USFWS 2015, p. 51) states that this is accomplished when the following have occurred:

C/1: Golden eagle predation (applies only to the northern Channel Islands):

a. To reduce the threat of extinction to the San Miguel Island fox, Santa Rosa Island fox, and Santa Cruz Island fox, the rate of golden eagle predation is reduced and maintained at a level no longer considered a threat to island fox recovery through development of a golden eagle management strategy. The strategy will be developed by the land manager(s) in consultation with the USFWS and including review by the appropriate Integrated Island Fox Recovery Team Technical Expertise Group or the equivalent. This strategy includes:

- Response tactics (including the use of helicopters and net-guns) to capture nesting golden eagles and any transient golden eagle responsible for significant island fox predation, per the golden eagle response strategy;
- Tactics to minimize the establishment of successful nesting golden eagles;
- An established island fox monitoring program that is able to detect an annual island fox predation rate caused by golden eagles of 2.5 percent or greater, averaged over 3 years (Bakker and Doak 2009, entire); and
- An established mortality rate or population size threshold that, if reached due to golden eagle predation, would require land manager(s) to bring island foxes into captivity.

b. The golden eagle prey base of deer and elk is removed from Santa Rosa Island.

C/2: Disease:

A disease management strategy is developed, approved, and implemented by the land manager(s) in consultation with the USFWS and includes review by the appropriate Integrated Island Fox Recovery Team Technical Expertise Group or the equivalent. This strategy includes:

- Identification of a portion of each population that will be vaccinated against diseases posing the greatest risk, for which vaccines are safe and effective. Vaccinations and fox numbers vaccinated will be developed in consultation with appropriate subject-matter experts;
- Identification of actual and potential pathogens of island foxes, and the means by which these can be prevented from decimating fox populations;
- Disease prevention;
- A monitoring program that provides for timely detection of a potential epidemic, and an associated emergency response strategy as recommended by the appropriate subject-matter experts; and
- A process for updating the disease strategy as new information arises.

Factor D: Inadequacy of existing regulatory mechanisms.

The inadequacy of existing regulatory mechanisms was not identified as a primary threat to island foxes, and, therefore, there are no recovery criteria that address threats under this factor.

Factor E: Other natural or manmade factors affecting its continued existence.

Small population size and vulnerability to stochastic or catastrophic events were identified as primary threats to the species under Factor E. To address recovery objective 1, that each federally listed subspecies of island fox exhibits demographic characteristics consistent with long-term viability, the subspecies must be protected from other natural or manmade factors known to affect their continued existence. This is accomplished when the following has occurred:

E/1: An island fox subspecies has no more than 5 percent risk of quasi-extinction over a 50-year period (addresses objective 1). This risk level is based on the following:

- Quasi-extinction is defined as a population size of fewer than or equal to 30 individuals.
- The risk of quasi-extinction is calculated based on the combined lower 80 percent confidence interval for a 3-year running average of population size estimates, and the upper 80 percent confidence interval for a 3-year running average of mortality rate estimates.
- This risk level is sustained for at least 5 years, during which time the population trend is not declining. A declining trend is defined as the 3-year risk-level being greater in year 5 than year 1.

Achievement of Recovery Criteria

Golden eagle predation is no longer a threat due to successful golden eagle removals, nonnative prey removal, and bald eagle recovery. Recovery criterion C/1 addresses golden eagle predation in the northern Channel Islands (it does not apply to the Santa Catalina Island fox). A final golden eagle management strategy has been approved (NPS 2015a, entire), which involves actions that have already been implemented by the NPS and TNC, including: Complete removal of all golden eagles; ongoing prevention of golden eagle nesting; and removal of all nonnative golden eagle prey, including the deer and elk from Santa Rosa Island. In addition, as bald eagles reestablish their populations on the northern Channel Islands, they reduce the probability that golden eagles will recolonize because bald eagles aggressively defend their territories from golden eagles (USFWS 2004, pp. 10343–10344). Due to ongoing management as prescribed in the final golden eagle management strategy, current eagle predation is minimal, and has had a negligible effect on fox population trends; therefore, the intent of recovery criteria C/1 has been met.

Monitoring associated with criteria C/1 will be accomplished as part of the epidemic response plan for the northern Channel Island subspecies (Hudgens *et al.* 2013, entire). This monitoring will allow detection of mortality related to depredation of island fox by golden eagles (as well as early detection of mortality related to a disease epidemic). As described above, ongoing management has reduced eagle predation on island foxes in the northern Channel Islands to minimal levels. Consequently, we recognize golden eagle predation is no longer a threat to foxes on the northern Channel Islands, and the current monitoring strategy allows for a rapid response to any identified mortalities resulting from predation or disease. National Park Service and TNC have committed through signed conservation management agreements (CMAs) to carrying out monitoring and other management actions as recommended in the epidemic response plan (Hudgens *et al.* 2013, entire) for the next 5 years (USFWS and NPS 2015; USFWS and TNC 2015). Prior to the expiration of the CMAs, the parties will meet to review, modify, and re-enter into a CMA.

Recovery criterion C/2 addresses the threat of disease to all four island fox subspecies. The intent of recovery criterion C/2 is currently being met for the Santa Catalina Island fox; however, the Santa Catalina Island fox subspecies has the highest risk of disease introduction and low assurance of continued implementation of the epidemic response plan in the future, creating uncertainty that this criterion will continue to be met in the future. Santa Catalina Island has the highest risk of disease introduction because movement of potential vectors such as domestic dogs, cats, and stow-away raccoons between the mainland and the island is not controlled. The island has heavy visitation and many points of access, and there are no restrictions on visitors transporting domestic pets to the island, no restrictions or inspections required of vessels visiting from the mainland, and leash laws for dogs are difficult to enforce (King and Duncan 2011, p. 15; Anderson 2012, pers. obs.; King 2012a, p. 1; Vissman and Anderson 2013 and 2014, pers. obs.; King 2015, p. 1). The Catalina Island Conservancy (CIC) has approved and is currently implementing an epidemic response plan for Santa Catalina Island foxes (Hudgens *et al.* 2014, entire). The CIC annually vaccinates a portion of the subspecies' population against CDV and rabies when vaccines are available (King 2015, pers. comm.) and monitors for detection of potential epidemics as recommended in the epidemic response plan (Hudgens *et al.* 2014, entire), although currently there are no assurances to ensure monitoring will continue into the future on Santa Catalina Island. If there is a lapse in continued implementation of the epidemic response plan, a potential disease outbreak could occur without detection or appropriate response to mediate the threat to the subspecies.

A final disease management strategy has also been approved in the form of an epidemic response plan for the northern Channel Island fox subspecies (Hudgens *et al.* 2013, entire). This epidemic response plan is currently implemented by the NPS and TNC, and provides direction for monitoring, vaccination for canine distemper virus and rabies annually to a portion of each island fox population, and response if mortality is detected. While disease was not responsible for the decline of island foxes on the northern Channel Islands, these subspecies, like all island fox subspecies, will always be at some risk of a disease outbreak and population decline because of their small population sizes and isolation. However, the risk potential for disease outbreak has been and continues to be reduced through implementation of the epidemic response plan. Additionally, NPS and TNC have committed through signed CMAs to carrying out monitoring and other management actions for detecting and appropriately responding to a potential disease outbreak into the future as recommended in the epidemic response plan (Hudgens *et al.* 2013, entire; USFWS and NPS 2015; USFWS and TNC 2015).

Recovery criterion E/1, which is intended to indicate when population levels are sufficiently robust to withstand natural variation in demographic parameters and avoid potential extirpations from stochastic or catastrophic events, has been achieved for all four island fox subspecies. This recovery criterion is attained when the 3-year means of adult mortality rate versus population size and confidence intervals lie below 5 percent risk of subspecies-specific quasi-extinction for 5 consecutive years (see Supplementary Material ''Results of graphing/analysis tool to assess island fox recovery criterion E/1'' posted on *http://www.regulations.gov* for more details). Population monitoring has been implemented for each listed subspecies, and population viability analyses indicate all subspecies have an acceptably small risk of extinction. The extinction risk has been less than 5 percent since 2008 for San Miguel, Santa Cruz, and Santa Catalina Islands, and since 2011 for Santa Rosa Island. As of 2014, island fox populations had increased to greater than 500 on San Miguel Island (Coonan 2015, pp. 7, 13), greater than 800 on Santa Rosa Island, greater than 2,500 individuals on Santa Cruz Island (Bakker 2015, p. 4), and greater than 1,700 on Santa Catalina Island (King and Duncan 2014, p. 11). All populations with the exception of Santa Rosa Island are at or above their pre-decline population estimates (Coonan 2015a, pers. comm.; King and Duncan 2014, pp. 1, 10). On San Miguel Island, low reproductive effort coupled with declining survival suggests that the San Miguel Island subspecies has reached carrying capacity (Coonan 2015, p. 8). We conclude, based on population viability analyses, that the intent of recovery criterion E/1 has been achieved for all four island fox subspecies. The graphing/analysis tool used to assess attainment of recovery criterion E/1 and associated discussion is found in Appendix 2 of the Recovery Plan (USFWS 2015, pp. 131–136). Detailed results of the tool through 2014 can be found in the Supplementary Material ''Results of graphing/analysis tool to assess island fox recovery criterion E/1'' (derived from Coonan 2015, p. 12, 16; Boser 2015, p. 8; King and Duncan 2015, p. 12) on *http://www.regulations.gov* under Docket No. FWS–R8–ES–2015–0170.

Summary of Recovery Criteria

With the golden eagle management strategy in place, complete removal of golden eagles and their nonnative prey-base from the northern Channel Islands, development and implementation of an epidemic response plan, and population levels consistent with long-term viability, the intent of recovery objectives 1 and 2, and the associated recovery criteria have been met for the San Miguel, Santa Rosa, and Santa Cruz Island foxes (see Table 1, below). With population levels consistent with long-term viability, recovery objective 1 has been met for the Santa Catalina Island fox. However, objective 2 has not been met because currently there are no assurances to ensure monitoring and management actions will continue into the future on Santa Catalina Island and, because this island has a high risk of introduced pathogens from the mainland, a disease outbreak could occur without detection or appropriate response to mediate the threat to the subspecies (Table 1).

TABLE 1—SUMMARY OF ACHIEVEMENT OF RECOVERY CRITERIA FOR THE FOUR ISLAND FOX SUBSPECIES

Subspecies	Population Risk-based Recovery Criterion *An island fox subspecies has no more than 5 percent risk of quasi-extinction over a 50 year period.*	Threat-based Recovery Criterion *Golden Eagle Predation: A golden eagle management strategy is developed and approved.*	Threat-based Recovery Criterion *Golden Eagle Predation: The golden eagle prey base of deer and elk is removed from Santa Rosa Island.*	Threat-based Recovery Criterion *Disease: A disease prevention and management strategy is developed, approved, and implemented.*
San Miguel Island Fox.	2014 numbers increased to ~500+; annual survival estimates ~ 80 percent; since 2008, extinction risk less than 5 percent over the next 50 years.	Eagle predation on northern Channel Island foxes has been negligible since 2006; golden eagle management strategy is in place.	N/A	Epidemic response plan developed and implemented; foxes vaccinated against CDV and rabies continuing; CMA signed committing to continued monitoring.
Santa Rosa Island Fox.	2014 numbers increased to ~800; annual survival estimates greater than 90 percent; since 2011, extinction risk less than 5 over the next 50 years percent.	Eagle predation on northern Channel Island foxes has been negligible since 2006; golden eagle management strategy is in place.	As of 2015, all elk and all but a few deer have been removed from Santa Rosa Island.	Epidemic response plan developed and implemented; foxes vaccinated against CDV and rabies continuing; CMA signed committing to continued monitoring.
Santa Cruz Island Fox.	2014 numbers increased to ~2,500+; annual survival estimates greater than 90 percent; since 2008, extinction risk less than 5 percent over the next 50 years.	Eagle predation on northern Channel Island foxes has been negligible since 2006; golden eagle management strategy is in place.	N/A	Epidemic response developed and implemented; foxes vaccinated against CDV and rabies continuing; CMA signed committing to continued monitoring.
Santa Catalina Island Fox.	2014 numbers increased to ~1,700; annual survival estimates greater than 80 percent since 2006; since 2008, extinction risk less than 5 percent over the next 50 years.	N/A	N/A	Epidemic response plan developed and implemented; foxes vaccinated against CDV and rabies continuing; ongoing relatively high potential for disease vector exposure; insufficient long-term monitoring and management assurance.

Summary of Factors Affecting the Species

Section 4 of the Act and its implementing regulations (50 CFR part 424) set forth the procedures for listing species on, reclassifying species on, or removing species from the Lists of Endangered and Threatened Wildlife and Plants. ''Species'' is defined by the Act as including any species or subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature (16 U.S.C. 1532(16)). A species may be determined to be an endangered species or threatened species because of any one or a combination of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or human-made factors affecting its continued existence. A species may be reclassified on the same basis.

A recovered species is one that no longer meets the Act's definition of endangered species or threatened species. Determining whether a species is recovered requires consideration of whether the species is an endangered species or threatened species because of the five categories of threats specified in section 4(a)(1) of the Act. For species that are already listed as endangered species or threatened species, this analysis of threats is an evaluation of both the threats currently facing the species and the threats that are reasonably likely to affect the species in the foreseeable future following the delisting or downlisting and the removal or reduction of the Act's protections.

A species is an ''endangered species'' for purposes of the Act if it is in danger of extinction throughout all or a significant portion of its range and is a ''threatened species'' if it is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act does not define the term ''foreseeable future.'' For the purposes of this rule, we define the ''foreseeable future'' to be 50 years because the population viability analyses to determine the risk of quasi-extinction for each subspecies are over a 50-year period (Bakker et al. 2009, entire). Therefore, we estimate 50 years to be the extent to which, given the amount and substance of available data, we can anticipate events or effects, or reliably extrapolate threat trends, such that reliable predictions can be made concerning the future as it relates to the status of the four subspecies of island fox (San Miguel, Santa Rosa, Santa Cruz, and Santa Catalina Island foxes).

A thorough analysis and discussion of the current status of the San Miguel, Santa Rosa, Santa Cruz, and Santa Catalina Island foxes is detailed in the Recovery Plan (USFWS 2015, pp. 21–29). Primary threats to island foxes identified in the listing rule included predation by golden eagles, disease, and stochastic risks to small populations and lack of genetic variability. Since listing, impacts of feral cat aggression, poisoning, and entrapment on Santa Catalina Island, and fire, drought, and global climate change for all four islands have been identified as possible new threats. The following sections provide a summary of the past, current, and potential future threats impacting the San Miguel, Santa Rosa, Santa Cruz, and Santa Catalina Island foxes.

Factor A: Present or Threatened Destruction, Modification, or Curtailment of Habitat or Range

At the time of listing in 2004, habitat modification by nonnative grazing animals and nonnative plant invasion was identified as a threat under Factor A impacting island foxes (69 FR 10335; March 5, 2004). The listing rule identified habitat modification as causing some adverse effects to island foxes, particularly conversion to grasslands, but considered it unlikely to have directly caused the observed declines. Annual grasslands constitute less preferred habitat for island foxes (Laughrin 1977, p. 22; Roemer and Wayne 2003, pp. 1256–1257) and do not provide cover from predators such as golden eagles (Roemer 1999, p. 99, 190–191). It is difficult to quantify the effects of past habitat loss and/or alteration on the status of island foxes. However, habitat on all islands occupied by island foxes has been affected by a combination of livestock grazing, cultivation, and other disturbances, particularly nonnative animal and plant invasion and urbanization on Santa Catalina Island. Although it is possible that these habitat changes may have exacerbated the effects of other threats, island fox populations remained relatively stable prior to the commencement of golden eagle predation in the mid-1990s and disease in 1999.

Eradication programs on all islands have greatly reduced the number of nonnative herbivores on the islands and therefore the magnitude of impacts to the habitat (Laughrin 1973, p. 14; Schoenherr *et al.* 1999, pp. 191–194; Parkes *et al.* 2010, p. 636). Currently, impacts to island fox habitats are primarily attributed to continued modification by nonnative plant species, resulting in lower vegetation diversity and habitat structure. The seeds of nonnative annual grasses can also cause occasional damage or blindness by becoming lodged in the eyes and ears of island foxes.

National Park Service (NPS) guidance supports the continued management of island fox habitat to benefit northern Channel Islands subspecies of island foxes. Title 54 of the U.S. Code, section 100101, paragraph (a), states that the NPS ''shall promote and regulate the use of the National Park System . . . to conserve the scenery, natural and historic objects, and wild life in the System units and to provide for the enjoyment of the scenery, natural and historic objects, and wild life in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.'' Specifically, in its management plan, Channel Islands National Park identified restoration and maintenance of natural ecosystems and processes as a priority; Park staff would continue to eradicate, where feasible, nonnative flora and fauna from the islands.

The island fox, as the species *Urocyon littoralis* (incorporating all six subspecies), is listed as threatened under the California Endangered Species Act (CESA) (section 2081(b)), which does provide a level of protection from actual possession or intentional killing of individual animals and actual death of individual animals incidental to otherwise lawful activity, such as habitat conversion, on the privately owned TNC-managed lands on Santa Cruz Island and privately owned lands on Santa Catalina Island. Santa Catalina Island foxes are impacted by the potential for land use change on non-conserved lands, including development and recreational events such as off-road vehicle racing. CESA contributes to the conservation of the species by providing a mechanism to reduce or regulate some individual sources of mortality and to review and permit development projects that may impact island foxes and their habitat on private lands.

While past and ongoing effects of habitat modification by nonnative grazing animals and nonnative plant invasion may have some negative effects on island foxes, nonnative animals and plants no longer impact the habitat to the extent that would cause population-level declines that we would consider a threat to any of the subspecies of island fox now or in the future.

Factor B: Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

As stated in the listing rule (69 FR 10335; March 5, 2004), although island foxes were used in the past for their pelts by Native Americans (Collins 1991, p. 215), these activities are no longer occurring. Research scientists are currently engaged in recovery activities via USFWS-issued 10(a)(1)(A) recovery permits. Our analyses have determined these research activities do not pose a threat to any island fox populations. Therefore, overutilization is not a threat to any of the island fox subspecies at this time or in the future.

Factor C: Disease or Predation

A canine distemper virus (CDV) epidemic was considered the primary threat to Santa Catalina Island fox at the time of listing (69 FR 10335; March 5, 2004). The listing rule also expressed some concern regarding the potential impacts of canine adenovirus and canine parvovirus. At the time of listing, golden eagle predation was the primary cause for the decline of northern Channel Islands foxes (San Miguel, Santa Rosa, and Santa Cruz Island foxes) (69 FR 10335; March 5, 2004), but potential for disease was also a concern, particularly given the small population sizes at the time.

Disease

Infectious Pathogens: In the past, disease severely impacted the island fox population on Santa Catalina Island. The eastern subpopulation of the Santa Catalina Island fox was estimated to be 1,342 in 1990 (Roemer *et al.* 1994, p. 393). Subsequent surveys conducted in 1999 and 2000 indicated the eastern island fox subpopulation had declined by over 90 percent in 10 years due to CDV (Timm *et al.* 2000, p. 17), likely transmitted from a raccoon that arrived from the mainland (Timm *et al.* 2009, p. 339). After a captive rearing and augmentation program was initiated, the eastern and western subpopulations were estimated to have reached 219 and 141 foxes in 2004, respectively (Schmidt *et al.* 2005, p. 11; King and Duncan 2011, p. 19). Population estimates have since greatly increased on Santa Catalina Island, surpassing the estimate from 1990, reaching a total of 1,717 individuals island-wide in 2014 (King and Duncan 2015, p. 10).

In 2014, a final epidemic response plan was approved and is being implemented to detect and facilitate appropriate response to a potential future disease outbreak for Santa Catalina Island foxes (Hudgens *et al.* 2014, entire). The Catalina Island Conservancy annually monitors sentinel foxes inhabiting many areas of the island to facilitate early detection of a potential epidemic (King and Duncan 2011, p. 15). Island foxes have been and continue to be vaccinated against CDV and rabies (King 2015, pers. comm.). At this time, however, there is no assurance of continued funding for long-term monitoring and management that could detect a novel outbreak and facilitate threat abatement, as recommended in the epidemic response plan.

Transport of domestic and wild animals to and from Santa Catalina Island increases the risk to island foxes of another disease outbreak. Santa Catalina Island currently allows visitors and residents to own and transport pets, including domestic dogs and cats, to and from the island (King and Duncan 2011, p. 15), and dogs are frequently observed off-leash (Anderson 2012,

pers. obs.; King 2012a, p. 1; Vissman and Anderson 2013 and 2014, pers. obs.; King 2015, p. 22). There is no quarantine period for transported pets, and proof of current vaccination is only required by the City of Avalon when licensing dogs (rabies only), and for CIC employees and lessees with pets living in company-owned housing (King and Duncan 2011, p. 15). The CIC manages the majority of fox habitat on the island (except the City of Avalon) and through their regulations requires all nonnative animals entering CIC property be licensed; they also require that all dogs and cats be vaccinated against distemper and rabies, and they should be leashed at all times (CIC 2015, *http://www.catalinaconservancy.org*). Enforcement of CIC regulations is labor-intensive and costly, because the island is large, there are many remote coves and beaches where private boats can anchor, and the CIC does not have the funding or staff to patrol these areas regularly. Reduction of disease introduction risk also occurs through CIC outreach and education of local authorities and the public; to date, four stowaway raccoons have been removed from the island, but a fifth observed in 2010 was not captured (King and Duncan 2011, p. 15). Therefore, current measures to control introduction of diseases by domestic animals and stowaway wildlife on Santa Catalina Island, while providing some protection, are limited.

Disease does not appear to be a significant mortality factor on the northern Channel Islands, although *Leptospirosis* (infectious bacterium) was found to be a mortality source for two Santa Rosa Island foxes in 2010 (Coonan and Guglielmino 2012, p. 21). Unlike on Santa Catalina Island, dogs and other pets are not permitted on the northern Channel Islands to reduce this risk of introduction of disease; however, dogs are occasionally illegally brought onto the islands. Channel Islands National Park General Management Plan prohibits pets from all Park islands, except for guide dogs for visually impaired persons (NPS 2015b, pp. 468, 487).

In 2013, a final epidemic response plan was approved and is being implemented to detect and facilitate appropriate response to a potential disease outbreak for the northern Channel Islands (Hudgens *et al.* 2013, entire). Sentinel foxes are monitored to facilitate early detection of a potential epidemic (Hudgens *et al.* 2013, pp. entire), and foxes have been and continue to be vaccinated against CDV and rabies when vaccines are available. Also, the Park identified island foxes as an ecosystem element for which they will conduct long-term annual population monitoring as part of the Park's long-term ecological monitoring program, regardless of their status under the Act. Both NPS and TNC have committed through signed CMAs (USFWS and NPS 2015; USFWS and TNC 2015) to carrying out monitoring and management actions into the future as recommended in the epidemic response plan for northern Channel Island foxes (Hudgens *et al.* 2013, entire).

Ear Canal Cancer: There is concern about the rate of ear canal cancer in Santa Catalina Island foxes and how it might affect long-term population viability. The first cases of ear canal cancer were documented in 2000 and 2001, with increased detection through 2007 (Timm *et al.* 2002, p. 26; Kohlmann *et al.* 2003, p. 39; Schmidt *et al.* 2004, p. 15; Schmidt *et al.* 2005, p. 11; Munson *et al.* 2009, p. 5). This cancer can have an aggressive clinical course, with local invasion, tissue damage, and metastasis, leading to death (Munson *et al.* 2009, p. 1). Ear inflammation correlated with cancer incidence in Santa Catalina Island foxes is triggered by ear mite infestations (Munson *et al.* 2009, pp. 3–4), and the severity can be reduced through aracacide application (Vickers *et al.* 2011, pp. 9–10). Treatment with aracacide is now standard practice by CIC during trapping of Santa Catalina Island foxes (King and Duncan 2011, p. 3). Since 2008, over 1,000 treatments were applied, and the prevalence of mites has been reduced in the fox population from 87 percent to 28 percent. Tumor prevalence in the Santa Catalina Island fox population remains an actively managed source of mortality (Vickers *et al.* 2011, pp. 9–10). However, we do not have long-term assurances that CIC will continue to carry out monitoring and management actions into the future as recommended in the epidemic response plan (Hudgens *et al.* 2014, entire).

Parasites: Parasites have not been confirmed as a direct mortality source of island foxes; however, concurrent infection with a pathogen, such as *Spirocerca* (nematode), can negatively impact host health and decrease immunity (Munson 2010, pp. 134–136). In a species-wide survey, *Spirocerca* was found in a high prevalence of necropsied island foxes, but in most cases appeared to have little effect on the population (Munson 2010, pp. 129, 134–136). Preliminary genetic analysis and the location of lesions suggest that the *Spirocerca* found in island foxes may be a different species than *S. lupi,* which occurs in domestic dogs and other North American carnivores on the mainland. Currently, *Spirocerca* is not a major health concern for most island foxes. However, if island foxes are ever brought to the mainland for research or captive breeding, efforts should be made to prevent transmission of *Spirocerca* from island foxes to mainland carnivores and vice versa.

Infection by parasites other than *Spirocerca* has been suspected as the cause of mortality in several island foxes, but is not considered a significant mortality factor. Infection by hookworms *(Uncinaria stenocephala)* and a lungworm *(Angiocaulus gubernaculatus)* may have contributed to two mortalities in the San Miguel Island fox subspecies (Coonan *et al.* 2005b, p. 38). In 2013, the San Miguel Island fox annual survival rate declined from approximately 90 percent to about 80 percent; 5 of the 11 mortalities that occurred in radio-collared foxes had evidence of acanthocephalans (spiny-headed worms), a parasite never before recorded in island foxes (Coonan 2014, p. 6).

In summary, the possibility exists for domestic or wild animals carrying a disease or parasite to migrate or be transported to all the Channel Islands, although vector movement via boat is frequent to Santa Catalina Island. On all islands, an epidemic response plan is approved and being implemented (Hudgens *et al.* 2013, 2014 entire), which includes that a subset of foxes are vaccinated when vaccines are available and monitored to detect and respond to a potential disease outbreak (Coonan 2010, pp. 24–29; see appendices 3 and 4 in Recovery Plan (USFWS 2015)). The NPS and TNC have committed (USFWS and NPS 2015; USFWS and TNC 2015) to carrying out monitoring and management actions into the future as recommended in the epidemic response plan for northern Channel Island foxes (Hudgens *et al.* 2013, entire); therefore, we consider the potential threat of disease adequately controlled for the San Miguel, Santa Rosa, and Santa Cruz Island foxes at this time and into the future. We do not at this time have the assurance of continued implementation of the epidemic response plan on Santa Catalina Island. Disease was the main threat to Santa Catalina Island foxes at the time of listing in 2004, and given the lack of assurance for continued implementation of the epidemic response plan to detect and mitigate for future disease outbreaks, we still consider potential disease outbreaks to be a threat to the Santa Catalina Island fox.

Predation

As identified in the listing rule, golden eagle predation was the primary cause for the decline of the northern Channel Islands fox subspecies and the primary reason for the listing under the Act (69 FR 10335; March 5, 2004). Before golden eagles started using the northern Channel Islands in the 1990s, the only known predator of island foxes was the red-tailed hawk (*Buteo jamaicensis*), which preyed only occasionally on young island foxes (Laughrin 1973, pp. 10–11; Moore and Collins 1995, p. 4). Because of the lack of predators, island foxes did not evolve vigilance and are easy targets for golden eagles (Roemer *et al.* 2001, p. 316). Colonization of the northern Channel Islands by golden eagles was likely a combination of two factors: (1) Introduction of nonnative mammals on the northern Channel Islands, resulting in a historically unprecedented prey base for golden eagles (USFWS 2004, p. 10338); and (2) an open ecological niche created by the extirpation of bald eagles from the islands as a result of DDT poisoning (USFWS 2004, p. 10343).

In the 2004 listing rule, the Federal Bald and Golden Eagle Protection Act (BGEPA; 16 U.S.C. 668–668d) and the California Fish and Game Code, section 3511, were thought to have delayed or precluded the implementation of needed recovery actions for island foxes. The protections afforded to golden eagles by the BGEPA were thought to limit lethal management alternatives to protect island foxes. The California Fish and Game Code, section 3511, deemed golden eagles a fully protected species, which would not have allowed any take to be authorized. In 2003, California amended this law to allow authorization of the take of fully protected species for scientific research, including research on recovery for other imperiled species (Senate Bill 412).

To address the unprecedented number of golden eagles and the effects they were having on island foxes, in August 1999, the NPS and TNC initiated a nonlethal golden eagle removal program to protect island foxes on the northern Channel Islands. Between November 1999 and July 2006, 44 golden eagles, including 22 adults or near adults, were removed from Santa Rosa and Santa Cruz Islands and released in northeastern California (Latta *et al.* 2005, p. 348; Coonan *et al.* 2010, pp. 59–61). Satellite telemetry affixed to the first 12 translocated golden eagles confirmed that none of the relocated eagles attempted to return to the islands for the 1.5-year life of the transmitter (USFWS 2015, p. 30). Ten nestlings were removed by hand from seven different nests (two from Santa Rosa Island and five from Santa Cruz Island) and fostered into mainland golden eagle nests or released. By mid-2005, seven golden eagles were estimated to remain on the northern Channel Islands, and removal efforts yielded diminishing returns. The last eagles captured and removed from the islands were a pair of nesting golden eagles and their chick on Santa Cruz Island in 2006 (Coonan *et al.* 2010, p. 62), and there has been no record of breeding golden eagles on the northern Channel Islands since that time.

Genetic work supports the long-term success of eagle translocation efforts. Sonsthagen *et al.* (2012, pp. entire) investigated the genetics of mainland golden eagles and those translocated from the islands, finding that the island population was likely the result of one colonization event. The likelihood of another successful golden eagle colonization is low, given changes in nonnative prey availability and monitoring/mitigation by land management agencies.

To ensure that golden eagles would be less likely to attempt to establish territories again on Santa Rosa and Santa Cruz Islands, TNC and the NPS initiated a program in 2005 and 2011, respectively, to remove nonnative animals from those islands (Macdonald and Walker 2007, p. 20). The last known pig was removed from Santa Cruz Island in January 2007 (Parkes *et al.* 2010, p. 636). Deer and elk were removed from Santa Rosa Island as part of an agreement with the former owners of the island. All elk and all but a few deer had been removed by 2015, resulting in an island that was essentially ungulate-free for the first time in over 150 years (Coonan 2015b, pers. comm.).

The 2004 listing rule also identified the extirpation of bald eagles from the Channel Islands as a likely contributor to the colonization of the northern Channel Islands by golden eagles. Bald eagles aggressively defend their territories from golden eagles (USFWS 2004, pp. 10343–10344), and their presence on the islands likely would have discouraged dispersing golden eagles from establishing residence. Prior to listing, NPS, Institute for Wildlife Studies, and TNC were actively engaged in the Montrose Settlements Restoration Program to reintroduce bald eagles to the Channel Islands, including Santa Catalina Island. The success of bald eagle reintroduction on the Channel Islands continues, with approximately 50 total resident bald eagles on the islands (Montrose Settlements Restoration Program 2015, p. 1).

In summary, although golden eagle predation of island foxes may occasionally occur (Coonan *et al.* 2014, p. 374), predation has been significantly reduced and is not considered a significant threat. This reduction in predation by golden eagles is in direct response to the extensive removal of golden eagles from the northern Channel Islands, golden eagle prey being removed successfully from Santa Rosa and Santa Cruz Islands, and the successful reintroduction of bald eagles.

Summary of Factor C

To reduce the threat of disease, a subset of each island fox subspecies is protected from CDV and rabies through preventative vaccinations when available and through monitoring as recommended in epidemic response plans to detect and facilitate appropriate responses in the event of an epidemic. Mortality due to disease was the primary reason for the decline and listing of Santa Catalina Island foxes. Currently, the potential for an epidemic remains on Santa Catalina Island because of heavy visitation, many points of access, and few controls for pets and stowaway wild animals that could carry disease. In addition, we do not have the assurance of continued implementation of the epidemic response plan into the future on Santa Catalina Island to detect and mitigate for future disease outbreaks. Therefore, we still consider potential disease outbreaks to be a threat to the Santa Catalina Island fox at this time.

Mortality due to golden eagle predation was the primary reason for the decline and listing of northern Channel Islands foxes (San Miguel, Santa Rosa, and Santa Cruz Island foxes). This threat has been substantially reduced by measures including the complete removal of golden eagles, eradication of golden eagles' nonnative prey, and reintroduction of bald eagles, such that we no longer consider predation to be occurring at such a level that would cause population-level declines on the northern Channel Islands now or in the future.

Factor D: The Inadequacy of Existing Regulatory Mechanisms

Under this factor, we examine whether existing regulatory mechanisms are inadequate to address the threats to the four island fox subspecies discussed under other factors. Section 4(b)(1)(A) of the Act requires the USFWS to take into account ''those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such

species. . . .'' In relation to Factor D under the Act, we interpret this language to require the USFWS to consider relevant Federal, State, and Tribal laws, regulations, and other such mechanisms that may minimize any of the threats we describe in the threat analyses under the other four factors, or otherwise enhance conservation of the species. We give strongest weight to statutes and their implementing regulations and to management direction that stems from those laws and regulations; an example would be State governmental actions enforced under a State statute or constitution, or Federal action under statute.

For currently listed species, we consider the adequacy of regulatory mechanisms to address threats to the species absent the protections of the Act. If this proposal is made final, the San Miguel, Santa Rosa, and Santa Cruz Island foxes would no longer be protected under the Act; Santa Catalina Island foxes would remain protected under the Act as a threatened species. Therefore, we examine whether other regulatory mechanisms will remain in place after delisting, and the extent to which those mechanisms will continue to help ensure that future threats will be reduced or minimized.

Having evaluated the significance of the threat as mitigated by any such conservation efforts, we analyze under Factor D the extent to which existing regulatory mechanisms are inadequate to address the specific threats to the species. Regulatory mechanisms, if they exist, may reduce or eliminate the impacts from one or more identified threats.

As discussed under Factor C, the primary threats of golden eagle predation and disease have been ameliorated though management, monitoring, and CMAs on the northern Channel Islands. Other threats affecting all currently listed island foxes, such as habitat modification by nonnative grazing animals and nonnative plant invasion (Factor A), have been and are being controlled through appropriate management and conservation ownership as described in Factor A, and we anticipate that these efforts will continue into the future. Other sources of mortality are assessed under Factor E and found to not exert a significant population-level effect on island foxes now or in the future. Consequently, we find that existing regulatory mechanisms are adequate to address these specific threats. The remaining threat is the potential for a disease epidemic on Santa Catalina Island because of heavy visitation, many points of access, and few controls for pets and stowaway wild animals that could carry disease. In addition, we do not have the assurance of continued implementation of the epidemic response plan into the future on Santa Catalina Island to detect and mitigate for future disease outbreaks. Therefore, under Factor C, we still consider potential disease outbreaks to be a threat to the Santa Catalina Island fox at this time. Consequently, our analysis here examines how existing regulatory mechanisms address this remaining identified threat.

The CIC manages the majority of fox habitat on Santa Catalina Island (except the City of Avalon) and through its regulations requires all nonnative animals entering CIC property be licensed and that all dogs and cats be vaccinated against distemper and rabies (CIC 2015, *http://www.catalinaconservancy.org*). Reduction of the risk of disease introduction also occurs through CIC outreach and education of local authorities and the public. However, enforcement of CIC regulations is labor-intensive and costly because the island is large with many remote coves and beaches where private boats can anchor, and the CIC does not have the funding or staff to patrol these areas regularly. Therefore, current measures to control introduction of diseases by domestic animals and stowaway wildlife on Santa Catalina Island, while providing some protection, are limited and thus do not fully address the threat of disease to Santa Catalina Island fox (see Factor C discussion, above).

Summary of Factor D

In summary, we have discussed that the threats previously facing the northern Channel Islands subspecies of island fox have been removed; disease remains a threat to the Santa Catalina population of island fox. Consequently, our Factor D analysis examines how existing regulatory mechanisms address this identified threat. Enforcement of CIC regulations, which are meant to limit the risk of disease introduction, is labor-intensive and costly because the island is large with many remote coves and beaches where private boats can anchor, and the CIC does not have the funding or staff to patrol these areas regularly. Thus, current measures to control introduction of diseases by domestic animals and stowaway wildlife on Santa Catalina Island, while providing some protection, are limited in addressing the threat of disease to Santa Catalina Island fox. Therefore, we still consider potential disease outbreaks to be a threat to the Santa Catalina Island fox at this time under Factor C that is not addressed by existing regulatory mechanisms, but, in and of itself, the inadequacy of existing regulatory mechanisms is not a current threat to any of the subspecies, nor is it expected to become a threat in the future.

Factor E: Other Natural or Manmade Factors Affecting Its Continued Existence

The 2004 listing rule identified stochastic risks to small populations and lack of genetic variability as threats to all four island fox subspecies under Factor E (69 FR 10335; March 5, 2004). Road mortalities were also discussed under Factor E in the 2004 listing rule. Since the time of listing, the impacts of feral cat aggression, poisoning, and entrapment on Santa Catalina Island, and fire, drought, and global climate change for all four islands have been identified as possible new threats.

Small Population Size

Island endemics, such as island foxes, have a high extinction risk due to isolation (*i.e.,* no other populations to ''rescue'' a declining or extirpated one) and small total population sizes relative to mainland subspecies (MacArthur and Wilson 1967, entire), both of which make them more vulnerable, especially to stochastic events such as drought and wildfire (Miller *et al.* 2001, entire; Kohlman *et al.* 2005, entire). Each island fox subspecies is a single breeding population, (with San Miguel Island being the smallest population), which makes their populations inherently small and thus they may become more vulnerable to extinction when the size of a breeding population declines. In addition to small population size and the associated increased probability of extinction, lower and reduced genetic variation may make an island species less adapted to existing pressures and less capable of adaptation to new threats. Thus, small population size and low genetic diversity can have synergistic effects with respect to population decline. During the period when the island fox populations were at their lowest, they were extremely vulnerable to extinction from stochastic events. The populations have now increased substantially, returning to historical population highs, and the threat of extinction from demographic stochasticity has accordingly been reduced.

The island fox populations have reduced or low genetic diversity due to the population bottlenecks they experienced during past extreme population lows (Gray *et al.* 2001, p. 8; Gray 2002, pp. entire). This lack of

variability could be attributed either to extensive inbreeding or to bottlenecking resulting from low population densities (George and Wayne 1991, entire). However, island foxes have apparently existed for thousands of years with low effective population sizes (the number of individuals that can contribute genes equally to the next generation; low is defined as 150 to 1,000) and low genetic variability (Wayne *et al.* 1991a, p. 1858; 1991b, p. entire). While additional genetic diversity was lost during the recent declines, island foxes are probably tolerant of low genetic variation, occasional bottlenecks, and higher inbreeding because there is little evidence of inbreeding depression in island foxes (Coonan *et al.* 2010, pp. 13–15). Therefore, we do not consider reduced genetic diversity to be causing population-level effects at this time or in the future.

Motor Vehicles

The fearlessness of island foxes, coupled with relatively high vehicle traffic on Santa Catalina Island, results in multiple fox collisions each year. On the northern Channel Islands, vehicle use very limited, restricted to only land management personnel and researchers. On Santa Catalina Island, vehicle collision was considered the ''number one cause of fox mortality'' on Santa Catalina Island (CIC 2009, *http://www.catalinaconservancy.org*), and it remains the most frequently reported cause of death. In 2014, at least 20 foxes died from vehicle-related trauma (King and Duncan 2015, pp. 18–19). In some cases, during the breeding season, mortality of parents (lactating females or foraging males) may result in additional loss of offspring (Wolstenholme 2011, pers. comm.; King 2012g, p. 1). The increase in annual average vehicle-strike deaths is likely due to an increased fox population size on the island, and the island-wide 25 mile per hour speed limit (CIC 2015, *http://www.catalinaconservancy.org*) likely minimizes the number of vehicle strike mortalities that would otherwise occur. Although mortality by motor vehicles is not considered a population-level threat at this time or in the future, vehicles strikes remain the primary human-caused source of individual mortality on Santa Catalina Island.

Interactions With Feral Cats and Domestic Dogs

Feral cats and domestic dogs occur on Santa Catalina Island. Feral cats weigh approximately twice as much as island foxes, and they may negatively affect foxes through interactions including direct aggression and competition for food and habitat resources (Laughrin 1978, pp. 5–6; Kovach and Dow 1981, p. 443). Although hawks and owls may occasionally kill cats, there are no significant predators of cats on Santa Catalina Island that can control their population (Guttilla 2007, p. 8).

Direct aggression between Santa Catalina Island foxes and cats has been documented in the wild, primarily near public coves and campgrounds that provide food and shelter (Guttilla 2007, p. 9). Researchers have routinely captured foxes that have severe injuries consistent with cat encounters (Guttilla 2007, p. 9). Aggressive exclusion of foxes by feral cats has also been observed. When cats move into fox habitat, foxes are no longer observed; when cats are no longer resident, foxes move back in to occupy the area (King 2013c, pers. comm.; Anderson 2013, pers. obs.).

In the 2004 listing rule (69 FR 10335; March 5, 2004), we noted that the Food and Agricultural Code 31752.5 prohibited lethal control of feral cats unless cats are held for a minimum of 6 days, which was thought to prevent CIC from taking steps to eradicate feral cats on Santa Catalina Island. In 2008, a Feral Animal Task Force was convened by the City of Avalon, with representatives of the CIC and other island stakeholders, to address feral and free-ranging cats in the city and on the rest of the island, and most importantly, to draft legislation for consideration by the City Council for approval and incorporation into City ordinance. This task force is not currently active, however, and progress has stalled in initiating new feral cat control measures and enacting new legislation (King 2011e, pers. comm.). Although competition and other negative interactions with feral cats can affect individual foxes, they do not pose a population-level threat at this time or in the future.

Instances of fox mortality from dog attacks have been observed over the past decade: Two in 2005 (Gaffney 2011, p. 1; Munson and Gaffney 2011, p. 1), one in 2010 (King and Duncan 2011, pp. 12–13), two in 2011 (King and Duncan 2012, p. 14), two probable in 2012 (King 2012a, p. 1; 2012b, p. 1), and one in 2015 (King 2015, p. 1). Because the likelihood of finding foxes killed by domestic dogs and identifying dogs as the mortality source is relatively low, these mortalities are likely underreported (Wolstenholme 2011, pers. comm.). It is common for dogs to be observed off-leash in campgrounds and other areas of the island outside of the City of Avalon (King and Duncan 2011, p. 15; Anderson 2012, pers. obs.; King 2012a, p. 1; Vissman and Anderson 2013 and 2014, pers. obs.; King 2015, p. 1). While mortality due to domestic dog attacks has been reported, it is limited in effect to individual foxes, and does not have a significant impact to fox populations at this time or in the future.

Poisoning and Entrapment

Other impacts to Santa Catalina Island foxes resulting from human interaction include mortality from poisoning and entrapment. A Santa Catalina Island fox died in 2012 from rodenticide poisoning (Duncan and King 2012, p. 4), another was euthanized because of poisoning in 2014 (King and Duncan 2015, p. 18), and a third was sickened in 2014 by insecticide poisoning (King and Duncan 2015, p. 20). Entrapment of foxes may occur in areas where development projects are ongoing. Examples include: Two foxes falling into a power line pole construction pit (CIC 2009, *http://www.catalinaconservancy.org*); one fox drowning due to entanglement in a food container (Vickers 2012a p. 2); one death from being trapped in a recycling barrel (Vickers 2012b, p. 1); and two deaths in 2014 from drowning in water or sediment containers (King and Duncan 2015, p. 18). Types of human-caused harm other than vehicle strikes and domestic dog attacks in urbanized areas are varied, but they do not have a population-level impact at this time or in the future.

Fire

On the northern Channel Islands, the frequency and intensity of wildland fire is less than on the adjacent mainland, because there are fewer ignition sources on the islands, and the typical maritime fog moisture inhibits fire spread. Natural lightning-strike fires are extremely rare; only three fires between 1836–1986 on the Channel Islands were started by lightning (Carroll *et al.* 1993, p. 77). On the northern Channel Islands, there are far fewer human-started fires than on the mainland or on Santa Catalina Island, as there are no permanent human occupants on the northern Channel Islands.

Sediment cores indicate that fire on Santa Rosa and Santa Cruz Islands increased in frequency during the past 5,000 years and peaked during the historic period (200 years ago), though frequency and intensity are still far less than on the adjacent mainland (Anderson *et al.* 2010, p. 792). Because of this, island foxes on the northern Channel Islands have experienced very few large wildland fire events. The recent removal of grazers may increase fuel loads and thus the likelihood of

larger fires, though cool and foggy conditions will continue to limit wildland fire spread. Additionally, the NPS adheres to a policy of total suppression on the Channel Islands, due to resource concerns (Kirkpatrick 2006, entire), reducing the chance that wildland fires will become large.

Though not identified as a threat at the time of listing, Santa Catalina Island regularly experiences wildfires (CIC 2011) that could reduce food availability, alter the habitat, or directly result in the loss of individual foxes (USFWS 2004, p. 10347). The most devastating wildfire on record was the Island Fire ignited on May 10, 2007, which burned 4,760 ac (1,926 ha) (CIC 2011). The second largest fire in recent history (1999–2011) was the Empire Fire, which was started by lightning on July 22, 2006, and burned 1,063 ac (430 ha). Duncan and King's (2009, p. 384) findings indicate fire seasonality has an influence on fox survival; fires that occur when pups are young and most dependent on adults for mobility are most damaging, but in general, neither the Island Fire nor the Empire Fire seemed to have significant effects at the population level (Duncan and King 2009, p. 384).

In summary, wildfires are infrequent on the northern Channel Islands and more frequent on Santa Catalina Island. On all islands, while wildfire can result in mortality of individuals, especially juveniles, depending on when the fires occur, wildfire does not pose a significant population-level impact to the island fox at this time nor do we anticipate it posing a significant population-level impact in the future.

Drought

The Channel Islands, as well as the rest of the State of California, are currently in the midst of a drought that began in 2012 and, as of mid-January 2016, has not abated (State of California 2016, *http://ca.gov/drought/* accessed January 19, 2016). Island foxes have endured many droughts during their 10,000-year persistence on the islands (California Department of Water Resources 2015, *http://www.water.ca.gov/waterconditions/droughtinfo.cfm*). Deep multi-year droughts have occurred on the Channel Islands about once every 2 decades since 1900 (T. Coonan, NPS, unpubl. data). General drought conditions in the late 1920s and early 1930s combined with overgrazing denuded most vegetation, particularly on San Miguel Island, creating massive sand barrens, remnants of which are still evident today (Johnson 1980, entire). Even so, island foxes survived this period of soil erosion and episodic landscape stripping.

The current period of intensive island fox monitoring and research began in 1993, after a 6-year drought concluded. The current drought is the first opportunity to study the effect of drought on island foxes, where foxes have recovered to historic numbers. On San Miguel Island, average adult weights declined in 2013 and 2014, to the lowest ever recorded, and fox reproduction was negligible in 2013 and 2014 (Coonan *et al.* 2014, p. 28; T. Coonan, NPS, unpubl. data). During this time, mortality also increased, and many fox carcasses were emaciated (Coonan *et al.* 2014, pp. 6–7). On Santa Catalina Island, it appears that decreasing precipitation may result in a reproductive decline; however adults' weights were not similarly affected during this time (King and Duncan 2015, pp. 21–22). These effects were not seen on neighboring Santa Rosa Island, where foxes are not yet at carrying capacity or pre-decline levels. Fox weights increased on Santa Rosa Island in the drought years, reproduction was higher, and foxes had higher body condition scores than on San Miguel Island. It is apparent that one response of island foxes to drought is to curtail reproduction, especially if the population is at carrying capacity (Coonan 2015, pp. 6, 8, 13; Coonan *et al.* 2010, p. 28). Given the past demonstrated ability of island foxes to survive pervasive drought, current healthy population numbers and apparent ability to respond to drought by shifting resource allocation, we do not consider drought to be a threat to island foxes at this time or in the future.

Global Climate Change

Our analyses under the Act include consideration of ongoing and projected changes in climate. The terms ''climate'' and ''climate change'' are defined by the Intergovernmental Panel on Climate Change (IPCC). The term ''climate'' refers to the mean and variability of different types of weather conditions over time, with 30 years being a typical period for such measurements (IPCC 2013a, p. 1450). The term ''climate change'' thus refers to a change in the mean or variability of one or more measures of climate (for example, temperature or precipitation) that persists for an extended period, whether the change is due to natural variability or human activity (IPCC 2013a, p. 1450).

Scientific measurements spanning several decades demonstrate that changes in climate are occurring, and that the rate of change has increased since the 1950s. Examples include warming of the global climate system, and substantial increases in precipitation in some regions of the world and decreases in other regions (for these and other examples, see Solomon et al. 2007, pp. 35–54, 82–85; IPCC 2013b, pp. 3–29; IPCC 2014, pp. 1–32). Results of scientific analyses presented by the IPCC show that most of the observed increase in global average temperature since the mid-20th century cannot be explained by natural variability in climate and is ''very likely'' (defined by the IPCC as 90 percent or higher probability) due to the observed increase in greenhouse gas (GHG) concentrations in the atmosphere as a result of human activities, particularly carbon dioxide emissions from use of fossil fuels (Solomon et al. 2007, pp. 21–35; IPCC 2013b, pp. 11–12 and figures SPM.4 and SPM.5). Further confirmation of the role of GHGs comes from analyses by Huber and Knutti (2011, p. 4), who concluded it is extremely likely that approximately 75 percent of global warming since 1950 has been caused by human activities.

Scientists use a variety of climate models, which include consideration of natural processes and variability, as well as various scenarios of potential levels and timing of GHG emissions, to evaluate the causes of changes already observed and to project future changes in temperature and other climate conditions (Meehl et al. 2007, entire; Ganguly et al. 2009, pp. 11555, 15558; Prinn et al. 2011, pp. 527, 529). All combinations of models and emissions scenarios yield very similar projections of increases in the most common measure of climate change, average global surface temperature (commonly known as global warming), until about 2030. Although projections of the magnitude and rate of warming differ after about 2030, the overall trajectory of all the projections is one of increasing global warming through the end of this century, even for the projections based on scenarios that assume that GHG emissions will stabilize or decline. Thus, there is strong scientific support for projections that warming will continue through the 21st century, and that the magnitude and rate of change will be influenced substantially by the extent of GHG emissions (Meehl et al. 2007, pp. 760–764, 797–811; Ganguly et al. 2009, pp. 15555–15558; Prinn et al. 2011, pp. 527, 529; IPCC 2013b, pp. 19–23). See IPCC 2013b (entire), for a summary of other global projections of climate-related changes, such as frequency of heat waves and changes in precipitation.

Various changes in climate may have direct or indirect effects on species.

These effects may be positive, neutral, or negative, and they may change over time, depending on the species and other relevant considerations, such as threats in combination and interactions of climate with other variables (for example, habitat fragmentation) (IPCC 2014, pp. 4–11). Identifying likely effects often involves aspects of climate change vulnerability analysis. Vulnerability refers to the degree to which a species (or system) is susceptible to, and unable to cope with, adverse effects of climate change, including climate variability and extremes. Vulnerability is a function of the type, magnitude, and rate of climate change and variation to which a species is exposed, its sensitivity, and its adaptive capacity (Glick et al. 2011, pp. 19–22; IPCC 2014, p. 5). There is no single method for conducting such analyses that applies to all situations (Glick et al. 2011, p. 3). We use our expert judgment and appropriate analytical approaches to weigh relevant information, including uncertainty, in our consideration of the best scientific information available regarding various aspects of climate change.

Probably the most potentially vulnerable aspect of island fox biology to climate change is indirect effects from affected invertebrates that are parasites and disease vectors. Invertebrates, because they are exothermic (cold-blooded), are particularly responsive to the effects of a warming climate that typically speeds development and enhances survival. For disease vectors such as mosquitos, survival may occur where it was previously too cold during the coolest nights of the year for overwintering. Invertebrates are also particularly well-suited to adapt to a changing climate because they have short generation times and a high reproductive output (Parmesan 2006, pp. 654–656). The warming climate typically has resulted in increased abundance and expanded ranges of parasites such as nematodes and ticks, as well as diseases they transmit (Parmesan 2006, pp. 650–651; Studer *et al.* 2010, p. 11). Climate change also produces ecological perturbations that result in altered parasite transmission dynamics, increasing the potential for host switching (Brooks and Hoberg 2007, p. 571). Moller's (2010, p. 1158) analysis of parasites on avian hosts over a 37-year period suggests climate change predictions for parasite effects should be made with caution, but that climate can alter the composition of the parasite community and may cause changes in the virulence of parasites (Moller 2010, p. 1158). Therefore, climate change may change and could potentially increase the parasites and disease vectors to which island foxes are exposed.

Considering that island foxes are opportunistic feeders, and climate warming could increase the subspecies' insect prey base abundance, it is possible climate change could positively affect food quantity and quality. Increased consumption of insect species by mice associated with a warmer, drier climate on South African islands has been documented (Chown and Smith 1993, pp. 508–509). Because island foxes have shown relative plasticity with regard to utilizing nonnative species (Cypher *et al.* 2011, p. 13), most invasions of nonnative potential prey species are not likely to negatively affect island fox food resources. The only potential negative effect of climate change on the insect prey base of island foxes would be if increased storm intensity and frequency reduced prey abundance, as Roemer (1999, p. 187) hypothesized occurred on Santa Cruz Island in the mid-1990s.

Global climate change has the potential to negatively and positively affect island fox populations. There is still uncertainty associated with predictions relative to the timing, location, and magnitude of future climate changes. Probably the most vulnerable aspect of island fox biology to climate change is indirect effects to the fox from affected invertebrates. Though difficult to quantify, change in global climate could impact island fox populations on each island and may pose a threat to this species that is not yet reflected in studied population dynamics. As with most endangered species, predicting likely future climate scenarios and understanding the complex effects of climate change are high priorities for island fox conservation planning. While we cannot accurately predict the effects of climate change on island fox subspecies because the foxes are generalists and exhibit plasticity with regards to prey and habitat use, we do not expect negative effects of such magnitude that would cause major declines. However, we anticipate ongoing monitoring and management will detect any significant changes in population health and allow for management responses, including possible relisting.

Summary of Factor E

In summary, during the period when the population was at its lowest, the four subspecies of Channel Island foxes were extremely vulnerable to extinction from stochastic events. The populations have now increased substantially and the likelihood of extinction has accordingly been reduced. The combined effects of interactions with feral cats and domestic dogs, motor vehicle collisions, mortality due to wildfire, and other human-caused mortalities result in the deaths of multiple individuals throughout Santa Catalina Island on an annual basis, but they do not constitute a combined threat to the relatively large population at this time nor do we anticipate that they will in the future. While we cannot accurately predict the effects of climate change on island fox subspecies because the foxes are generalists and exhibit plasticity with regards to prey and habitat use, we do not consider climate change to be a threat to island foxes now nor in the foreseeable future.

Overall Summary of Factors Affecting Island Foxes

At time of listing in 2004 (69 FR 10335; March 5, 2004), predation by golden eagles was the primary threat to San Miguel, Santa Rosa, and Santa Cruz Island foxes, and disease was the primary threat to the Santa Catalina Island fox. The threat of predation by golden eagles on the northern Channel Islands has been significantly reduced since the time of listing. This reduction in predation by golden eagles is in direct response to the extensive removal of golden eagles from the northern Channel Islands, golden eagle prey being removed successfully from Santa Rosa and Santa Cruz Islands, and the successful reintroduction of bald eagles.

Potential disease outbreaks continue to pose a threat to Santa Catalina Island foxes due to relatively uncontrolled movement of vectors from the mainland that carry diseases the population may not be vaccinated against. The primary measures in place on all islands to reduce these threats are vaccination of a subset of the fox population for CDV and rabies, and monitoring of population sentinels to detect the start of another epidemic and respond appropriately to mitigate the outbreak. While disease is currently controlled on Santa Catalina Island, we do not have assurance that monitoring and management of Santa Catalina Island foxes necessary to detect and mitigate an epidemic in Santa Catalina Island foxes will continue into the future.

During the period when the island fox populations were at their lowest, they were extremely vulnerable to extinction from stochastic events. Although there will always be some inherent risk of extinction due to stochastic events because each island fox subspecies is a single breeding population, the populations have now increased substantially, returning to historical

population highs, and the threat of extinction from demographic stochasticity has accordingly been reduced.

Mortality due to motor vehicle strikes, habitat loss, ear mite infection, ear canal cancer, feral cats, and domestic dogs results in loss of individuals, but these mortality factors are not considered independent threats to fox populations at this time because populations are relatively large. The impacts of climate change are hard to predict. Some effects to island fox populations could be negative while others could be positive. Predicting likely future climate scenarios and understanding the complex effects of climate change are high priorities for island fox conservation planning, but climate change is not considered to be a threat at this time.

When mortality mechanisms or other stressors occur together, one may exacerbate the effects of another, causing effects not accounted for when stressors are analyzed individually. Synergistic or cumulative effects may be observed in a short amount of time or may not be noticeable for years into the future, and could affect the long-term viability of island fox population. For example, if a stressor hinders island fox survival and reproduction or affects the availability of habitat that supports island foxes, then the number of individuals the following year(s) will be reduced, increasing vulnerability to stochastic events like a disease epidemic or wildfire. While synergistic or cumulative effects may occur when mortality mechanisms or other stressors occur together, given the robust populations and ongoing management and monitoring, these effects do not pose a significant population-level impact to island foxes at this time nor do we anticipate that they will in the future.

Finding

We have assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the San Miguel, Santa Rosa, Santa Cruz, and Santa Catalina Island foxes in this proposed rule. At the time of listing in 2004 (69 FR 10335; March 5, 2004), the Santa Catalina Island fox experienced a devastating CDV epidemic that resulted in an almost complete loss of the eastern subpopulation, which made up the majority of the island population. The precipitous decline of the northern Channel Island foxes (San Miguel, Santa Rosa, and Santa Cruz Island foxes) that led to their listing as endangered species was the result of depredation by golden eagles, facilitated by the presence of a nonnative, mammalian prey-base on the northern Channel Islands.

The threat of disease to the Santa Catalina Island fox has been ameliorated through implementation of programs to provide vaccinations, ear mite treatments, and a sentinel monitoring program to aid in detection of and facilitate a response to an epidemic. However, we do not have assurances that this monitoring and management as prescribed in the epidemic response plan will continue into the future.

As a result of concerted management efforts, golden eagle predation has been reduced to such a degree that it is no longer considered a threat to the northern island subspecies. Additional management efforts, including captive breeding and ongoing vaccinations for disease, have contributed to the substantial increase of all island fox populations. Although golden eagles will most likely continue to occasionally occur on the islands as transients, the removal of the nonnative prey-base and the constant presence of bald eagles are permanent, long-term deterrents to golden eagles establishing breeding territories and remaining on the northern Channel Islands. Ongoing management and monitoring are designed to detect any reemergence of threats and to take corrective actions should any threats be detected.

Based on the information presented in this status review, the recovery criteria in the Recovery Plan have been achieved and the recovery objectives identified in the Recovery Plan have been met for the three northern Channel Island subspecies of island fox. San Miguel, Santa Rosa, and Santa Cruz Island fox abundance has increased steadily to the point where the number of individuals is again within the range of historical population estimates. Population viability analyses strongly indicate that the northern Channel Island foxes have an acceptably small risk of extinction and current population levels are consistent with long-term viability. Additionally, the primary threat (golden eagles) to northern Channel Island foxes has been controlled, and ongoing management and monitoring are in place to ensure that threats continue to be managed in the future. This information indicates that these three subspecies are no longer at immediate risk of extinction, nor are they likely to experience reemergence of threats and associated population declines in the future. We, therefore, conclude that the San Miguel, Santa Rosa, and Santa Cruz Island foxes are no longer in danger of extinction throughout all of their ranges, nor are they likely to become so in the foreseeable future.

The Santa Catalina Island fox exhibits demographic characteristics consistent with long-term viability. The population has continued to increase over the past 11 years, reaching an estimated high of 1,852 individuals in 2013 (King and Duncan 2015, p. 11), then dropping slightly to 1,717 in 2014 (King and Duncan 2014, p. 11). Population viability analysis indicates the Santa Catalina Island fox population has an acceptably small risk of extinction—less than 5 percent since 2008. With population levels consistent with long-term viability, the intent of recovery objective 1 has been met for the Santa Catalina Island fox. However, objective 2 has not been met because we do not have assurance that the monitoring and management as prescribed in the epidemic response plan for Santa Catalina Island foxes will be funded and implemented in the future to ensure that the threat of disease continues to be managed. While population levels are currently consistent with long-term viability (indicating that the subspecies is no longer in danger of extinction in the immediate future), lack of adequate control of potential vectors along with lack of assured long-term monitoring could allow for lapses in management and monitoring and reemergence of disease that may cause epidemics and population declines before they can be detected and acted upon. We have coordinated with CIC to determine their ability to enter into an agreement to provide assurances of long-term implementation of the epidemic response plan. CIC indicated that they could not ensure availability of long-term funding at this time that would allow them to commit to long-term implementation of the epidemic response plan. Overall, we recognize that CIC's efforts have significantly contributed to a reduction of impacts to the Santa Catalina fox and its habitat on the island. As a result, we have determined that the Santa Catalina Island fox is no longer in danger of extinction throughout all of its range, but instead is threatened with becoming endangered in the foreseeable future throughout all of its range. We, therefore, propose a change in status for the Santa Catalina Island fox from an endangered species to a threatened species at this time. Because we have determined the Santa Catalina Island fox is likely to become an endangered species in the foreseeable future throughout all of its range, no portion of its range can be significant for purposes of the definitions of endangered species

or threatened species (see 79 FR 37578; July 1, 2014) (also see Significant Portion of the Range Analysis, below).

Significant Portion of the Range Analysis

Having determined that the San Miguel, Santa Rosa, and Santa Cruz Island foxes are not in danger of extinction, or likely to become so, throughout all of their ranges, we next consider whether there are any significant portions of their ranges in which the island foxes are in danger of extinction or likely to become so. Under the Act and our implementing regulations, a species may warrant listing if it is an endangered species or a threatened species. The Act defines ''endangered species'' as any species which is ''in danger of extinction throughout all or a significant portion of its range,'' and ''threatened species'' as any species which is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The term ''species'' includes ''any subspecies of fish or wildlife or plants, and any distinct population segment [DPS] of any species of vertebrate fish or wildlife which interbreeds when mature.'' On July 1, 2014, we published a final policy interpreting the phrase ''significant portion of its range'' (SPR) (79 FR 37578). The final policy states that (1) if a species is found to be endangered or threatened throughout a significant portion of its range, the entire species is listed as an endangered species or a threatened species, respectively, and the Act's protections apply to all individuals of the species wherever found; (2) a portion of the range of a species is ''significant'' if the species is not currently endangered or threatened throughout all of its range, but the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range; (3) the range of a species is considered to be the general geographical area within which that species can be found at the time USFWS or the National Marine Fisheries Service makes any particular status determination; and (4) if a vertebrate species is endangered or threatened throughout an SPR, and the population in that significant portion is a valid DPS, we will list the DPS rather than the entire taxonomic species or subspecies.

The SPR policy is applied to all status determinations, including analyses for the purposes of making listing, delisting, and reclassification determinations. The procedure for analyzing whether any portion is an SPR is similar, regardless of the type of status determination we are making. The first step in our analysis of the status of a species is to determine its status throughout all of its range. If we determine that the species is in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range, we list the species as an endangered (or threatened) species and no SPR analysis will be required. Because we are proposing to list the Santa Catalina Island fox as a threatened species under the Act, we are not conducting an SPR analysis for this subspecies. If the species is neither endangered nor threatened throughout all of its range, we determine whether the species is endangered or threatened throughout a significant portion of its range. If it is, we list the species as an endangered species or a threatened species, respectively; if it is not, we conclude that the species is neither an endangered species nor a threatened species.

When we conduct an SPR analysis, we first identify any portions of the species' range that warrant further consideration. The range of a species can theoretically be divided into portions in an infinite number of ways. However, there is no purpose to analyzing portions of the range that are not reasonably likely to be significant and either endangered or threatened. To identify only those portions that warrant further consideration, we determine whether there is substantial information indicating that (1) the portions may be significant and (2) the species may be in danger of extinction in those portions or likely to become so within the foreseeable future. We emphasize that answering these questions in the affirmative is not a determination that the species is endangered or threatened throughout a significant portion of its range—rather, it is a step in determining whether a more detailed analysis of the issue is required. In practice, a key part of this analysis is whether the threats are geographically concentrated in some way. If the threats to the species are affecting it uniformly throughout its range, no portion is likely to warrant further consideration. Moreover, if any concentration of threats apply only to portions of the range that clearly do not meet the biologically based definition of ''significant'' (*i.e.,* the loss of that portion clearly would not be expected to increase the vulnerability to extinction of the entire species), those portions will not warrant further consideration.

If we identify any portions that may be both (1) significant and (2) endangered or threatened, we engage in a more detailed analysis. As discussed above, to determine whether a portion of the range of a species is significant, we consider whether, under a hypothetical scenario, the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction or likely to become so in the foreseeable future throughout all of its range. This analysis considers the contribution of that portion to the viability of the species based on the conservation biology principles of redundancy, resiliency, and representation. (These concepts can similarly be expressed in terms of abundance, spatial distribution, productivity, and diversity.) The identification of an SPR does not create a presumption, prejudgment, or other determination as to whether the species in that identified SPR is in danger of extinction or likely to become so. We must go through a separate analysis to determine whether the species is in danger of extinction or likely to become so in the SPR. To determine whether a species is endangered or threatened throughout an SPR, we will use the same standards and methodology that we use to determine if a species is endangered or threatened throughout its range.

Depending on the biology of the species, its range, and the threats it faces, it may be more efficient to address either the significance question first, or the status question first. Thus, if we determine that a portion of the range is not ''significant,'' we do not need to determine whether the species is endangered or threatened there; if we determine that the species is not endangered or threatened in a portion of its range, we do not need to determine if that portion is ''significant.''

Applying the process described above, we evaluated the respective ranges of the San Miguel Island fox, Santa Rosa Island fox, and Santa Cruz Island fox to determine if any area could be considered a significant portion of any one of the subspecies' range. As mentioned above, one way to identify portions for further analyses is to identify any natural divisions within the range that might be of individual biological or conservation importance to the species. We conducted our review based on examination of the Recovery Plan (USFWS 2015; entire) and other relevant and more recent information on the biology and life history of the northern Channel Island foxes. Because each of the three northern Channel Island fox subspecies is a narrow endemic where the foxes on each island

constitute a single population, we determined that there are no natural divisions or separate areas of the range of each subspecies that contribute separately to the conservation of that particular subspecies. In other words, for each subspecies of island fox, there is only one biologically defined portion, and there are no separate portions that contribute incrementally to the conservation (*i.e.,* to the redundancy, resiliency, and representation of the species). We also examined whether any portions might be endangered or threatened by examining whether threats might be geographically concentrated in some way. Although some of the factors we evaluated in the Summary of Factors Affecting the Species section, above, may continue to affect each of the subspecies, the factors affecting island foxes generally occur at similarly low levels throughout their ranges. The entire population of each subspecies is equally affected by threats and by the amelioration of such threats throughout their ranges. Based on our evaluation of the biology of the subspecies and current and potential threats to the island foxes, we conclude that no portion of the ranges of the three subspecies of the northern Channel Islands foxes warrants further consideration to determine if it is significant. In other words, threats have been sufficiently ameliorated, and all individuals and all portions of the range of each subspecies interact to such an extent that it is not reasonable to conclude that any portion of the range can have a different status than any other portion.

In conclusion, we find that the San Miguel Island fox, Santa Rosa Island fox, and Santa Cruz Island fox are no longer in danger of extinction throughout all or a significant portion of their range, nor are they likely to become so in the foreseeable future. Therefore, at this time, the San Miguel, Santa Rosa, and Santa Cruz Island fox no longer meet the definitions of an endangered species or a threatened species under the Act, and we propose to remove these species from the List of Endangered and Threatened Wildlife under the Act.

Effects of This Rulemaking

If this proposed rule is made final, it would revise 50 CFR 17.11(h) to remove the San Miguel, Santa Rosa, and Santa Cruz Island foxes from the List of Endangered and Threatened Wildlife and would reclassify the Santa Catalina Island fox from an endangered species to a threatened species. The prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, would no longer apply to the San Miguel, Santa Rosa, or Santa Cruz Island foxes. Federal agencies would no longer be required to consult with the USFWS under section 7 of the Act in the event that activities they authorize, fund, or carry out may affect the San Miguel Island fox, Santa Rosa Island fox, or Santa Cruz Island fox. As a result of their removal from the List of Endangered and Threatened Wildlife at 50 CFR 17.11(h), we would also remove the entries at 50 CFR 17.95(a) (Critical habitat—fish and wildlife) for the San Miguel, Santa Rosa, and Santa Cruz Island foxes; currently, each entry specifies that no areas meet the definition of critical habitat under section 3(5)(A) of the Act for the applicable subspecies. We would retain the entry at 50 CFR 17.95(a) for the Santa Catalina Island fox.

Peer Review

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (50 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of peer review is to ensure that decisions are based on scientifically sound data, assumptions, and analyses. A peer review panel will conduct an assessment of the proposed rule, and the specific assumptions and conclusions regarding the proposed delisting. This assessment will be completed during the public comment period.

We will consider all comments and information we receive during the comment period on this proposed rule as we prepare the final determination. Accordingly, the final decision may differ from this proposal.

Post-Delisting Monitoring

Section 4(g)(1) of the Act requires us, in cooperation with the States, to implement a system to monitor effectively, for not less than 5 years, all species that have been recovered and delisted (50 CFR 17.11, 17.12). The purpose of this post-delisting monitoring is to verify that a species remains secure from risk of extinction after it has been removed from the protections of the Act. The monitoring is designed to detect the failure of any delisted species to sustain itself without the protective measures provided by the Act. If, at any time during the monitoring period, data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing under section 4(b)(7) of the Act. Section 4(g) of the Act explicitly requires us to cooperate with the States in development and implementation of post-delisting monitoring programs, but we remain responsible for compliance with section 4(g) and, therefore, must remain actively engaged in all phases of post-delisting monitoring. We also seek active participation of other entities that are expected to assume responsibilities for the species' conservation post-delisting.

Post-Delisting Monitoring Overview

If we make this proposed rule final, the post-delisting monitoring is designed to verify that northern Channel Island foxes (San Miguel, Santa Rosa, and Santa Cruz Island foxes) remain secure from risk of extinction after their removal from the Federal List of Endangered and Threatened Wildlife by detecting changes in population trend and mortality/survival. Post-delisting monitoring for the northern Channel Island fox subspecies would be conducted as recommended in the epidemic response plan for northern Channel Island foxes (Hudgens *et al.* 2013, entire) and golden eagle management strategy (NPS 2015a, entire). These documents are posted on *http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=A08I,* at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2015–0170, and the Ventura Fish and Wildlife Office's Web site at *http://www.fws.gov/Ventura/.*

Although the Act has a minimum post-delisting monitoring requirement of 5 years, the draft post-delisting monitoring plan for northern Channel Island foxes includes a 10-year monitoring period to account for environmental variability (for example, extended drought) that may affect fox populations and to document the range of population fluctuation as fox populations reach carrying capacity. If a decline in abundance is observed or a substantial new threat arises, post-delisting monitoring may be extended or modified as described below.

Island foxes would be monitored for both population size and trend, and for annual survival and cause-specific mortality, as specified by the epidemic response plan for northern Channel island foxes (Hudgens *et al.* 2013, entire) and the golden eagle management strategy (NPS 2015a, entire). Monitoring as recommended in these plans is currently being implemented. Population size and trend are estimated using capture-mark-recapture data from trapping foxes on grids (Rubin *et al.* 2007, p. 2–1; Coonan *et al.* 2014, p. 2). Such monitoring has

been implemented for island foxes since the late 1980s. The monitoring provides a continuous record of population fluctuation, including decline and recovery, upon which population viability analysis was used to develop island fox demographic recovery objectives (Bakker and Doak 2009, entire; Bakker *et al.* 2009, entire).

Annual survival and cause-specific mortality of island foxes would be monitored, as it is now, via tracking of radio-collared foxes. Mortality checks would be conducted weekly on radio-collared foxes, and necropsies would be conducted on fox carcasses to determine the cause of mortality. A sample of at least 40 radio-collared foxes is maintained on each island, as that is the number of monitored foxes determined to be necessary to detect an annual predation rate of 2.5 percent (Rubin *et al.* 2007, p. 2–20). This level of radio-telemetry monitoring is part of the epidemic response plan and the golden eagle management strategy for island foxes on the northern Channel Islands (Hudgens *et al.* 2013, pp. 7–11).

The USFWS, NPS, and TNC would annually review the results of monitoring, which would include annual estimated adult population size, annual adult survival, and identified causes of mortality. If there are apparent sharp declines in population size and/or survival or the appearance of significant mortality causes, the data would be reviewed by the Island Fox Conservation Working Group for evaluation and assessment of threat level. Monitoring results may also reach thresholds which precipitate increased monitoring or implementation of management actions, as specified in the epidemic response plan and golden eagle management strategy. At the end of the 10-year post-delisting monitoring period, USFWS, NPS, and TNC would determine whether monitoring should continue beyond the 10-year monitoring period.

Required Determinations

Clarity of the Proposed Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the names of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

National Environmental Policy Act

We determined that we do not need to prepare an environmental assessment or an environmental impact statement, as defined under the authority of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited in this proposed rule is available on the Internet at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2015–0170, or upon request from the Field Supervisor, Ventura Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Author

The primary author of this proposed rule is the Ventura Fish and Wildlife Office in Ventura, California, in coordination with the Pacific Southwest Regional Office in Sacramento California, and the Carlsbad Fish and Wildlife Office in Carlsbad, California.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h), the List of Endangered and Threatened Wildlife, under MAMMALS, by:

■ a. Removing the entries for ''Fox, San Miguel Island'', ''Fox, Santa Cruz Island'', and ''Fox, Santa Rosa Island''; and

■ b. Revising the entry for ''Fox, Santa Catalina Island'' to read as set forth below.

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
			MAMMALS				
*	*	*	*	*	*		*
Fox, Santa Catalina Island.	*Urocyon littoralis catalinae.*	U.S.A. (CA)	Entire	T	742	17.95(a)	NA
*	*	*	*	*	*		*

§ 17.95 [Amended]

■ 3. Amend § 17.95(a) by removing the entries for ''San Miguel Island Fox (*Urocyon littoralis littoralis*)'', ''Santa Cruz Island Fox (*Urocyon littoralis santacruzae*)'', and ''Santa Rosa Island Fox (*Urocyon littoralis santarosae*)''.

Dated: January 29, 2016.

Stephen Guertin,

Acting Director, Fish and Wildlife Service.

[FR Doc. 2016–02669 Filed 2–12–16; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register
Vol. 81, No. 30
Tuesday, February 16, 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

Foreign Agricultural Service

Notice of Request for Approval of a New Information Collection

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Foreign Agricultural Service to request approval for a new information collection for the USDA's Local and Regional Food Aid Procurement Program.

DATES: Comments on this notice must be received by April 18, 2016.

ADDRESSES: FAS invites interested persons to submit comments on this notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment filed or attach a file for lengthier comments. Go to *http://www/regulations.gov.* Follow the on-line instructions at the site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Benjamin Muskovitz, U.S. Department of Agriculture, Foreign Agricultural Service, 1400 Independence Avenue SW., Room 4159, Mailstop 1034, Washington, DC 20250.
- *Hand or courier delivered submittals:* Deliver to Benjamin Muskovitz, U.S. Department of Agriculture, Foreign Agricultural Service, 1400 Independence Avenue SW., Room 4159, Mailstop 1034, Washington, DC 20250.

Instructions: All items submitted by mail or electronic mail must include the agency name. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Benjamin Muskovitz, Director, Food Assistance Division, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4159, Mailstop 1034, Washington, DC 20250–1034, telephone: (202) 720–4221, email: *FAD_Contact@FAS.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: USDA Local and Regional Food Aid Procurement Program.

OMB Number: 0551—New.

Expiration Date of Approval: Three years from approval date.

Type of Request: New information collection.

Abstract: Under the USDA Local and Regional Food Aid Procurement Program, information will be gathered from applicants desiring to receive grants or enter into cooperative agreements under the program to determine the viability of requests for resources to implement activities in foreign countries. Recipients of grants or cooperative agreements under the program must submit performance and financial reports until funds provided by FAS and commodities purchased with such funds are utilized. Documents are used to develop effective grant or cooperative agreements and assure that statutory requirements and program objectives are met.

Estimate of Burden: The public reporting burden for each respondent resulting from information collection under the USDA Local and Regional Food Aid Procurement Program varies in direct relation to the number and type of agreements entered into by such respondent. The estimated average reporting burden for USDA Local and Regional Food Aid Procurement Program is 78 hours per response.

Type of Respondents: Private voluntary organizations, cooperatives, and intergovernmental organizations.

Estimated Number of Respondents: 22 per annum.

Estimated Number of Responses per Respondent: 17 per annum.

Estimated Total Annual Burden of Respondents: 29,172 hours.

Copies of this information collection can be obtained from Connie Ehrhart, the Agency Information Collection Coordinator, at (202) 690–1578 or email at *Connie.Ehrhart@fas.usda.gov.*

Request for Comments: Send comments regarding (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to the Director, Food Assistance Division, FAS, USDA, Room 4159, Mailstop 1034, Washington, DC 20250, or to *FAD_Contact@FAS.usda.gov.* Comments may also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

E-Government Act Compliance

FAS is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

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

Signed at Washington, DC, on February 9, 2016.

Philip C. Karsting,

Administrator, Foreign Agricultural Service.

[FR Doc. 2016–03087 Filed 2–12–16; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Mt. Hood National Forest; Oregon; Cooper Spur—Government Camp Land Exchange

AGENCY: Forest Service, USDA.

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

SUMMARY: The Mt. Hood National Forest will prepare an environmental impact statement to document and disclose the projected effects of a congressionally directed and conditioned land exchange. This land exchange includes the conveyance of approximately 110 acres of National Forest System lands adjacent to Government Camp in Clackamas County, Oregon, in exchange for the acquisition of approximately 765 acres of land owned by Mt. Hood Meadows Oreg., LLC, in Hood River County, Oregon.

DATES: Comments concerning the scope of the analysis must be received by March 17, 2016. The draft environmental impact statement is expected November 2016 and the final environmental impact statement is expected January 2018.

ADDRESSES: Send written comments to the Mt. Hood National Forest, 16400 Champion Way, Sandy, OR 97055. Comments may also be sent via email to *comments-pacificnorthwest-mthood@fs.fed.us,* or via facsimile to (503) 668–1423.

FOR FURTHER INFORMATION CONTACT: Michelle Lombardo, Forest Environmental Coordinator, Mt. Hood National Forest, at (503) 668–1796 or by email at *mlombardo@fs.fed.us*. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of the congressionally directed and conditioned land exchange between the Mt. Hood National Forest and the Mt. Hood Meadows Oregon, LLC, is to comply with and carry out the Omnibus Public Land Management Act of March 30, 2009 (123 Stat. 991, Pub. L. 111–11), which provides direction for this land exchange.

Proposed Action

The proposed action includes the conveyance of two parcels of National Forest System lands, totaling approximately 110 acres, in exchange for the acquisition of approximately 765 acres of land owned by Mt. Hood Meadows. The Federal land proposed for conveyance is located to the north of the Government Camp Loop Road in Government Camp, Oregon, in T3S, R8E, sections 13 & 24, and T3S, R8.5E, section 14 in Clackamas County. The land owned by Mt. Hood Meadows that is proposed for acquisition is located about one-half mile to the west of Highway 35 in the vicinity of the Cooper Spur Ski Area in T2S, R10E, sections 6 & 7, T1S, R10E, Sections 30 & 31, and T1S, R9E, Section 36 in Hood River County.

The Omnibus Act (Section 1206(a)(2)(G)) prescribes as a condition to the land exchange that the Forest Service reserve wetland and trail easements on the Federal parcels to be exchanged. More specifically, the Omnibus Act requires the U.S. to reserve a conservation easement on the Federal land to protect existing wetland, as identified by the Oregon Department of State Lands, that allows equivalent wetland mitigation measures to compensate for minor wetland encroachments necessary for the orderly development of that land following the exchange. The Omnibus Act also requires the U.S. to reserve a trail easement on the Federal land that allows non-motorized use by the public of existing trails; roads, utilities, and infrastructure facilities to cross the trails; and improvement or relocation of the trails to accommodate development of the Federal land. The Omnibus Act also provides that, on completion of the land exchange, additional lands would be considered part of the Mt. Hood Wilderness and that the Crystal Springs Watershed Special Resource Management Unit would be created.

The environmental impact statement to be prepared will also consider a proposed amendment to the the Mt. Hood National Forest Land and Resources Management Plan (1990), as amended by the Northwest Forest Plan (1994), that will be necessary to assign land use allocations to the acquired lands, change the land use allocations for the new Tilly Jane Wilderness Addition and the Crystal Springs Watershed Special Resource Management Unit, and add standards and guidelines for the Crystal Springs Watershed Special Resource Management Unit upon its creation.

Possible Alternatives

A bill, referred to as the ''Mount Hood Cooper Spur Land Exchange Clarification Act,'' has been introduced in the U.S. Congress that would amend the Omnibus Act to modify certain conditions of the land exchange as described in the proposed action. The proposed modifications set forth in the bill will be analyzed in the environmental impact statement as appropriate, depending upon future congressional developments regarding its status.

Responsible Official

The Responsible Official for this project is the Mt. Hood Forest Supervisor.

Nature of Decision To Be Made

The Responsible Official will decide whether to adopt and implement the proposed action, an alternative to the proposed action, or take no action. It should be noted that, in this context, this decision is necessarily informed and constrained by the Omnibus Act, which provides direction for the proposed action, and therefore, if the Responsible Official finds the congressionally-mandated conditions are satisfied, the Forest Service will execute the land exchange.

Preliminary Issues

A preliminary analysis of potential effects revealed the following preliminary issues:

(1) Camp Creek and an intermittent tributary of Camp Creek run through the Federal parcels. Neither reach of the stream is fish-bearing. Camp Creek is not 303(d)-listed under the Clean Water Act, but it does have water quality issues associated with Government Camp (such as sewage and runoff from the roads). Depending on the type and quality of development that might occur on the parcels after the exchange, the water quality could further decrease. However, the impacts of development should be lessened by the congressionally-mandated conservation easement on the wetland, through which the streams flow. Detailed information is not available regarding fisheries or water quality on the non-Federal parcel.

(2) Surveys for wetlands and floodplains on both parcels have been completed. Wetlands are present on the Federal parcels, and narrow, stream-associated wetlands exist on the non-Federal parcel. It appears that the Forest Service will be conveying more wetlands than would be acquired. In the Omnibus Act (Section 1206(a)(G)(i)), however, Congress mandated that a conservation easement be placed upon the wetlands at Government Camp. The Act directs that the easement protect the wetland and allow for equivalent wetland mitigation measures necessary for the orderly development of the

conveyed land. The acquisition of the wetlands at Cooper Spur and the easement on the wetlands at Government Camp may therefore result in no net loss of wetlands.

(3) A cultural and heritage resource survey was conducted on the Federal parcel. The survey revealed the potential for an adverse effect to a site of archaeological/cultural interest. Mitigation measures will be developed with Tribal and State Historic Preservation Officer (SHPO) consultation.

(4) Trails 755, 755A, and 755B cross the Federal parcels. A trail easement has been congressionally mandated so that non-motorized users would continue to be able to use the trails to get to Federal land, so that roads, utilities, and infrastructure facilities could be built across the trails, and to allow for improvement or relocation of the trails so that development of the conveyed parcels could occur. While the trails (or relocated trails) would still exist, the recreation experience could be negatively impacted by new development (such as buildings and parking lots) or the presence of new infrastructure.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however.

Dated: February 9, 2016.

Lisa A. Northrop,

Mt. Hood Forest Supervisor.

[FR Doc. 2016–03047 Filed 2–12–16; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Eastern Washington Cascades Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Eastern Washington Cascades Provincial Advisory Committee (PAC) will meet in Wenatchee, Washington. The committee is authorized pursuant to the implementation of E–19 of the Record of Decision and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to provide advice and make recommendations to promote a better integration of forest management activities between Federal and non-Federal entities to ensure that such activities are complementary. PAC information can be found at the following Web site: *http://www.fs.usda.gov/main/okawen/workingtogether/advisorycommittees.*

DATES: The meeting will be held from 8:30 a.m. to 3:30 p.m. on Tuesday, March 22.

All PAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Okanogan-Wenatchee National Forest headquarters office located at 215 Melody Lane, Wenatchee, Washington.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at 215 Melody Lane, Wenatchee, Washington. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Public Affairs Specialist Robin DeMario by phone at 509–664–9292 or via email at *rdemario@fs.fed.us*.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is:

1. To provide updates to advisory committee members on Forest Plan Revision, Travel Management Planning, Forest Restoration Strategy, review of the fires that occurred in 2015 on the Okanogan-Wenatchee National Forest, and Burned Area Emergency Response efforts.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by March 14, 2016 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Pubic Affairs Specialist Robin DeMario, 216 Melody Lane, Wenatchee, Washington, 98801; by email to *rdemario@fs.fed.us,* or via facsimile to 509–664–9286.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: February 9, 2016.

Jason Kuiken,

Deputy Forest Supervisor, Okanogan-Wenatchee National Forest.

[FR Doc. 2016–03042 Filed 2–12–16; 8:45 am]

BILLING CODE 3411–15–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

TIME AND DATE: February 23, 2016, 1:00 p.m. EST

PLACE: U.S. Chemical Safety Board, 1750 Pennsylvania Ave. NW., Suite 910, Washington, DC 20006.

STATUS: Open to the public.

Matters To Be Considered

The Chemical Safety and Hazard Investigation Board (CSB) will convene a public meeting on February 23, 2016, starting at 1:00 p.m. EST in Washington, DC at the CSB offices located at 1750 Pennsylvania Avenue NW., Suite 910. The Board will discuss the status of open investigations, advocacy related to the State of California's Process Safety Management (PSM) reforms, on the status of audits from the Office of the Inspector General, financial and organizational updates, and a review of the agency's action plan. An opportunity for public comment will be provided.

Additional Information

The meeting is free and open to the public. If you require a translator or interpreter, please notify the individual listed below as the ''Contact Person for

Further Information,'' at least three business days prior to the meeting.

A conference call line will be provided for those who cannot attend in person. Please use the following dial-in number to join the conference: 1–(888) 466–9863, passcode 6069134#.

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

Public Comment

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

Contact Person for Further Information

Hillary Cohen, Communications Manager, at *public@csb.gov* or (202) 446–8094. Further information about this public meeting can be found on the CSB Web site at: *www.csb.gov.*

Dated: February 11, 2016.

Kara Wenzel,

Acting General Counsel, Chemical Safety and Hazard Investigation Board.

[FR Doc. 2016–03257 Filed 2–11–16; 4:15 pm]

BILLING CODE 6350–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–6–2016]

Foreign-Trade Zone 116—Port Arthur, Texas; Expansion of Subzone 116C; Premcor Refining Group Inc.; Jefferson County, Texas

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Foreign-Trade Zone of Southeast Texas, Inc., grantee of FTZ 116, requesting an expansion of Subzone 116C on behalf of Premcor Refining Group Inc. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on February 9, 2016.

Subzone 116C was approved on October 7, 1996 (Board Order 848, 61 FR 54153–54154, October 17, 1996). The subzone (4,016 acres) currently consists of four sites located in Jefferson County: *Site 1* (3,581 acres)—main refinery complex located at 1801 S. Gulfway Drive, 3 miles southwest of Port Arthur; *Site 2* (101 acres)—Lucas/Beaumont Terminal Storage facility located at 9405 West Port Arthur Road, 15 miles northwest of the refinery; *Site 3* (243 acres)—Fannett LPG storage terminal located at 16151 Craigen Road, near Fannett, some 2 miles west of the refinery; and, *Site 4* (91 acres)—Port Arthur Products storage facility located at 1825 H.O. Mills Road, 4 miles northwest of the refinery.

The applicant is requesting authority to expand the subzone to include an additional site: *Proposed Site 5* (108.2 acres)—2500 Martin Luther King Jr. Drive (Highway 82), Port Arthur. The proposed site would include a 2.7 mile pipeline that links the dock to the main refinery complex (Site 1). No additional authorization for production activity has been requested at this time.

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is March 28, 2016. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to April 11, 2016.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: February 10, 2016.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–03072 Filed 2–12–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–037]

Certain Biaxial Integral Geogrid Products From the People's Republic of China: Initiation of Countervailing Duty Investigation

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

DATES: *Effective date:* February 16, 2016.

FOR FURTHER INFORMATION CONTACT: Kabir Archuletta, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202.482.2593.

SUPPLEMENTARY INFORMATION:

The Petition

On January 13, 2016, the Department of Commerce (the ''Department'') received a countervailing duty (''CVD'') petition concerning imports of certain biaxial integral geogrid products (''geogrids'') from the People's Republic of China (''PRC''), filed in proper form by Tensar Corporation (''Petitioner''), a domestic producer of geogrids. The CVD petition was accompanied by an antidumping duty (''AD'') petition concerning imports of geogrids from the PRC.[1] On January 15, and January 21, 2016, the Department issued additional requests for information and clarification of certain areas of the Petition. Based on the Department's requests, Petitioner timely filed additional information pertaining to the Petition on January 20, and 27, 2016.[2]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the ''Act''), Petitioner alleges that producers/exporters of geogrids in the PRC received countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that imports from these producers/exporters materially injure, or threaten material injury to, an industry in the United States.

The Department finds that Petitioner filed this Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act, and Petitioner has demonstrated sufficient industry

[1] *See* the Petitions for the Imposition of Antidumping Duties and Countervailing Duties: Certain Biaxial Integral Geogrid Products from the People's Republic of China, dated January 13, 2016 (''the Petition'').

[2] *See* Petitioner's January 20 and 27, 2016, responses.

support with respect to the CVD investigation that it is requesting the Department to initiate.[3]

Furthermore, the Department has exercised its discretion to toll deadlines as a result of the closure of the Federal Government during Snowstorm ''Jonas.'' [4] Therefore, the initiation date for this investigation has been tolled by 4 business days.

Period of Investigation

The period of investigation (''POI'') is calendar year 2015, in accordance with 19 CFR 351.204(b)(2).

Scope of the Investigation

The product covered by this investigation is geogrids from the PRC. For a full description of the scope of the investigation, *see* the ''Scope of the Investigation'' at the Appendix of this notice.

Comments on the Scope of the Investigation

During our review of the Petition, we solicited information from Petitioner to ensure that the proposed scope language is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations,[5] we are setting aside a period for interested parties to raise issues regarding product coverage. If scope comments include factual information,[6] all such factual information should be limited to public information. The Department encourages all interested parties to submit such comments by 5:00 p.m. Eastern Time (''ET'') on February 29, 2016, which is 20 calendar days from the signature date of this notice.[7] Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on March 10, 2016, which is 10 calendar days after the initial comments.

The Department requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the record of the concurrent AD investigation.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by the time and date set by the Department. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the deadline established by the Department.

Consultations

Pursuant to section 702(b)(4)(A)(i) of the Act, the Department notified representatives of the Government of China (GOC) of the receipt of the Petition. Also, in accordance with section 702(b)(4)(A)(ii) of the Act, the Department provided representatives of the GOC the opportunity for consultations with respect to the CVD petition. The GOC did not accept our invitation to hold consultations before the initiation.[8]

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (''ITC''), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,[9] they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[10]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition).

With regard to the domestic like product, Petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that geogrids, as defined in the scope, constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product.[11]

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[3] *See* ''Determination of Industry Support for the Petition'' below.

[4] *See* Memorandum for the Record from Ron Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, ''Tolling of Administrative Deadlines as a Result of the Government Closure during Snowstorm 'Jonas,' '' (January 27, 2016).

[5] *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[6] *See* 19 CFR 351.102(b)(21).

[7] The 20th day falls on February 28, 2016. As this is a Sunday, we are applying our Next Business Day Rule. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR24533 (May 10, 2005).

[8] *See* Letter to Liu Fang, First Secretary, Embassy of the People's Republic of China, re: ''Countervailing Duty Petition on Certain Biaxial Integral Geogrid Products from the People's Republic of China: Invitation for Consultations to Discuss the Countervailing Duty Petition,'' dated January 14, 2016.

[9] *See* section 771(10) of the Act.

[10] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[11] For a discussion of the domestic like product analysis in this case, *see* Countervailing Duty

In determining whether Petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in Appendix I of this notice. To establish industry support, Petitioner provided its own production of the domestic like product in 2015.[12] On February 1, 2016, we received a letter from the only other known U.S. producer of geogrids, Tenax Corporation (''Tenax''), stating that the company supports the Petition.[13] Tenax also provided its own production of the domestic like product in 2015.[14] Petitioner states that, based on reasonably available information regarding the U.S. geogrids industry, there are no other known producers of geogrids in the United States; therefore, the Petition is supported by 100 percent of the U.S. industry.[15]

Our review of the data provided in the Petition, General Issues Supplement, letters from Tenax, and other information readily available to the Department indicates that Petitioner has established industry support.[16] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling).[17] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[18] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[19] Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department initiate.[20]

Injury Test

Because the PRC is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[21]

Petitioner contends that the industry's injured condition is illustrated by reduced market share; underselling and price suppression or depression; negative impact on the domestic industry's performance, including capacity utilization, shipments, and operating income; and lost sales and revenues.[22] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.[23]

Initiation of Countervailing Duty Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD proceeding whenever an interested party files a CVD petition on behalf of an industry that: (1) Alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the Petitioner supporting the allegations.

The Department has examined the Petition on geogrids from the PRC and finds that it complies with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether producers/exporters of geogrids in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see* the CVD Initiation Checklist which accompanies this notice.

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation of 32 of the alleged programs, and part of two additional alleged programs. For six of the programs alleged by Petitioner, we have determined that the requirements for initiation have not been met. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* the CVD Initiation Checklist.

Respondent Selection

The Department normally selects respondents in a CVD investigation using CBP entry data. However, for this investigation, the HTSUS numbers the subject merchandise would enter under, 3926.90.9995, 3920.20.0050, and 3925.90.0000, are basket categories containing many products unrelated to geogrids, and much of the reported entry data do not contain quantity information. Therefore, we cannot rely on CBP entry data in selecting respondents. Instead, we intend to issue quantity and value (''Q&V'')

Investigation Initiation Checklist: Certain Biaxial Integral Geogrid Products from the People's Republic of China (''PRC CVD Initiation Checklist''), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Biaxial Integral Geogrid Products from the People's Republic of China (''Attachment II''). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[12] *See* General Issues Supplement, at 13.

[13] *See* Letter from Tenax Corporation, dated January 28, 2016. We note that, although this letter is dated January 28, 2016, it was filed after 5:00 p.m. on January 29, 2016 (via ACCESS); therefore, we consider it received on the next business day (February 1, 2016).

[14] *See* Letter from Tenax Corporation, dated January 28, 2016.

[15] *See* Volume I of the Petition, at 2–15 and Exhibits I–1 through I–4, I–6 through I–34, I–44, and I–52 through I–58; *see also* Letter from Tenax Corporation, dated February 1, 2016, at 1.

[16] *See* PRC CVD Initiation Checklist, at Attachment II.

[17] *See* section 702(c)(4)(D) of the Act; *see also* PRC CVD Initiation Checklist, at Attachment II.

[18] *See* PRC CVD Initiation Checklist, at Attachment II.

[19] *Id.*

[20] *Id.*

[21] *See* Volume I of the Petition, at 34 and Exhibit I–4; *see also* General Issues Supplement, at 19.

[22] *See* Volume I of the Petition, at 24–28, 32–45 and Exhibits I–4, I–35, I–39 through I–43, I–47, I–50, and I–51; *see also* General Issues Supplement, at 13–24 and Exhibits Supp. I–1 through I–5, I–10 through I–12, and I–43.

[23] *See* PRC CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Biaxial Integral Geogrid Products from the People's Republic of China.

questionnaires to each potential respondent, for which the Petitioner has provided a complete address,[24] and base respondent selection on the responses received. In addition, the Department will post the Q&V questionnaire along with the filing instructions on the Enforcement and Compliance Web site (*http://trade.gov/enforcement/news.asp*). Exporters and producers that do not receive Q&V questionnaires via mail may still submit a Q&V response, and can obtain a copy from the Enforcement and Compliance Web site. The Q&V questionnaire must be submitted by all PRC exporters/producers no later than February 22, 2016.

All Q&V responses must be filed electronically via ACCESS. An electronically-filed document must be received successfully in its entirety by ACCESS, by 5 p.m. ET by the date noted above. We intend to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at *http://enforcement.trade.gov/apo.*

Distribution of Copies of the CVD Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), we have provided a copy of the public version of the Petition to the representatives of the GOC. Because of the particularly large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the petition to the foreign producers/exporters satisfied by the delivery of the public version to the GOC, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of geogrids from the PRC materially injure, or threaten material injury to, a U.S. industry.[25] A negative ITC determination will result in the investigation being terminated.[26] Otherwise, the investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The regulation requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Parties should review the regulations prior to submitting factual information in this investigation.

Extension of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[27] Parties are hereby reminded that the Department issued a final rule with respect to certification requirements, effective August 16, 2013, and that the revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any AD or CVD proceedings initiated on or after August 16, 2013, including this investigation, should use the formats for the revised certifications provided at the end of the *Certifications Final Rule.*[28] The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at *http://enforcement.trade.gov/apo/index.html.*

This notice is issued and published pursuant to section 777(i) of the Act and 19 CFR 351.203(c).

Dated: February 8, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The merchandise covered by the investigation is certain biaxial integral geogrid products. Biaxial integral geogrid products are a polymer grid or mesh material (whether or not finished, slit, cut-to-length, attached to woven or non-woven fabric or sheet material, or packaged) in which four-sided openings in the form of squares, rectangles, rhomboids, diamonds, or other four-sided figures predominate. The products covered have integral strands that have been stretched to induce molecular orientation into the material (as evidenced by the strands being thinner toward the middle between the junctions than at the junctions themselves)

[24] *See* Volume I of the Petition at Exhibit I–37.

[25] *See* section 703(a)(2) of the Act.

[26] *See* section 703(a)(1) of the Act.

[27] *See* section 782(b) of the Act.

[28] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Certifications Final Rule*''); *see also* the frequently asked questions regarding the *Certifications Final Rule,* available at the following: *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

constituting the sides of the openings and integral junctions where the strands intersect. The scope includes products in which four-sided figures predominate whether or not they also contain additional strands intersecting the four-sided figures and whether or not the inside corners of the four-sided figures are rounded off or not sharp angles. As used herein, the term ''integral'' refers to strands and junctions that are homogenous with each other. The products covered have a tensile strength of greater than 5 kilonewtons per meter (''kN/m'') according to American Society for Testing and Materials (''ASTM'') Standard Test Method D6637/D6637M in any direction and average overall flexural stiffness of more than 100,000 milligram-centimeter according to the ASTM D7748/D7748M Standard Test Method for Flexural Rigidity of Geogrids, Geotextiles and Related Products, or other equivalent test method standards.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise further processed in a third country, including by trimming, slitting, coating, cutting, punching holes, stretching, attaching to woven or non-woven fabric or sheet material, or any other finishing, packaging, or other further processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the biaxial integral geogrid.

The products subject to the scope are currently classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') under the following subheading: 3926.90.9995. Subject merchandise may also enter under subheadings 3920.20.0050 and 3925.90.0000. The HTSUS subheadings set forth above are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

[FR Doc. 2016–03071 Filed 2–12–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–967; C–570–968]

Aluminum Extrusions From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Scope Ruling and Notice of Amended Final Scope Ruling Pursuant to Court Decision

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

SUMMARY: On January 20, 2016, the United States Court of International Trade (CIT or Court) sustained the Department of Commerce's (Department) third and final results of redetermination,[1] in which the Department determined, under protest, that certain refrigerator/freezer trim kits meet the description of excluded finished goods kits and are therefore not covered by the scope of the *Orders,*[2] pursuant to the CIT's remand order in *Meridian LLC* v. *United States,* Court No. 13–00018, Slip Op. 15–67 (CIT June 23, 2015) (*Meridian IV*).

Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken,*[3] as clarified by *Diamond Sawblades,*[4] the Department is notifying the public that the Court's final judgment in this case is not in harmony with the Department's Final Scope Ruling on Refrigerator Trim Kits and is therefore amending its final scope ruling.[5]

DATES: *Effective date:* January 30, 2016.

FOR FURTHER INFORMATION CONTACT: James Terpstra, AD/CVD Operations, Office III, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–3965.

SUPPLEMENTARY INFORMATION: On December 17, 2012, the Department issued its Final Scope Ruling on Refrigerator Trim Kits in which it determined that the refrigerator/freezer trim kits imported by Meridian LLC (Meridian) did not meet the scope exclusions for ''finished merchandise'' and ''finished goods kits.'' [6] In particular, the Department held that because the trim kits at issue consisted of pieces of aluminum extrusions plus fasteners and extraneous materials, they did not meet either scope exclusion. Therefore, the Department found the products at issue to be within the scope of the *Orders.*[7]

As discussed in further detail in the Third Remand, the Court remanded the Final Scope Ruling on Refrigerator Trim Kits three times.[8] Most recently, in *Meridian IV,* the Court held that the Department's long-standing recognition of a ''fasteners'' exception to the ''finished goods kit'' exclusion is unreasonable, finding that ''the inclusion of 'fasteners' or 'extraneous materials' is not determinative when qualifying a kit consistent of multiple parts which otherwise meets the exclusionary requirements, as a 'finished goods kit.' '' [9] Additionally, the Court explained that there is nothing in the scope language that indicates that the parts of a finished goods kit cannot consist entirely of aluminum extrusions.[10] The Court explained that ''to qualify as a 'finished goods kit', a kit must contain every part required to assemble the final finished good, and it logically follows that if a kit is imported with all of the parts necessary to fully assemble the kit into its final finished form, then obviously (and necessarily) some of those 'parts' may be fasteners.'' [11]

In the Third Remand, the Department found, in accordance with the Court's instructions in *Meridian IV,* under respectful protest, that Meridian's trim kits are excluded from the scope of the *Orders* as finished goods kits because at the time of importation, the kits contained all the parts necessary to assemble a final finished good—a complete trim kit.[12] In *Meridian V,* the Court sustained the Third Remand in its entirety.[13]

Timken Notice

In its decision in *Timken* [14] as clarified by *Diamond Sawblades,* the CAFC has held that, pursuant to sections 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's January 20, 2016, judgment in *Meridian V* sustaining the Department's decision in the Third Remand to find

[1] *See Meridian LLC* v. *United States,* Court No. 13–00018, Slip Op. 16–5 (CIT January 20, 2016) (*Meridian V*), which sustained the Final Results of Redetermination Pursuant to Court Remand, *Meridian Products, LLC* v. *United States,* Court No. 13–00018, Slip. Op. 15–67 (Oct. 29, 2015) (Third Remand).

[2] *See Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order,* 76 FR 30650 (May 26, 2011) and *Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order,* 76 FR 30653 (May 26, 2011) (*Orders*).

[3] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

[4] *See Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

[5] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Final Scope Ruling on Certain Refrigerator/Freezer Trim Kits,'' (December 17, 2012) (Final Scope Ruling on Refrigerator Trim Kits).

[6] The finished goods kit exclusion states: ''A finished goods kits is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled 'as is' into a finished product.'' The scope further states that, ''{a}n imported product will not be considered a 'finished goods kit'' and therefore excluded from the scope of the investigation merely by including fasteners such as screws, bolts, etc. in the packaging with an aluminum extrusion product.''

[7] *See* Final Scope Ruling on Refrigerator Trim Kits at 11.

[8] *See* Third Remand at 6–10.

[9] *See Meridian IV,* Slip Op. 15–67 at 12–13.

[10] *Id.*

[11] *Id.* at 14 (emphasis omitted).

[12] *See* Third Remand at 14.

[13] *See Meridian V,* Slip Op. 16–5 at 4.

[14] *See Timken,* 893 F.2d at 341.

that Meridian's trim kits are excluded from the scope of the *Orders* constitutes a final decision of that court that is not in harmony with the Department's Final Scope Ruling on Refrigerator Trim Kits. This notice is published in fulfillment of the publication requirements of *Timken.* Accordingly, the Department will continue the suspension of liquidation of the trim kits at issue pending expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

In accordance with the Courts instructions in *Meridian IV,* we determine that Meridian's trim kits are excluded from the scope of the *Orders* as finished goods kits.

Amended Final Determination

Because there is now a final court decision with respect to the Final Scope Ruling on Refrigerator Trim Kits, the Department amends its final scope ruling. The Department finds that the scope of the *Orders* does not cover the products addressed in the Final Scope Ruling on Refrigerator Trim Kits. The Department will instruct U.S. Customs and Border Protection (CBP) that the cash deposit rate will be zero percent for the refrigerator/freezer trim kits imported by Meridian. In the event that the CIT's ruling is not appealed, or if appealed, upheld by the CAFC, the Department will instruct CBP to liquidate entries of Meridian's Refrigerator Trim Kits without regard to antidumping and/or countervailing duties, and to lift suspension of liquidation of such entries.

This notice is issued and published in accordance with section 516A(c)(1) of the Act.

Dated: February 8, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–02998 Filed 2–12–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–824]

Polyethylene Terephthalate Film, Sheet, and Strip From India: Final Results of Antidumping Duty Administrative Review; 2013–2014

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

SUMMARY: For the final results of the administrative review of the antidumping duty (AD) order on polyethylene terephthalate film, sheet, and strip (PET Film) from India, we find that Jindal Poly Films Limited (Jindal) and the four-non selected respondents made sales of subject merchandise at less than normal value; we also find that SRF Limited (SRF) did not make sales of subject merchandise at less than normal value. The period of review is July 1, 2013, through June 30, 2014.

DATES: *Effective date:* February 16, 2016.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo or Alexander Cipolla, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2371 and (202) 482–4956, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 2015, the Department of Commerce (the Department) published the *Preliminary Results.*[1] For a history of events that have occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[2] The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://trade.gov/login.aspx.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

As explained in the memorandum from the Acting Assistant Secretary for Enforcement & Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the final results of this review is now February 8, 2016.[3]

Scope of the Order

The products covered by the AD order are all gauges of raw, pretreated, or primed PET Film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET Film are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00.90. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the AD order is dispositive.

Analysis of Comments Received

All issues raised in the case briefs are addressed in the Issues and Decision Memorandum. A list of issues raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as an Appendix.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we have made changes to SRF's and Jindal's calculations.[4] In addition, we have adjusted Jindal's reported U.S. prices to account for changes in its export subsidies in the final results of the companion countervailing duty administrative review.[5]

Additionally, for companies not selected for individual review, we have assigned the rate calculated for Jindal in the final results of this review, in accordance with section 735(c)(5) of the Act.

[1] *See Polyethylene Terephthalate Film, Sheet, and Strip From India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2013–2014,* 80 FR 46957 (August 6, 2015) (*Preliminary Results*).

[2] *See* Department Memorandum, ''Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Polyethylene Terephthalate Film From India; 2013–2014 Administrative Review'' (Issues and Decision Memorandum), dated concurrently with, and hereby adopted by, this notice.

[3] *See* Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding ''Tolling of Administrative Deadlines as a Result of the Government Closure During Snowstorm Jonas,'' dated January 27, 2016.

[4] *See* Memoranda to Thomas Gilgunn, Program Manager ''Analysis Memorandum for the Final Results of the Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from India: Jindal Poly Films Limited, and ''Analysis Memorandum for the Final Results of the Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from India: SRF Limited,'' both dated concurrently with these final results.

[5] *See Polyethylene Terephthalate Film, Sheet, and Strip From India: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review; 2013,* 80 FR 46956 (August 3, 2015). *See also* Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review; 2013 (signed February 2, 2016).

Final Results of Review

As a result of our review, we determine the following weighted-average dumping margins exist for the period July 1, 2013, through June 30, 2014.

Producer or exporter	Weighted-average dumping margin (percent)
Jindal Poly Films Limited[6] ...	0.59
SRF Limited	0.00
Ester Industries Limited	0.59
Garware Polyester Ltd	0.59
Polyplex Corporation Limited	0.59
Vacmet	0.59

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), the Department determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise, in accordance with the final results of this review. The Department will issue assessment instructions to CBP 15 days after the date of publication of the final results of review. We will instruct CBP to liquidate entries of merchandise produced and/or exported by the aforementioned companies. The Department will calculate importer-specific assessment rates for Jindal. Where the respondent reported the entered value for its sales, the Department calculates importer-specific *ad valorem* assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of those same sales.[7] However, where the respondent did not report the entered value for its sales, the Department calculates importer-specific per-unit duty assessment rates. We will instruct CBP to apply an *ad valorem* assessment rate as indicated above to all entries of subject merchandise during the POR which were produced and/or exported by the four non-selected companies Ester Industries Limited, Garware Polyester Ltd, Polyplex Corporation Limited, and Vacmet. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries produced and/or exported by SRF during the POR.[8]

[6] The Initiation Notice lists the company as Jindal Poly Films Limited of India.

[7] *See* 19 CFR 351.212(b).

[8] *See* 19 CFR 351.106(c)(1).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of PET Film from India entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the company under review will be equal to the weighted-average dumping margin established in the final results of this review (except, if the rate is *de minimis, i.e.,* less than 0.5 percent, then the cash deposit rate will be zero); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period for that company; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established in the completed segment for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any other completed segment of this proceeding, then the cash deposit rate will be the all others rate for this proceeding, 5.71 percent. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

Notifications to Interested Parties

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

The Department is issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 8, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

I. Summary
II. Background
Scope of the Order
III. Discussion of the Issues
Comment 1: Whether To Exclude Certain Sales From the Margin Calculation
Comment 2: Whether To Grant a Quantity Discount Adjustment to Jindal
Comment 3: G&A Expense and Interest Expense Ratio
Comment 4: Differential Pricing

[FR Doc. 2016–03083 Filed 2–12–16; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–001]

Potassium Permanganate From the People's Republic of China: Preliminary Results of the 2014 Antidumping Duty Administrative Review

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

SUMMARY: In response to a request by Pacific Accelerator Limited (''PAL''), the Department of Commerce (the ''Department'') is conducting an administrative review of the antidumping duty (''AD'') order on potassium permanganate from the People's Republic of China (the ''PRC'') for the period of review (''POR'') January 1, 2014, through December 31, 2014.[1] The Department preliminarily determines that PAL sold subject merchandise in the United States at prices below normal value (''NV'') during the POR. If these preliminary results are adopted in the final results, the Department will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

DATES: Effective February 16, 2016.

FOR FURTHER INFORMATION CONTACT: Paul Walker or Javier Barrientos, AD/CVD

[1] *See Antidumping Duty Order: Potassium Permanganate from the People's Republic of China,* 49 FR 3897 (January 31, 1984).

Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone 202–482–0413 or 202–482–2243, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 2, 2015, the Department initiated an administrative review of the antidumping order on potassium permanganate from the PRC.[2] Between April and September 2015, the Department sent AD questionnaires and supplemental questionnaires to PAL, to which it responded in a timely manner. On October 5, 2015, the Department partially extended the deadline for issuing the preliminary results until November 2, 2015.[3] On October 27, 2015, the Department fully extended the deadline for issuing the preliminary results until February 1, 2016.[4] As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the preliminary results of this administrative review is now February 5, 2016.[5]

Scope of the Order

Imports covered by the order are shipments of potassium permanganate, an inorganic chemical produced in free-flowing, technical, and pharmaceutical grades. Potassium permanganate is currently classifiable under item 2841.61.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS item number is provided for convenience and customs purposes, the written description of the merchandise remains dispositive.

Methodology

The Department conducted this review in accordance with sections 751(a)(1)(B) and 751(a)(2)(A) of the Tariff Act of 1930, as amended (the ''Act''). Export prices have been calculated in accordance with section 772 of the Act. Because the PRC is a non-market economy (''NME'') within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement aCnd Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/*. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

PRC-Wide Entity

The Department's change in policy regarding conditional review of the PRC-wide entity applies to this administrative review.[6] Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity in this review, the entity is not under review and the entity's rate (*i.e.,* 128.94 percent) is not subject to change.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist for the period January 1, 2014, through December 31, 2014:

Exporter	Weighted-average margin (USD/kilogram)
Pacific Accelerator Limited	2.20

Disclosure, Public Comment and Opportunity To Request a Hearing

The Department will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs within 30 days after the date of publication of these preliminary results of review in the **Federal Register**.[7] Rebuttals to case briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the time limit for filing case briefs.[8] Parties who submit arguments are requested to submit with the argument (a) a statement of the issue, (b) a brief summary of the argument, and (c) a table of authorities.[9] Parties submitting briefs should do so pursuant to the Department's electronic filing system, ACCESS.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a date and time to be determined. *See* 19 CFR 351.310(d). Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

The Department intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 80 FR 11166 (March 2, 2015) (''*Initiation Notice*'').

[3] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Potassium Permanganate from the People's Republic of China: Extension of Deadline for Preliminary Results of 2014 Antidumping Duty Administrative Review,'' dated October 5, 2015.

[4] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Potassium Permanganate from the People's Republic of China: Extension of Deadline for Preliminary Results of 2014 Antidumping Duty Administrative Review,'' dated October 27, 2015.

[5] *See* Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding ''Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas,'' dated January 27, 2016.

[6] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[7] *See* 19 CFR 351.309(c)(1)(ii).

[8] *See* 19 CFR 351.309(d)(1)–(2).

[9] *See* 19 CFR 351.309(c)(2), (d)(2).

shall assess, antidumping duties on all appropriate entries covered by this review.[10] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

For any individually examined respondent whose weighted average dumping margin is above *de minimis* (*i.e.,* 0.50 percent) in the final results of this review, the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of sales, in accordance with 19 CFR 351.212(b)(1). Where an importer- (or customer-) specific *ad valorem* rate is greater than *de minimis,* the Department will instruct CBP to collect the appropriate duties at the time of liquidation.[11] Where either a respondent's weighted average dumping margin is zero or *de minimis,* or an importer- (or customer-) specific *ad valorem* is zero or *de minimis,* the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[12]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis,* then zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

[10] *See* 19 CFR 351.212(b).

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

[12] *See* 19 CFR 351.106(c)(2).

Notification to Importers

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

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 8, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Case History
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4. Discussion of the Methodology
   a. Non-Market Economy Country Status
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   c. Surrogate Country
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5. Recommendation

[FR Doc. 2016–03073 Filed 2–12–16; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–825]

Polyethylene Terephthalate Film, Sheet, and Strip From India: Final Results of Countervailing Duty Administrative Review; 2013

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

SUMMARY: On August 6, 2015, the Department published the preliminary results of the administrative review of the countervailing duty order on polyethylene terephthalate film, sheet, and strip (PET film) from India.[1] The period of review (POR) is January 1, 2013, through December 31, 2013.[2] Based on an analysis of the comments received, the Department has made changes to the subsidy rate determined for Jindal Poly Films Limited (Jindal). The final subsidy rates are listed in the ''Final Results of Administrative Review'' section below.

DATES: *Effective date:* February 16, 2016.

FOR FURTHER INFORMATION CONTACT: Elfi Blum, AD/CVD Operations, Office VII, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0197.

Scope of the Order

For the purposes of the order, the products covered are all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet and strip, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00.90. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the order is dispositive.

Analysis of Comments Received

The issues raised by Petitioners [3] and Jindal in their case briefs, and Petitioners' rebuttal brief, are addressed in the Issues and Decision Memorandum.[4] The issues are

[1] *See Polyethylene Terephthalate Film, Sheet and Strip From India: Preliminary Results And Partial Rescission of Countervailing Duty Administrative Review; 2013,* 80 FR 46956 (August 6, 2015) (*Preliminary Results 2013*).

[2] As explained in the memorandum from the Acting Assistant Secretary for Enforcement & Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the final results of this review is now February 8, 2016. *See* Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding ''Tolling of Adminstrative Deadlines as a Result of the Government Closure During Snowstorm Jonas,'' dated January 27, 2016.

[3] DuPont Teijin Films, Inc., Mitsubishi Polyester Film, Inc. and SKC, Inc. (collectively, ''Petitioners'').

[4] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Issues and Decision Memorandum for the Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India; 2013,'' dated concurrently with this notice and herein

Continued

identified in the Appendix to this notice. 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 directly on the Internet at *http://trade.gov/enforcement/frn/index.html.* The signed Issues and Decision Memorandum and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on the comments received from Petitioners and Jindal, we adjusted the numerators used in Jindal's subsidy rate calculations for the Export Promotion Capital Goods Scheme (EPCGS) and the Duty Drawback (DDB) programs. For a discussion of these issues, *see* the Issues and Decision Memorandum and Memorandum to the File from Elfi Page, International Trade Compliance Analyst, titled ''Final Results of 2013 Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India-Jindal Polyfilms Limited,'' each dated concurrently with these final results.

Methodology

The Department conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we find that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[5] For a description of the methodology underlying all of the Department's conclusions, see the Issues and Decision Memorandum.

Companies Not Selected for Individual Review

For the companies not selected for individual review (Ester, Garware, Polyplex, Vacmet, and Vacmet India Limited), because the rates calculated for Jindal and SRF were above *de minimis* and not based entirely on facts available, we applied a subsidy rate based on a weighted average of the subsidy rates calculated for Jindal and SRF using publicly ranged sales data submitted by respondents.[6]

Final Results of Administrative Review

In accordance with section 777A(e)(1) of the Act and 19 CFR 351.221(b)(5), we determine the total estimated net countervailable subsidy rates for the period January 1, 2013, through December 31, 2013 to be:

Manufacturer/exporter	Subsidy rate (percent *ad valorem*)
Jindal Poly Films of India Limited	8.90
SRF Limited	2.11
Ester Industries Limited	6.09
Garware Polyester Ltd.	6.09
Polyplex Corporation Ltd.	6.09
Vacmet	6.09
Vacmet India Limited	6.09

Assessment and Cash Deposit Requirements

In accordance with 19 CFR 351.212(b)(2), the Department intends to issue appropriate instructions to U.S. Customs and Border Protection (CBP) 15 days after publication of the final results of this review. The Department will instruct CBP to liquidate shipments of subject merchandise produced and/or exported by the companies listed above, entered or withdrawn from warehouse, for consumption from January 1, 2013, through December 31, 2013, at the percent rates, as listed above for each of the respective companies, of the entered value.

The Department intends also to instruct CBP to collect cash deposits of estimated countervailing duties, in the amounts shown above for each of the respective companies shown above, on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits at the most-recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a final reminder to parties subject to an 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(a)(3), which continues to govern business proprietary information in this segment of proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 8, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Issues and Decision Memorandum

I. Summary
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A. Allocation Period
B. Benchmarks Interest Rates
C. Denominator
IV. Analysis of Programs
A. Programs Determined To Be Countervailable
B. Programs Determined To Be Not Used or To Provide No Benefit During the POR
V. Analysis of Comments
Comment 1: Whether the Department Wrongly Countervailed Export Promotion Capital Goods Scheme (EPCGS) Benefits That Apply to Non-Subject Merchandise.
Comment 2: Whether the Department Used the Wrong Numerator To Calculate the POR Benefit For the Status Holder Incentive Scheme (SHIS).
Comment 3: Whether the Value Added Tax (VAT) and Central Sales Tax (CST) Refunds Under the Industrial Promotion Subsidy (IPS) of the State Government of Maharashtra's (SGOM) Package Scheme of Incentives (PSI) Is Countervailable.
Comment 4: Whether the Department Double Counted One of the EPCGS Licences Reported by Jindal and Failed To Include the Benefit of Another License in Its Rate Calculations for Jindal

incorporated by reference (Issues and Decision Memorandum).

[5] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and, section 771(5A) of the Act regarding specificity.

[6] The statute and the Department's regulations do not directly address the establishment of rates to be applied to companies not selected for individual examination where the Department limited its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, the Department normally determines the rates for non-selected companies in reviews in a manner that is consistent with section 705(c)(5) of the Act, which provides instructions for calculating the all others rate in an investigation. Section 705(c)(5)(A) of the Act instructs the Department to calculate an all others rate using the weighted average of the subsidy rates established for the producers/exporters individually examined, excluding any zero, de minimis, or facts available rates. In this review, calculating the non-selected rate by weight averaging Jindal's and SRF's rates risks disclosure of proprietary information. Therefore, we calculated the rate for the non-selected companies by weight averaging the rates of Jindal and SRF using publicly-ranged sales data.

Comment 5: Whether the Department Used the Wrong Figure To Calculate the Duty Drawback Subsidy for Jindal

[FR Doc. 2016–03082 Filed 2–12–16; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–036]

Certain Biaxial Integral Geogrid Products From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation

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

DATES: *Effective date:* February 16, 2016.

FOR FURTHER INFORMATION CONTACT: Julia Hancock at (202) 482–1394 and Susan Pulongbarit (202) 482–4031, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On January 13, 2016, the Department of Commerce (''the Department'') received an antidumping duty (''AD'') petition concerning imports of certain biaxial integral geogrid products (''geogrids'') from the People's Republic of China (''PRC''), filed in proper form on behalf of Tensar Corporation (''Petitioner'').[1] The AD petition was accompanied by a countervailing duty (''CVD'') petition for the PRC.[2] Petitioner is a domestic producer of geogrids.[3]

On January 15, 2016, the Department requested additional information and clarification of certain areas of the Petition,[4] and Petitioner timely filed responses to these requests on January 20, 2016.[5] On January 26, 2016, the Department requested additional information and clarification on the calculation of AD margins,[6] and Petitioner timely filed a response to this request on January 28, 2016.[7] On January 27, 2016, the Department determined to toll all deadlines four business days as a result of the Federal Government closure during snowstorm Jonas, which is applicable to this initiation.

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the initiation of this investigation is now February 8, 2016.[8]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the ''Act''), Petitioner alleges that imports of geogrids from the PRC are being, or are likely to be, sold in the United States at less-than-fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to Petitioner supporting its allegations.

The Department finds that Petitioner filed these Petitions on behalf of the domestic industry because Petitioner is an interested party as defined in section 771(9)(C) of the Act. The Department also finds that Petitioner demonstrated sufficient industry support with respect to the initiation of the AD investigation that Petitioner is requesting.[9]

Period of Investigation

Because the AD Petition was filed on January 13, 2015, the period of investigation (''POI'') is, pursuant to 19 CFR 351.204(b)(1), July 1, 2015, through December 31, 2015.

Scope of the Investigation

The products covered by this investigation are geogrids from the PRC. For a full description of the scope of this investigation, *see* the ''Scope of the Investigation,'' in Appendix I of this notice.

Comments on Scope of the Investigation

During our review of the AD and CVD Petitions, the Department issued questions to, and received responses from, Petitioner pertaining to the proposed scope to ensure that the scope language in the Petition would be an accurate reflection of the products for which the domestic industry is seeking relief.[10]

As discussed in the preamble to the Department's regulations,[11] we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* the scope). The Department will consider all comments received from parties and, if necessary, will consult with parties prior to the issuance of the preliminary determination. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. In order to facilitate preparation of its questionnaires, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (''ET'') on February 29, 2016, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on March 10, 2016, which is 10 calendar days after the initial comments deadline.

The Department requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System

[1] *See* the Petitions for the Imposition of Antidumping Duties and Countervailing Duties: Certain Biaxial Integral Geogrid Products from the People's Republic of China, dated January 13, 2016 (''the Petition'').

[2] *Id.*

[3] *See* Volume I of the Petition at 2.

[4] *See* Letters from the Department to Petitioner entitled ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Biaxial Integral Geogrid Products from the People's Republic of China: Supplemental Questions,'' January 15, 2016 (''General Issues Supplemental Questionnaire''); and ''Petition for the Imposition of Antidumping Duties on Certain Biaxial Integral Geogrid Products from the People's Republic of China,'' dated January 15, 2016 (''AD Supplemental Questionnaire'').

[5] *See* Petitioner's Response to the AD Supplemental Questionnaire, dated January 20, 2016 (''AD Petition Supplement'') and Petitioner's Response to the General Issues Supplemental Questionnaire, dated January 20, 2016 (''General Issues Supplement'').

[6] *See* Letter from the Department to Petitioner entitled ''Petition for the Imposition of Antidumping Duties on Imports of Certain Biaxial Integral Geogrid Products from the People's Republic of China: Supplemental Questions,'' January 26, 2016 (''Second AD Supplemental Questionnaire'').

[7] *See* Petitioner's January 28, 2016 submission (''Second AD Petition Supplement'').

[8] *See* Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding ''Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas,''' dated January 27, 2016.

[9] *See* the ''Determination of Industry Support for the Petition'' section below.

[10] *See* General Issues Supplemental Questionnaire and General Issues Supplement.

[11] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997).

(''ACCESS'').[12] An electronically filed document must be received successfully in its entirety by the time and date when it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics for AD Questionnaires

The Department requests comments from interested parties regarding the appropriate physical characteristics of geogrids to be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors and costs of production as accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics and (2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe geogrids, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all comments must be filed by 5:00 p.m. ET on February 29, 2016, which is twenty calendar days from the signature date of this notice. Any rebuttal comments must be filed by 5:00 p.m. ET on March 4, 2016. All comments and submissions to the Department must be filed electronically using ACCESS.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (''ITC''), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,[13] they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[14]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition).

With regard to the domestic like product, Petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that geogrids, as defined in the scope, constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product.[15]

In determining whether Petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in Appendix I of this notice. To establish industry support, Petitioner provided its own production of the domestic like product in 2015.[16] On February 1, 2016, we received a letter from the only other known U.S. producer of geogrids, Tenax Corporation (''Tenax''), stating that the company supports the Petition.[17] Tenax also provided its own production of the domestic like product in 2015.[18] Petitioner states that, based on reasonably available information regarding the U.S. geogrids industry, there are no other known producers of

[12] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

[13] *See* section 771(10) of the Act.

[14] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[15] For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Certain Biaxial Integral Geogrid Products from the People's Republic of China (''PRC AD Initiation Checklist''), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Biaxial Integral Geogrid Products from the People's Republic of China (''Attachment II''). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[16] *See* General Issues Supplement, at 13.

[17] *See* Letter from Tenax Corporation, dated January 28, 2016. We note that, although this letter is dated January 28, 2016, it was filed after 5:00 p.m. on January 29, 2016 (via ACCESS); therefore, we consider it received on the next business day (February 1, 2016).

[18] *See* Letter from Tenax Corporation, dated February 1, 2016.

geogrids in the United States; therefore, the Petition is supported by 100 percent of the U.S. industry.[19]

Our review of the data provided in the Petition, General Issues Supplement, letters from Tenax, and other information readily available to the Department indicates that Petitioner has established industry support.[20] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling).[21] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[22] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[23] Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the AD investigation that it is requesting the Department initiate.[24]

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (''NV''). In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[25]

Petitioner contends that the industry's injured condition is illustrated by reduced market share; underselling and price suppression or depression; negative impact on the domestic industry's performance, including capacity utilization, shipments, and operating income; and lost sales and revenues.[26] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.[27]

Allegation of Sales at Less-Than-Fair Value

The following is a description of the allegation of sales at less-than-fair value upon which the Department based its decision to initiate the investigation of geogrids from the PRC. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the initiation checklist.

Export Price

Petitioner based U.S. prices on geogrids produced in and exported from the PRC by one producer, Feicheng Lianyi Engineering Plastics Co., Ltd. (''Feicheng''), and offered for sale to customers in the United States.[28] Petitioner made deductions from U.S. price for movement expenses consistent with the delivery terms.

Normal Value

Petitioner stated that the Department has found the PRC to be a non-market economy (''NME'') country in every administrative proceeding in which the PRC has been involved.[29] In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product is appropriately based on factors of production (''FOP'') valued in a surrogate market economy country, in accordance with section 773(c) of the Act. In the course of this investigation, all parties, and the public, will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioner claims that South Africa is an appropriate surrogate country because it is a market economy that is at a level of economic development comparable to that of the PRC and it is a significant producer of the merchandise under consideration.[30]

Based on the information provided by Petitioner, we believe it is appropriate to use South Africa as a surrogate country for initiation purposes. Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

Petitioner based the FOPs for materials, labor, and energy on its own consumption rates for producing geogrids.[31] Petitioner notes that Tensar, like Feicheng, is a large producer of geogrids using the same production process as Tensar.[32] Petitioner valued the estimated factors of production using surrogate values from South Africa.[33]

Valuation of Raw Materials

Petitioner valued the FOPs for raw materials (*e.g.,* polypropylene, black masterbatch) using public import data for South Africa from the Global Trade Atlas (''GTA'') from June 2015 through November 2015, the most recent POI-contemporaneous data available at the time the Petition was filed.[34] Petitioner excluded all import values from countries previously determined by the Department to maintain broadly available, non-industry-specific export subsidies and from countries previously determined by the Department to be NME countries. In addition, in

[19] *See* Volume I of the Petition, at 2–15 and Exhibits I–1 through I–4, I–6 through I–34, I–44, and I–52 through I–58; *see also* Letter from Tenax Corporation, dated February 1, 2016, at 1.

[20] *See* PRC AD Initiation Checklist, at Attachment II.

[21] *See* section 732(c)(4)(D) of the Act; *see also* PRC AD Initiation Checklist, at Attachment II.

[22] *See* PRC AD Initiation Checklist, at Attachment II.

[23] *Id.*

[24] *Id.*

[25] *See* Volume I of the Petition, at 34 and Exhibit I–4; *see also* General Issues Supplement, at 19.

[26] *See* Volume I of the Petition, at 24–28, 32–45 and Exhibits I–4, I–35, I–39 through I–43, I–47, I–50, and I–51; *see also* General Issues Supplement, at 13–24 and Exhibits Supp. I–1 through I–5, I–10 through I–12, and I–43.

[27] *See* PRC AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Biaxial Integral Geogrid Products from the People's Republic of China.

[28] *See* Volume II of the Petition at 7.

[29] *Id.* at 2.

[30] *Id.* at 4.

[31] *See* Volume II of the Petition at Exhibit II–18; *see also* AD Petition Supplement, at 4–5 and Exhibit Supp. II–18.

[32] *See* Volume II of the Petition at Exhibit II–18.

[33] *Id.*

[34] *See* AD Petition Supplement at Exhibits Supp II–18 Attachments E–G.

accordance with the Department's practice, the average import value excludes imports that were labeled as originating from an unidentified country. The Department determines that the surrogate values used by Petitioner are reasonably available, and thus, are acceptable for purposes of initiation.

Valuation of Labor

Petitioner valued labor using 2012 data for South Africa from the International Labor Organization for ''Manufacturing.'' [35] Specifically, Petitioner relied on data pertaining to wages earned by South African workers engaged in the manufacturing sector of the economy.[36] Petitioner inflated the wage rate using data for the South African Consumer Price Index (''CPI'') published for the POI.[37] Next, Petitioner converted the wage rates to hourly and converted South African Rands (''ZAR'') to U.S. Dollars (''USD'') using the average exchange rate for the POI.[38]

Valuation of Packing Materials

Petitioner valued the packing materials used by PRC producers based on South African import data obtained from GTA.[39]

Valuation of Energy

Petitioner valued electricity using data published by the South African electricity producer Eksom.[40] The Eksom price information was reported in South African ZAR/kilowatt hour. Petitioner converted the price to USD using the average exchange rate during the POI.[41] Petitioner valued natural gas using data from the National Energy Regulator of South Africa for natural gas provider ROMPCO.[42] Petitioner converted ZAR/Gigajoule (''GJ'') to USD/therm.[43]

Valuation of Factory Overhead, Selling, General and Administrative (SG&A) Expenses, and Profit

Petitioner relied on surrogate financial ratios (*i.e.,* factory overhead, SG&A expenses, and profit) it calculated using the 2015 audited financial statement of Bowler Metcalf, a South African producer of comparable merchandise (*i.e.,* rigid plastic packaging for consumer products).[44]

Fair Value Comparisons

Based on the data provided by Petitioner, there is reason to believe that imports of geogrids from the PRC are being, or are likely to be, sold in the United States at less-than-fair value. Based on comparisons of EP to NV, in accordance with section 773(c) of the Act, the estimated dumping margin for geogrids from the PRC range from 289.23 to 372.81 percent.[45]

Initiation of Less-Than-Fair-Value Investigation

Based upon the examination of the AD Petition on geogrids from the PRC, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an AD investigation to determine whether imports of geogrids from the PRC are being, or are likely to be, sold in the United States at less-than-fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015, which made numerous amendments to the AD and CVD law.[46] The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.[47] The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this AD investigation.[48]

Respondent Selection

Petitioner named 78 companies from the PRC as producers/exporters of geogrids.[49] Following standard practice for respondent selection in cases involving NME countries, we intend to issue quantity and value (''Q&V'') questionnaires to each potential respondent, for which the Petitioner has provided a complete address, and base respondent selection on the responses received. In addition, the Department will post the Q&V questionnaire along with filing instructions on the Enforcement and Compliance Web site at *http://www.trade.gov/enforcement/news.asp.*

Exporters/producers of geogrids from the PRC that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy from the Enforcement and Compliance Web site. The Q&V response must be submitted by all PRC exporters/producers no later than February 22, 2016, which is two weeks from the signature date of this notice. All Q&V responses must be filed electronically *via* ACCESS.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.[50] The specific requirements for submitting a separate-rate application are outlined in detail in the application itself, which is available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html.* The separate-rate application will be due 30 days after publication of this initiation notice.[51] Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of the Department's AD questionnaire as mandatory respondents. The Department requires that respondents submit a response to both the Q&V questionnaire and the separate-rate application by their respective deadlines in order to receive consideration for separate-rate status.

[35] *See* Volume II of the Petition at Exhibit II–18.

[36] *Id.*

[37] *Id.*

[38] *Id.; see also* AD Petition Supplement at 5 and Exhibit Supp. II–18 Attachment H(1).

[39] *See* AD Petition Supplement at Exhibits Supp. II–18 Attachments M and N.

[40] *See* Volume II of the Petition at Exhibit II–18.

[41] *Id.*

[42] *Id.*

[43] *Id.*

[44] *See* AD Petition Supplement at Exhibit II–18 Attachment K(3) and K(5); *see also* Second AD Supplemental Questionnaire; Second AD Petition Supplement at 1 and Exhibit Second Supp. II–18; and PRC AD Initiation Checklist.

[45] *See* PRC AD Initiation Checklist.

[46] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[47] *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015,* 80 FR 46793 (August 6, 2015) (''*Applicability Notice*'').

[48] *Id.* at 46794–95. The 2015 amendments may be found at *https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl.*

[49] *See* Volume I of Petition at Exhibit I–37; *see also* AD Petition Supplement at 1 and Exhibit Supp. I–37.

[50] *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation Involving Non-Market Economy Countries (April 5, 2005), available at *http://enforcement.trade.gov/policy/bull05-1.pdf* (Policy Bulletin 05.1).

[51] Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that ''the Secretary may request any person to submit factual information at any time during a proceeding,'' this deadline is now 30 days.

Use of Combination Rates

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.[52]

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the government of the PRC *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of geogrids from the PRC are materially injuring or threatening material injury to a U.S. industry.[53] A negative ITC determination will result in the investigation being terminated;[54] otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted[55] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[56] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Please review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Please review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.html,* prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[57] Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.[58] The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective order (''APO'') in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed in 19 CFR 351.103(d)).

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: February 8, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by the investigation is certain biaxial integral geogrid products. Biaxial integral geogrid products are a polymer grid or mesh material (whether or not finished, slit, cut-to-length, attached to woven or non-woven fabric or sheet material, or packaged) in which four-sided openings in the form of squares, rectangles, rhomboids, diamonds, or other four-sided figures predominate. The products covered have integral strands that have been stretched to induce molecular orientation into the material (as evidenced by the strands being thinner toward the middle between the junctions than at the junctions themselves) constituting the sides of the openings and integral junctions where the strands intersect. The scope includes products in which four-sided figures predominate whether or not they also contain additional strands intersecting the four-sided figures and

[52] *See* Policy Bulletin 05.1 at 6 (emphasis added).

[53] *See* section 733(a) of the Act.

[54] *Id.*

[55] *See* 19 CFR 351.301(b).

[56] *See* 19 CFR 351.301(b)(2).

[57] *See* section 782(b) of the Act.

[58] *See Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

whether or not the inside corners of the four-sided figures are rounded off or not sharp angles. As used herein, the term ''integral'' refers to strands and junctions that are homogenous with each other. The products covered have a tensile strength of greater than 5 kilonewtons per meter (''kN/m'') according to American Society for Testing and Materials (''ASTM'') Standard Test Method D6637/D6637M in any direction and average overall flexural stiffness of more than 100,000 milligram-centimeter according to the ASTM D7748/D7748M Standard Test Method for Flexural Rigidity of Geogrids, Geotextiles and Related Products, or other equivalent test method standards.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise further processed in a third country, including by trimming, slitting, coating, cutting, punching holes, stretching, attaching to woven or non-woven fabric or sheet material, or any other finishing, packaging, or other further processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the biaxial integral geogrid.

The products subject to the scope are currently classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') under the following subheading: 3926.90.9995. Subject merchandise may also enter under subheadings 3920.20.0050 and 3925.90.0000. The HTSUS subheadings set forth above are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

[FR Doc. 2016–03086 Filed 2–12–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD608

Endangered Species; File No. 19255

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

ACTION: Notice; issuance of a permit, and termination of a permit.

SUMMARY: Notice is hereby given that the Delaware Department of Natural Resources and Environmental Control (DNREC) [Responsible Party: Michael Stangl], 3002 Bayside Dr., Dover, Delaware 19977, has been issued a permit to take shortnose (*Acipenser brevirostrum*) and Atlantic (*Acipenser oxyrinchus oxyrinchus*) sturgeon in the Delaware River for purposes of scientific research. Additionally, Permit No. 16431, issued to the same Permit Holder for study of Atlantic sturgeon, is hereby terminated.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead or Rosa L. González, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On November 17, 2014, notice was published in the **Federal Register** (79 FR 68413) of a request for a permit to conduct research on shortnose sturgeon had been submitted by the above-named applicant. On June 26, 2015, notice was published in the **Federal Register** (80 FR 36770) that the application was amended to include a request to conduct research on Atlantic sturgeon. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Permit No. 19255 authorizes annual takes of endangered shortnose and Atlantic sturgeon to document nursery areas, individual movement patterns, seasonal movements, home ranges, and habitat usage(s) in the Delaware River. The authorized activities include capture of shortnose and Atlantic shortnose with gillnets. It also authorizes individuals to be weighed, measured, marked with Passive Integrated Transponder (PIT), T-bar tagged, anesthetized, acoustic tagged, genetic tissue sampled, gastric lavaged, and photographed. It also authorized one unintentional mortality per species during the life of the permit. Specific activities and number of animals authorized per species are found on the permit. The shortnose sturgeon research activities are a continuation of the ones authorized under the DNREC expired Permit No. 14396 (75 FR 4043). The Atlantic sturgeon research activities were incorporated from the ones authorized under the DNREC Permit No. 16431 (76 FR 58469), which was set to expire April 5, 2017. Permit No. 16431 was terminated with issuance of Permit No. 19225, valid until February 5, 2021.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: February 9, 2016.

Perry F. Gayaldo,

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

[FR Doc. 2016–03026 Filed 2–12–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE437

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 41 Review Workshop for South Atlantic red snapper and gray triggerfish.

SUMMARY: The SEDAR 41 assessments of the South Atlantic stocks of *red snapper* (*Lutjanus campechanus*) and gray triggerfish (*Balistes capriscus*) will consist of a series of workshops and webinars: Data Workshops; an Assessment Workshop and webinars; and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 41 Review Workshop will be held on March 15–17, 2016, from 8:30 a.m. until 6 p.m. and March 18, 2016, from 8 a.m. until 1 p.m. The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from, or completed prior to the time established by this notice.

ADDRESSES:

Meeting address: The SEDAR 41 Assessment Workshop will be held at the Crowne Plaza Hotel, 4831 Tanger Outlet Boulevard, North Charleston, SC 29418; phone: (843) 744–4422.

SEDAR address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; *www.sedarweb.org.*

FOR FURTHER INFORMATION CONTACT: Julia Byrd, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366; email: *julia.byrd@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions,

have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing a workshop and webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the Review Workshop are as follows:

Independent peer review of the assessment developed during the Data Workshop and Assessment Process. Panelists will review the assessment and document their comments and recommendations in a Summary Report.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: February 10, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–03049 Filed 2–12–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE438

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Scientific and Statistical Committee (SSC) to review methods for determining the recreational annual catch limit (ACL) in numbers for the Florida Keys/East Florida (FLK/EFL) Hogfish stock.

DATES: The SSC meeting will be held via webinar on Friday, March 4, 2016, from 9 a.m. to 12 p.m.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact John Carmichael at the Council (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of the webinar.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: John Carmichael; 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *john.carmichael@safmc.net.*

SUPPLEMENTARY INFORMATION: This meeting is held to review proposed methods for calculating the recreational ACL of FLK/EFL Hogfish in numbers of fish. The Council stated at their September 2015 meeting in Hilton Head, SC that they would like the recreational ACL for the FLK/EFL stock of Hogfish to be set in numbers rather than in pounds. Items to be addressed during this meeting:

Review and comment on the risks and uncertainties associated with proposed methods for calculating the recreational ACL of the FLK/EFL Hogfish stock in numbers. The SSC will provide recommendations for Council consideration as appropriate.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: February 10, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–03050 Filed 2–12–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC348

Endangered Species; File No.17364–01

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

ACTION: Notice; issuance of permit modification.

SUMMARY: Notice is hereby given that the U.S. Fish and Wildlife Service (USFWS), Northeast Fishery Center, PO Box 75, Lamar, PA 16848 [Michael Millard: Responsible Party], has been issued a modification to scientific research Permit No. 17364 to take captive Atlantic sturgeon.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead or Rosa L. González, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On August 13, 2014, notice was published in the **Federal Register** (79 FR 47440) that a modification of Permit No. 17364, issued March 14, 2013 (78 FR 17640), had been requested by the above-named organization. The requested modification has been granted under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The Permit Holder's original objectives were to refine propagation and culture techniques of captive Atlantic sturgeon held in refugia at the USFWS's Northeast Fisheries Center, providing a source of research animals for studies related to tagging, tracking, behavior, physiology, genetics, health, cryopreservation, and other methods to advance population conservation, recovery, or enhancement of the species in the wild.

The Permit Holder is now authorized to conduct similar scientific research on captive Atlantic sturgeon at five captive holding facilities of Atlantic sturgeon located in the state of Maryland. Study objectives would include nutrition, physiology, propagation, contaminants, genetics, fish health, cryopreservation, aging, tagging techniques, and refugia. Additionally, studies would examine abiotic factors (*e.g.,* pH, temperature, salinity dissolved oxygen, etc) influencing the distribution and abundance of Atlantic sturgeon in the wild. The modification would be valid until expiration of the permit on March 13, 2018.

Issuance of this modification, as required by the ESA was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: February 9, 2016.

Perry F. Gayaldo,

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

[FR Doc. 2016–03027 Filed 2–12–16; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Order Authorizing the National Futures Association as a Commission Designee for Direct Electronic Access to Data in Swap Data Repositories

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice and order.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') is issuing an order (''Order'') authorizing the National Futures Association (''NFA'') as a Commission designee to receive direct electronic access to data maintained in swap data repositories (''SDRs'') registered with the Commission. The Commission is authorized to designate persons to receive direct electronic access to SDR data pursuant to Section 21(c)(4)(A) of the Commodity Exchange Act (''CEA''). NFA is registered with the Commission as a registered futures association (''RFA'') pursuant to Section 17 of the CEA. Direct access to SDR data will facilitate NFA's performance of functions delegated to NFA by the Commission, as well as the performance of other duties authorized by the CEA and the Commission. As a condition to authorizing NFA as a Commission designee, NFA is required to keep all non-public information received through direct electronic access to SDR data confidential and to refer any request for such data to the Commission for handling.

DATES: *Effective date:* February 16, 2016.

FOR FURTHER INFORMATION CONTACT: Eileen T. Flaherty, Director, 202–418–5326, *eflaherty@cftc.gov,* or Frank Fisanich, Chief Counsel, 202–418–5949, *ffisanich@cftc.gov,* Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Authority and Background

Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act [1] amended the CEA [2] to establish a comprehensive new regulatory framework for swaps. Amendments to the CEA included the addition of provisions requiring the retention, and the reporting to Commission-registered SDRs, of data regarding swap transactions in order to enhance transparency, promote standardization, and reduce systemic risk. Such amendments also included certain core principles governing the operations of SDRs. Pursuant to these newly added provisions, the Commission adopted certain SDR registration requirements and provisions implementing core principles in part 49 of its regulations,[3] and adopted rules for the reporting of swap transaction data to registered SDRs in parts 45 and 46 of its regulations.[4]

Section 21(c) of the CEA sets forth the duties of a registered SDR. Among them is the duty to provide direct electronic access to the Commission (or any designee of the Commission).[5] ''Direct electronic access'' is defined in Commission regulation 49.17(b)(3) as ''an electronic system, platform or framework that provides internet or web-based access to real-time swap transaction data and also provides scheduled data transfers to the Commission's electronic systems.'' [6] As used herein, ''direct electronic access to SDR data'' means ''an electronic system, platform, or framework that provides internet or web-based access to real-time swap transaction data and/or swap transaction data transfers.''

As the Commission stated in adopting the SDR registration requirements, direct electronic access by the Commission is a critical function and responsibility of an SDR because real-time access to swap data is necessary for adequate oversight and surveillance of the swaps market.[7] The Commission implemented the access requirements for Commission designees under Section 21(c)(4)(A) of the CEA by adopting Commission regulation 49.17(c)(1).

Pursuant to Commission regulation 170.1, a basic purpose of an RFA is to regulate the practices of its members.[8] In order to help NFA achieve this purpose and strengthen its regulatory oversight of its members, including registered swap dealers (''SDs'') and major swap participants (''MSPs''), NFA has requested direct electronic access to all SDRs.

II. Use of SDR Data

NFA is the only futures association registered with the Commission pursuant to Section 17 of the CEA and

[1] Public Law 111–203, 124 Stat. 1376 (2010).

[2] 7 U.S.C. 1 *et seq.*

[3] *See* Swap Data Repositories: Registration Standards, Duties and Core Principles, 76 FR 54538 (Sept. 1, 2011).

[4] Swap Data Recordkeeping and Reporting Requirements, 77 FR 2136 (Jan. 13, 2012).

[5] *See* Section 21(c)(4)(A) of the CEA, 7 U.S.C. 24a(c)(4)(A).

[6] 17 CFR 49.17(b)(3).

[7] *See* Swap Data Repositories: Registration Standards, Duties and Core Principles, 76 FR 54538, 54551–52 (Sept. 1, 2011).

[8] 17 CFR 170.1.

the Commission, as detailed below, has over decades delegated many Commission functions to NFA.[9] Pursuant to Section 8a(10) of the CEA,[10] the Commission may authorize any person—including an RFA—to perform any of the registration functions under the CEA. Further, pursuant to Section 17(o) of the CEA,[11] the Commission may require an RFA to perform registration functions under the CEA with respect to its members. The Commission has previously authorized NFA to perform the full range of registration functions with regard to applicants for Commission registration and Commission registrants, including registration of SDs and MSPs.[12] Additionally, pursuant to Sections 4p, 8a, and 17 of the CEA, the Commission issued Commission regulation 170.16 requiring each registered SD and MSP to become and remain a member of an RFA. As the only RFA, all registered SDs and MSPs are members of NFA.

Other Commission functions delegated to NFA include: Reviewing disclosure documents and providing the Commission with related summaries and periodic reports; [13] and acting as the Commission's official custodian of records.[14] The Commission has found that NFA exercises its delegated authority with proficiency.[15]

In addition to performing functions delegated by the Commission, Section 17(p)(2) of the CEA requires an RFA to establish minimum capital, segregation, and other financial requirements applicable to its members for which such requirements are imposed by the Commission and implement a program to audit and enforce compliance with such requirements, except that such requirements may not be less stringent than those imposed on such firms by the CEA or by Commission regulation.[16]

Pursuant to such requirement, where the Commission has imposed minimum financial requirements for its registrants, NFA has established minimum financial requirements for such registrants that are members of NFA that are no less stringent than those imposed by Commission regulations.[17] All NFA rules and rule amendments are submitted to the Commission for review and approval, as required by Section 17(j) of the CEA.

In order for NFA to adequately implement a program to audit and enforce compliance as required under Section 17(p)(2) of the CEA, to regulate the practices of its members pursuant to Commission regulation 170.1, and to carry out the functions delegated to it by the Commission, the Commission has determined that it is necessary for NFA to obtain SDR data. This information, together with adequate financial reporting by its members, will better enable NFA to monitor compliance with its minimum financial and other requirements.

In requesting access to SDR data, NFA has stated that, as a front-line regulator of SDs and MSPs, it may be necessary in certain situations (*e.g.,* investigations) for NFA to obtain data directly from an independent source, such as an SDR, as opposed to relying solely on data submitted by member firms. Furthermore, NFA has stated that if it had access to firm level transaction data on a regular (*e.g.,* monthly or quarterly) basis, then this information would be a significant addition to NFA's SD/MSP risk profiling system. The Commission concurs with NFA's conclusion that it is far more efficient and timely for NFA to collect swap transaction data from a few consolidated sources, *i.e.,* the SDRs, than for NFA to make constant requests either through the Commission or separately to over 100 SDs and MSPs.

Finally, at the request of the Commission, NFA has represented its willingness to develop, at the direction of the Commission, reports generated from analyses of the SDR data NFA receives pursuant to this Order that the Commission or its staff may find necessary or desirable from time to time in order to carry out its legal and statutory responsibilities under the CEA and Commission regulations.

The Commission believes that NFA's direct electronic access to SDR data will permit the Commission to carry out its legal and statutory responsibilities under the CEA, retaining its ultimate decision-making authority, while also freeing up Commission resources to be directed to other parts of its regulatory mandate. NFA may not use the SDR data obtained under the authority provided in this Order for any purpose other than to facilitate NFA's performance of functions delegated to NFA by the Commission and the performance of NFA's functions as an RFA.

III. Confidentiality of SDR Data

As a condition to receiving direct electronic access to SDR data as a Commission designee, NFA must keep all non-public information received through such access confidential.

The SDR data contains information that is protected from disclosure by the Commission by Section 8 of the CEA.[18] Pursuant to Section 8 of the CEA, the Commission is prohibited, except as specifically authorized by the CEA, from publishing data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers, subject to certain exceptions that permit disclosure to: (i) Either House of Congress, acting within the scope of its jurisdiction; (ii) a department, central bank and ministries, or agency of the Government of the United States, acting within the scope of its jurisdiction; (iii) a department, central bank and ministries, or agency of any State or any political subdivision thereof, acting within the scope of its jurisdiction; and (iv) any foreign futures authority, or any department, central bank and ministries, or agency of any foreign government or any political

[9] 7 U.S.C. 21.

[10] 7 U.S.C. 12a(10).

[11] 7 U.S.C. 21(o).

[12] *See e.g.,* Performance of Registration Functions by National Futures Association, 49 FR 39593 (Oct. 9, 1984); 50 FR 34885 (Aug. 28, 1985); 51 FR 34490 (Sept. 29, 1986); Performance of Registration Processing Functions by National Futures Association With Respect to Floor Traders and Floor Brokers, 58 FR 19657 (Apr. 15, 1993); Performance of Certain Functions by National Futures Association With Respect to Non-U.S. Firms and Non-U.S. Markets, 62 FR 47792 (Sept. 11, 1997); Performance of Certain Functions by National Futures Association with Respect to Commodity Pool Operators and Commodity Trading Advisors, 62 FR 52088 (Oct. 6, 1997); Performance of Registration Functions by National Futures Association With Respect to Swap Dealers and Major Swap Participants 77 FR 2708 (Jan. 19, 2012).

[13] *See* 62 FR 52088 (Oct. 6, 1997); 64 FR 29273 (June 1, 1999).

[14] *See, e.g.,* 49 FR 39593 (Oct. 9, 1984) (regarding the registration records of future commission merchants, commodity pool operators, and commodity trading advisors); 66 FR 43227 (Aug. 17, 2001) (regarding notice registration filings as futures commission merchants or introducing brokers); 67 FR 77470 (Dec. 18, 2002) (regarding commodity pool operator annual financial reports required by regulation 4.22 and 4.7(b)(3)); 75 FR 55310 (Sep. 10, 2010) (regarding the registration records of retail foreign exchange dealers); and 77 FR 2708 (Jan. 19, 2012) (regarding registration records of swap dealers and major swap participants).

[15] *See, e.g.,* 67 FR 77470 (Dec. 18, 2002).

[16] 7 U.S.C. 21(p)(2).

[17] NFA's financial requirements for its members are contained in the NFA Manual, available on its Web site: *http://www.nfa.futures.org/nfamanual/NFAManualTOC.aspx?Section=7.* With respect to minimum financial requirements for SDs and MSPs, the Commission has proposed capital rules. *See* Capital Requirements of Swap Dealers and Major Swap Participants, 76 FR 27802 (May 12, 2011). In addition, the Commission has recently promulgated margin requirements for SDs and MSPs. *See* Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 81 FR 636 (Jan. 6, 2016). NFA will in due course establish minimum financial requirements for its SD and MSP members that are no less stringent than the capital and margin requirements for SDs and MSPs imposed by the Commission.

[18] 7 U.S.C. 12.

subdivision thereof, acting within the scope of its jurisdiction.[19]

With respect to NFA's obligations regarding public disclosure of information it maintains as an official records custodian of the Commission,[20] the Commission notes that NFA Compliance Rule 4–1 defines such information as ''CFTC records'' and subsection (c) of such rule states that:

> Requests for access to CFTC records, or portions thereof, not subject to disclosure as public or publicly available under paragraph (b)(1) of this Rule [21] shall be referred or transmitted to the Commission for response; except that, NFA will disclose such records or portion thereof:
>
> (1) otherwise with the authorization of the Assistant Secretary of the Commission for FOI, Privacy, and Sunshine Act Compliance or his or her designee, or the General Counsel of the Commission or his or her designee, in accordance with CFTC Regulations 145.7(b), (h) and (i); the Freedom of Information Act, 5 U.S.C. 552; and the Privacy Act, 5 U.S.C. 552a; and
>
> (2) to any individual or firm, or person acting on behalf of the individual or firm, who seeks access to his, her or its CFTC records: Provided, however, that NFA receives proper verification of the identity and authority of the party requesting the records.

In order to ensure compliance with the Commission's obligations under Section 8 of the CEA, NFA has represented and confirmed to the Commission that all SDR data obtained by NFA through the direct electronic access authorized by this Order will be subject to more stringent obligations regarding public disclosure than are ''CFTC records'' under NFA Compliance Rule 4–1. Thus, the Commission is conditioning this Order on NFA's representation that it will not publicly disclose any information obtained by NFA through the direct electronic access to SDR data authorized by this Order. This Order is further conditioned on NFA's undertaking that any request for such SDR data received by NFA will be referred to the Commission for response directly by the Commission. Notwithstanding the foregoing, this Order provides that NFA may disclose the SDR data of a firm to such firm upon request, subject to NFA receiving proper verification of the identity and authority of the person making the request on behalf of such firm.

With respect to disclosing to a firm such firm's own SDR data, the Commission notes that Commission regulation 49.17(f)(2) prohibits an SDR from disclosing to one counterparty the identity or the legal entity identifier (as such term is used in part 45 of the Commission's regulations) of the other counterparty to a swap, or the other counterparty's clearing member for the swap, if the swap is executed anonymously on a swap execution facility or a designated contract market and cleared in accordance with Commission regulations in 1.74, 23.610, and 37.12(b)(7). NFA has represented and confirmed that in disclosing to a firm such firm's own SDR data, such data will not include any information that an SDR would be prohibited from disclosing pursuant to Commission regulation 49.17(f)(2).

IV. Conclusion and Order

For the reasons discussed above, and pursuant to its authority under Section 21(c)(4)(A) of the CEA, the Commission has determined that NFA's access to SDR data will assist the Commission to carry out its legal and statutory responsibilities under the CEA and its regulations. Thus, the Commission has determined to, and hereby does, authorize NFA as a designee of the Commission for purposes of receiving direct electronic access to SDR data, subject to the terms and conditions specified below. Accordingly, subject to such terms and conditions, SDRs registered with the Commission must provide NFA with direct electronic access to such data as the Commission's designee in accordance with Commission regulation 49.17(c)(1).

These determinations are based on NFA's representations and demonstration of its willingness and ability to accept the SDR data authorized by this Order for auditing and enforcing compliance with NFA member requirements, and to safeguard from public disclosure any information contained in such SDR data.

Accordingly, NFA's direct electronic access to SDR data is specifically conditioned on NFA (1) safeguarding from public disclosure any information contained in such SDR data (other than pursuant to the limited exception specified below); (2) referring any request for such data received by NFA to the Commission for response directly by the Commission; (3) in no event disclosing any information regarding the identity of a counterparty to a swap, or such counterparty's clearing member for such swap, that an SDR would be prohibited from disclosing pursuant to Commission regulation 49.17(f)(2); and (4) accessing and using the SDR data obtained pursuant to the authority provided by this Order solely to facilitate NFA's performance of functions delegated to NFA by the Commission and NFA's performance of its functions as an RFA.

Notwithstanding such conditions, upon request of a firm, NFA may disclose SDR data of that firm to such firm (other than information an SDR would be prohibited from disclosing pursuant to Commission regulation 49.17(f)(2)), subject to NFA receiving proper verification of the identity and authority of the person making the request on behalf of such firm.

Further, the Commission hereby delegates to the Director of the Division of Swap Dealer and Intermediary Oversight the authority to: (1) Limit or otherwise condition NFA's direct electronic access to certain SDR data that such Director may determine in writing is unnecessary to facilitate NFA's performance of functions delegated to NFA by the Commission and the performance of NFA's functions as an RFA; and (2) direct Commission staff to review, examine, or audit NFA's access and use of the SDR data as such Director may determine is necessary to ensure NFA's compliance with the conditions of this Order. Nothing herein shall be deemed to prohibit the Commission, at its election, from exercising the authority delegated in this paragraph.

This Order does not authorize NFA to render ''no-action'' positions, exemptions, or interpretations with respect to applicable disclosure, reporting, recordkeeping, and registration requirements.

The Commission retains the authority to condition further, modify, suspend, terminate, or otherwise restrict any of the terms of the Order provided herein, in its discretion, including the kind of SDR data accessible through direct electronic access. Nothing in this order shall prevent the Commission from exercising its authority to receive direct electronic access to SDR data or its authority to authorize any other person to be a designee of the Commission to receive such access. Nothing in this order, or in Section 8a(10) or 17(o) of the CEA, shall affect the Commission's authority to review the performance by NFA of its oversight of its members, to adopt and enforce regulations applicable to SDs and MSPs as Commission registrants, and to conduct on-site examinations of the operations

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[19] *See* Section 8(e) of the CEA; 7 U.S.C. 12(e).

[20] *See supra* note 14 for orders by which the Commission determined to authorize NFA to maintain and serve as the official custodian of the Commission's registration records with respect to various Commission registrants.

[21] NFA Compliance Rule 4–1(b)(1) states: ''If any member of the public requests access to CFTC records, or portions thereof, and the requested record, or portion, is ''public'' or ''publicly available'' under CFTC Regulations 1.10(g) or 145.0, then NFA will release that record or portion to the requester.''

and activities of SDs and MSPs as Commission registrants.

Issued in Washington, DC, on February 10, 2016, by the Commission.

Christopher J. Kirkpatrick,

Secretary of the Commission.

Appendix to Order Authorizing the National Futures Association as a Commission Designee for Direct Electronic Access to Data in Swap Data Repositories—Commission Voting Summary

On this matter, Chairman Massad and Commissioners Bowen and Giancarlo voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2016–03064 Filed 2–12–16; 8:45 am]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2012–0034]

Request for Information Regarding Crib Bumpers

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Consumer Product Safety Commission (''CPSC'' or ''Commission'') is seeking information regarding the safety benefits of crib bumpers, whether safety hazards are associated with crib bumpers, existing safety standards that apply to crib bumpers, and potential performance requirements, testing, and other standards that may reduce the risk of injury, if any, associated with crib bumpers.

DATES: Submit comments by April 18, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2012–0034, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov*. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov*.

Written Submissions: Submit written comments by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions must include the agency name and docket number for this notice. CPSC may post all comments, without change, to *http://www.regulations.gov,* including any personal identifiers, contact information, or other personal information. Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, submit such information by mail/hand delivery/courier.

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

FOR FURTHER INFORMATION CONTACT: Timothy P. Smith, Project Manager, Directorate for Engineering Sciences, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: 301–987–2557; email: *TSmith@cpsc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Consumer Product Safety Commission (''CPSC'' or ''Commission'') has granted a petition to initiate rulemaking regarding crib bumpers.[1] To determine the need for and appropriate scope of such a rulemaking, the Commission is investigating whether crib bumpers pose a safety hazard to infants and, if so, what performance standards or requirements could mitigate that risk. As part of this effort, CPSC staff has reviewed incident data to identify what features or characteristics of crib bumpers create a safety hazard, if any; is evaluating existing safety standards that apply to crib bumpers and similar products; and is testing various types of crib bumpers. In this Request for Information (''RFI''), CPSC seeks input from interested parties to supplement the information, standards, and data currently available to the Commission. CPSC would find specific data regarding the safety risks and benefits associated with various types of crib bumpers and the empirical basis for, and effectiveness of, existing safety standards particularly helpful.

II. Information Requested

To supplement the information currently available to CPSC, we request input relevant to the following questions:

- What test data or other information is available to identify the specific features or characteristics of a crib bumper that might contribute to a risk of suffocation?
- What objective, repeatable test methods, procedures or measures exist to assess the firmness of bedding, mattresses, and other possible sleep surfaces? To what extent, if any, can such tests, procedures or measures be used to assess whether these materials present a risk of suffocation by smothering?
- To what extent does the test device specified in Australian/New Zealand Standard AS/NZS 8811.1:2013, *Methods of Testing Infant Products, Method 1: Sleep Surfaces—Test for Firmness,*[2] accurately and reliably assess the potential risk of suffocation associated with a sleep surface?
- To what extent would a test to accurately and reliably identify hazardous soft bedding or sleep surfaces be relevant to vertically-mounted surfaces, such as crib bumpers?
- What safety benefits do crib bumpers offer to consumers? What data are available to demonstrate such benefits?
- What, if any, evidence is there to indicate that ''rebreathing'' of carbon dioxide occurs with crib bumpers and presents a risk of suffocation?
- The current U.S. voluntary standard covering crib bumpers is ASTM F1917–12, *Standard Consumer Safety Performance Specification for Infant Bedding and Related Accessories* (''ASTM F1917–12'').[3] Are there other standards, aside from state or regional bans, that include performance requirements for crib bumpers?
- ASTM F1917–12 includes a requirement that essentially limits the compressed thickness of crib bumpers to 2 inches. What evidence exists to support this requirement, and what, if any, association exists between this ASTM requirement and the risk of infant suffocation?
- What alternative or additional requirements beyond those specified in

[1] On May 9, 2012, the Juvenile Products Manufacturers Association, Inc. (''JPMA'') filed a petition requesting CPSC initiate rulemaking under sections 7 and 9 of the Consumer Product Safety Act (''CPSA''; 15 U.S.C. 2051–2089) to create a performance standard for crib bumpers to distinguish ''hazardous 'soft' pillow-like'' crib bumpers from ''traditional'' crib bumpers. *See* 77 FR 37836. On May 24, 2013, the Commission granted the petition, but adopted a broader framework than JPMA requested, directing staff to examine the safety benefits and risks associated with crib bumpers, evaluate existing standards, identify test methods and performance requirements that reduce any identified safety risks, and consider all regulatory options for addressing the risk of injury associated with crib bumpers.

[2] The standard is available from Standards Australia Limited, GPO Box 476, Sydney, NSW 2011 and Standards New Zealand, Private Bag 2439, Wellington 6140, *www.standards.co.nz*.

[3] The standard is available from ASTM International at 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428, *http://www.astm.org/cpsc.htm*.

ASTM F1917–12 might address the risk of infant suffocation?

• To what extent could a mesh-like or other ''breathable'' material present a risk of suffocation to an infant if the infant's face were pressed into the material? What specific characteristics would make a bumper ''breathable,'' and to what extent, if any, would such a bumper address the risk of suffocation? What data or research support these conclusions?

• Are incident data or other objective safety information or research available that describe potential hazards associated with mesh-like bumpers or liners? Are similar data or information available on so-called ''vertical bumpers,'' which essentially are a series of small bumpers that individually cover each crib slat, and other bumper alternatives?

Dated: February 10, 2016.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2016–03013 Filed 2–12–16; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2012–0019]

Proposed Extension of Approval of Information Collection; Comment Request—Standards for Full-Size Baby Cribs and Non-Full Size Baby Cribs; Compliance Form

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission (''CPSC'' or ''Commission'') requests comments on a proposed extension of approval of information collection requirements regarding a form that will be used to measure child care centers' compliance with the CPSC safety standards for full-size and non-full-size cribs (16 CFR parts 1219 and 1220). The Commission will consider all comments received in response to this notice before requesting an extension of this collection of information from the Office of Management and Budget (''OMB'').

DATES: The Office of the Secretary must receive comments not later than April 18, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2012–0019, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov.* Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.* The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov,* and insert the docket number CPSC–2012–0019, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Robert H. Squibb, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7815, or by email to: *rsquibb@cpsc.gov.*

SUPPLEMENTARY INFORMATION: CPSC seeks to renew the following currently approved collection of information:

Title: Safety Standards for Full-Size Baby Cribs and Non-Full Size Baby Cribs-Verification of Compliance Form.

OMB Number: 3041–0161.

Type of Review: Renewal of collection.

Frequency of Response: On occasion.

Affected Public: Child care centers.

Estimated Number of Respondents: 74 child care centers.

Estimated Time per Response: .25 hour for each child care center to provide the information on the form.

Total Estimated Annual Burden: 18.5 hours (.25 hour × 74 child care centers).

General Description of Collection: CPSC staff intends to visit child care centers to measure compliance with the crib safety standards. Information from those visits would be recorded on a ''Verification of Compliance Form.'' CPSC investigators or designated state or local officials will use the form, which will be filled out entirely at the site during the normal course of the visit. The Commission will use the information to measure compliance with the crib safety standards and to develop an enforcement strategy. A pilot program was conducted in 2012, which included visits to approximately 50 child care centers in six states. Results of the pilot program were used to expand the program in 2013, to seven states and 112 inspections. CPSC conducted the program in 2015, in three states, which included 47 inspections. CPSC projects that four states will participate in the program in 2016 and approximately 74 inspections will be conducted.

Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;

—Whether the estimated burden of the proposed collection of information is accurate;

—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and

—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: February 9, 2016.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2016–02963 Filed 2–12–16; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2012–0054]

Agency Information Collection Activities; Submission for OMB Review; Comment Request—Safety Standard for Automatic Residential Garage Door Operators

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (''PRA'') of 1995 (44 U.S.C. chapter 35), the Consumer Product Safety Commission (''Commission'' or ''CPSC'') announces that the Commission has submitted to the Office of Management and Budget (''OMB'') a request for extension of approval of a collection of information associated with the CPSC's Safety Standard for Automatic Residential Garage Door Operators (OMB No. 3041–0125). In the **Federal Register** of December 3, 2015 (80 FR 75664), the CPSC published a notice to announce the agency's intention to seek extension of approval of the collection of information. The Commission received no comments. Therefore, by publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for extension of approval of that collection of information, without change.

DATES: Written comments on this request for extension of approval of information collection requirements should be submitted by March 17, 2016.

ADDRESSES: Submit comments about this request by email: *OIRA_submission@omb.eop.gov* or fax: 202–395–6881. Comments by mail should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the CPSC, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503. In addition, written comments that are sent to OMB also should be submitted electronically at *http://www.regulations.gov,* under Docket No. CPSC–2012–0054.

FOR FURTHER INFORMATION CONTACT: For further information contact: Robert H. Squibb, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7815, or by email to: *rsquibb@cpsc.gov.*

SUPPLEMENTARY INFORMATION: CPSC has submitted the following currently approved collection of information to OMB for extension:

Title: Safety Standard for Automatic Residential Garage Door Operators.

OMB Number: 3041–0125.

Type of Review: Renewal of collection.

Frequency of Response: On occasion.

Affected Public: Manufacturers and importers of automatic residential garage door operators.

Estimated Number of Respondents: An estimated 19 firms that conduct performance tests and maintain records based on the test results to maintain UL certification and verify compliance with the rule.

Estimated Time per Response: Based on staff's review of industry sources, each respondent will spend an estimated 40 hours annually on the collection of information related to the rule.

Total Estimated Annual Burden: 760 hours (19 firms × 40 hours).

General Description of Collection: On December 22, 1992, the Commission issued rules prescribing requirements for a reasonable testing program to support certificates of compliance with the Safety Standard for Automatic Residential Garage Door Operators (57 FR 60449). These regulations also require manufacturers, importers, and private labelers of residential garage door operators to establish and maintain records to demonstrate compliance with the requirements for testing to support certification of compliance. 16 CFR part 1211, subparts B and C.

Dated: February 9, 2016.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2016–02948 Filed 2–12–16; 8:45 am]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Meeting

The National Civilian Community Corps Advisory Board gives notice of the following meeting:

DATE AND TIME: Wednesday, March 16, 2016, 1:30 p.m.–2:30 p.m. (ET).

PLACE: Corporation for National and Community Service, CALL-IN INFORMATION: This meeting is available to the public through the following toll-free call-in number: 888–469–1543 conference call access code number 9701432. Pete McRoberts will be the lead on the call. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Corporation will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Replays are generally available one hour after a call ends. The toll-free phone number for the replay is 866–443–1193, replay passcode 6222. The end replay date: April 16, 2016, 10:59 p.m. (CT).

STATUS: Open.

MATTERS TO BE CONSIDERED:

I. Meeting Convenes
- Call to Order, Welcome, and Preview of Today's Meeting Agenda
- Introduction & Acknowledgements

II. Director's Report
III. Program Updates
IV. Public Comment

ACCOMMODATIONS: Anyone who needs an interpreter or other accommodations should notify the Corporation's contact person by 5:00 p.m. Friday, March 9, 2016.

CONTACT PERSON FOR MORE INFORMATION: Erma Hodge, NCCC, Corporation for National and Community Service, 3rd Floor, Room 3244D, 250 E St. SW., Washington, DC 20525. Phone 202–606–6696. Fax 202–606–3465. TTY: 800–833–3722. Email address: *ehodge@cns.gov.*

Dated: February 10, 2016.

Jeremy Joseph,

General Counsel.

[FR Doc. 2016–03160 Filed 2–11–16; 11:15 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Grant an Exclusive License for U.S. Army Owned Invention to Faraday Technology

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: The Department of the Army announces that, unless there is an objection, after 15 days it contemplates granting an exclusive license to Faraday Technology Inc., 315 Huls Dr., Clayton, Ohio 45315, for co-developed invention(s) covering an apparatus and method for recovery of material generated during electrochemical material removal in acidic electrolytes, under SBIR Contract No W15QKN–12–C–0116, and referencing U.S. patent applications 62/114,278 filed February 10, 2015, 62/120,621 filed February 25, 2015, and 14/845,759 filed September 4, 2015. Any license granted shall comply with 35 U.S.C. 209 and 37 CFR part 404.

DATES: Objections must be received within 15 days of this notice.

ADDRESSES: Send written objections to Timothy Ryan, U.S. Army ARDEC, ATTN: RDAR–EIB (Bldg 93), Picatinny Arsenal, NJ 07806–5000.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy Ryan, email: *timothy.s.ryan.civ@mail.mil;* (973) 724–7953.

SUPPLEMENTARY INFORMATION: None.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2016–03043 Filed 2–12–16; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2016–OS–0011]

Proposed Collection; Comment Request

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Secretary of Defense announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 18, 2016.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

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

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to The United States of America Vietnam War Commemoration, ATTN: Yvonne Schilz, 1101 Wilson Blvd., Suite 810, Arlington, VA 22209–2203 or call 1–877–387–9951.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Vietnam War Commemoration Program Partner Events; DD Form 2956, DD Form 2957, Vietnam War 50th Commemoration Certificate of Honor (1) ''In Memory Of'' (DD Form x711), (2) ''Former Vietnam POW'' (DD Form x712), and (3) ''Unaccounted For'' (DD Form x713); OMB Control Number 0704–0500.

Needs and Uses: The information collection requirement is necessary to notify the United States of America Vietnam War Commemoration Program of Commemorative Partner's planned events. Information is submitted for inclusion on the Program's events calendar and to request event support in the form of materials and/or speakers from the program. The information collection is necessary to obtain, vet, record, process and provide Certificates of Honor to be presented on behalf of a grateful nation by partner organizations. Additionally, this collection is necessary for the partner organizations to communicate to the Commemoration program the results of their events and lessons learned.

Affected Public: Businesses or other for-profits; Not-for-profit institutions; Federal Government; State, local or tribal government, or, by exception, eligible individuals or households.

Annual Burden Hours: 5,500.

Number of Respondents: 11,000.

Responses per Respondent: Two (2), on an average annual basis.

Annual Responses: 22,000.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

Respondents are representatives of commemorative partner organizations or immediate family members of veterans listed on the Vietnam Veterans Memorial in Washington, DC or, by exception, individuals, acting on behalf of eligible family members of American military personnel who are listed as missing and unaccounted for from the Vietnam War by the Department of Defense. Burden is reported as an annual average, and not every respondent will complete all five (5) forms.

Dated: February 9, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–02947 Filed 2–12–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID USN–2016–HQ–0002]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Navy proposes to alter a system of records notice N05350–1, entitled ''Navy Drug and Alcohol Program System.'' This system is used to train, educate, identify, screen, counsel, rehabilitate, and monitor the progress of individuals in drug and alcohol abuse programs. Information is used to screen and evaluate the certified counselors, counselor interns, and counselor applicants throughout the course of their duties.

DATES: Comments will be accepted on or before March 17, 2016. This proposed action will be effective on the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit

Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

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

FOR FURTHER INFORMATION CONTACT: Ms. Robin Patterson, Head, PA/FOIA Office (DNS–36), Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350–2000, or by phone at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in the **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Division Web site at *http://dpcld.defense.gov/.*

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, as amended, were submitted on February 8, 2016, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 9, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N05350–1

SYSTEM NAME:

Navy Drug and Alcohol Program System (December 14, 2010, 75 FR 77855).

CHANGES:

* * * * *

SORN ID:

Delete entry and replace with ''NM05353–1''.

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Primary location 21st Century Sailor Office (OPNAV N17), 5720 Integrity Drive, Millington, TN 38055–6000.

DECENTRALIZED LOCATIONS:

Navy Alcohol Rehabilitation Centers, Navy Alcohol Rehabilitation Departments in Naval Hospitals, Counseling and Assistance Centers, Personal Responsibility and Values Education and Training Program (Prevent) Offices, Navy Drug Screening Laboratories, and local activities to which an individual is assigned. Addresses are contained in a directory which is available from the Director, Navy Alcohol and Drug Prevention (OPNAV N170A), 5720 Integrity Drive, Millington, TN 38055–6000.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Navy and Marine personnel (officers and enlisted) and reserve personnel, who have been identified as drug or alcohol abusers and who are subsequently screened or referred for remedial education, outpatient counseling, or residential rehabilitation; counselors, counselor interns, and counselor applicants; Navy personnel who attend the drug and alcohol preventive education and training; Marine personnel who attend Prime for Life Program for preventive education and training; officer and enlisted members of facilities providing drug and alcohol education, screening, counseling, rehabilitation, and drug testing.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Documentation containing full name, Social Security Number (SSN) or DoD ID Number, rate/rank, military status, demographic data, screening and assessment information, medical and laboratory data, results of active and reserve members' urinalysis and hair testing, narrative summaries of treatment, aftercare plans, and other information pertaining to a member's participation in substance abuse education and training, counseling, and rehabilitation programs.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 1090, Identifying and treating drug and alcohol dependence; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; 42 U.S.C. 290dd–2, Confidentiality of records; DoD 6025.18–R, DoD Health Information Privacy Regulation; and E.O. 9397 (SSN), as amended.''

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

In order to comply with the provisions of 42 U.S.C. 290dd–2, the Department of Defense (DoD) blanket routine uses do not apply to this system of records.

Specifically, records of the identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be client/patient, maintained in connection with the performance of any alcohol or drug abuse, education, training, treatment, rehabilitation, or research which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–2. This statute takes precedence over the Privacy Act of 1974, as amended, in regard to accessibility of such records, except to the individual to whom the record pertains.

The content of any record may be disclosed in accordance with prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for purposes as may be allowed under such prescribed regulations.

Information from records may be released without the member's consent in the following situations:

To medical personnel to the extent necessary to meet a bona fide medical emergency.

To qualified personnel for the purpose of conducting scientific research, management audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit or evaluation, or otherwise disclose patient identities in any manner.

If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good case therefore. In accessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician patient relationship, and to the

treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosures.

The above prohibitions do not apply to any interchange of records within the Armed Forces or within those components of the Department of Veterans Affairs furnishing health care to veterans or between such components and the Armed Forces.

Note: This system of records contains Individually Identifiable Health Information. The DoD Health Information Privacy Regulation (DoD 6025.18–R) issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most such health information. DoD 6025–18–R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974 or mentioned in this system of records notice.''

* * * * *

STORAGE:

Delete entry and replace with ''Electronic storage media.''

RETRIEVABILITY:

Delete entry and replace with ''Name and SSN or DoD ID Number.''

SAFEGUARDS:

Delete entry and replace with ''Computer facilities are located in restricted areas accessible only to authorized persons that are properly screened, cleared, and trained. Access to Computerized data is restricted by Common Access Card (CAC).''

RETENTION AND DISPOSAL:

Delete entry and replace with ''All electronic records are permanent and are archived within the Alcohol and Drug Management Information System.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Director, Navy Alcohol and Drug Prevention Office (OPNAV N170A), 5720 Integrity Drive, Millington, TN 38055–6000.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Navy Alcohol and Drug Prevention Office (OPNAV N170A), 5720 Integrity Drive, Millington, TN 38055–6000 or to the naval activity providing treatment.

Addresses are contained in a directory which is available from the Director, Navy Alcohol and Drug Prevention Office (OPNAV N170A), 5720 Integrity Drive, Millington, TN 38055–6000.

Requests should contain full name, SSN or DoD ID Number, rank/rate, military status, and signature of the requester. The system manager may require an original signature or a notarized signature as a means of proving the identity of the individual.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the Director, Navy Alcohol and Drug Prevention Office (OPNAV N170A), 5720 Integrity Drive, Millington, TN 38055–6000 or to the naval activity providing treatment.

Addresses are contained in a directory which is available from the Director, Navy Alcohol and Drug Prevention Office (OPNAV N170A), 5720 Integrity Drive, Millington, TN 38055–6000.

The letter should contain full name, SSN or DoD ID Number, rank/rate, military status, and signature of the requester. The system manager may require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records.''

* * * * *

[FR Doc. 2016–02946 Filed 2–12–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Training Program for Federal TRIO Programs

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

Overview Information:

Training Program for Federal TRIO Programs (Training Program)

Notice inviting applications for new awards for fiscal year (FY) 2016.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.103A.

DATES:

Applications Available: February 16, 2016.

Deadline for Transmittal of Applications: April 15, 2016.

Deadline for Intergovernmental Review: July 1, 2016.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Training Program provides grants to train the staff and leadership personnel employed in, participating in, or preparing for employment in, projects funded under the Federal TRIO Programs to improve the operation of these projects.

Priorities: This notice contains six absolute priorities. In accordance with 34 CFR 75.105(b)(2)(iv) and 34 CFR 75.105(b)(2)(ii), the absolute priorities are from section 402G(b) of the Higher Education Act of 1965, as amended (HEA), and the regulations for this program (34 CFR 642.24).

Absolute Priorities: For FY 2016 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet these priorities.

In accordance with 34 CFR 642.7, each application must clearly identify the specific absolute priority for which a grant is requested. An applicant must submit a separate application for each absolute priority it proposes to address. If an applicant submits more than one application for the same absolute priority, we will accept only the application with the latest ''date/time received'' validation and we will reject all other applications the applicant submits for that priority.

These priorities are:

Absolute Priority 1. Training to improve: Reporting student and project performance and the evaluation of project performance in order to design and operate a model project funded under the Federal TRIO Programs.

Number of expected awards: 2.

Maximum award amount: $257,500.

Absolute Priority 2. Training on: Budget management and the statutory and regulatory requirements for operation of projects funded under the Federal TRIO Programs.

Number of expected awards: 2.

Maximum award amount: $257,500.

Absolute Priority 3. Training on: Assessment of student needs; retention and graduation strategies, including both secondary and postsecondary retention and graduation strategies; and the use of appropriate educational technology in the operation of projects funded under the Federal TRIO programs.

Number of expected awards: 1.

Maximum award amount: $334,750.

Absolute Priority 4. Training on: Assisting students in receiving adequate financial aid from programs assisted under title IV of the HEA and from other programs; college and university admissions policies and procedures; and proven strategies to improve the financial literacy and economic literacy of students, including topics such as

basic personal finance information, household money management and financial planning skills, and basic economic decision making skills.

Number of expected awards: 2.

Maximum award amount: $257,500.

Absolute Priority 5. Training on: Strategies for recruiting and serving hard to reach populations, including students who are limited English proficient, students from groups that are traditionally underrepresented in postsecondary education, students with disabilities, students who are homeless children and youths (as this term is defined in Section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), students who are in foster care or are aging out of the foster care system, or other disconnected students.

Number of expected awards: 1.

Maximum award amount: $334,750.

Absolute Priority 6. Training on general project management for new project directors who have been in their position less than two years, including training on the content of absolute priorities one through five. The training should provide new directors with the basic tools required to be a successful TRIO project director.

Number of expected awards: 1.

Maximum award amount: $285,500.

Program Authority: 20 U.S.C. 1070a–11 and 1070a–17.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 642.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $2,500,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2017 from the list of unfunded applications from this competition.

Estimated Range of Awards: $257,500–$334,750.

Estimated Average Size of Awards: $277,778.

Maximum Award: The maximum award amount is $257,500 under Absolute Priorities 1, 2, and 4 for a project that will serve a minimum of 224 participants at an approximate cost of $1,150 per participant. The maximum award amount is $334,750 under Absolute Priorities 3 and 5 for a project that will serve a minimum of 291 participants at an approximate cost of $1,150 per participant. The maximum award amount is $285,500 under Absolute Priority 6 for a project that will serve a minimum of 248 participants at an approximate cost of $1,150 per participant. We will reject any application that proposes a budget exceeding the applicable maximum award amount for a single budget period of 12 months. We will also reject an application that proposes to serve less than the minimum number of participants outlined in this paragraph.

Estimated Number of Awards: 9.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

III. Eligibility Information

1. *Eligible Applicants:* IHEs and other public and private nonprofit institutions and organizations.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* Suzanne Ulmer, Office of Postsecondary Education (OPE), U.S. Department of Education, 400 Maryland Avenue SW., Room 7E311, Washington, DC 20202. Telephone: (202) 502–7600 or by email: *TRIO@ed.gov.*

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

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* Braille, large print, audiotape, or compact disc) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative (Part III) to no more than 50 pages. For the purpose of determining compliance with the page limit, each page on which there are words will be counted as one full page. Applicants must use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides. Page numbers and an identifier may be within the 1″ margin.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in figures and graphs. Text in charts and tables may be single-spaced. You should also include a table of contents in the application narrative, which will not be counted against the page limit.
- Use a font that is either 12 point or larger, or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman and Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the Application for Federal Assistance face sheet (SF 424); Part II, the Budget Information Summary form (ED Form 524); Part III–A, the Program Profile form; Part III–B, the one-page Project Abstract form; and Part IV, the Assurances and Certifications. If you include any attachments or appendices, these items will be counted as part of the application narrative for the purpose of the page-limit requirement. You must include your complete response to the selection criteria and absolute priorities in the application narrative.

We will reject your application if you exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: February 16, 2016.

Deadline for Transmittal of Applications: April 15, 2016.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: July 1, 2016.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We specify unallowable costs in 34 CFR 642.31. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Training Program, CFDA number 84.103A, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Training Program at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.103, not 84.103A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.* In addition, for specific guidance and procedures for submitting an application through Grants.gov, please refer to the Grants.gov Web site

at: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*

- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a read-only, non-modifiable Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the project narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. This notification indicates receipt by Grants.gov only, not receipt by the Department. Grants.gov will also notify you automatically by email if your application met all the Grants.gov validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by Grants.gov, the Department will retrieve your application from Grants.gov and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by Grants.gov, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, non-modifiable PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the persons listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; *and*
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Dr. Katie Blanding and Suzanne Ulmer, OPE, U.S. Department of Education, 400 Maryland Avenue SW., Room 7E311, Washington, DC 20202. FAX: (202) 205–0063.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.103A), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.103A), 550 12th Street SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260. The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

Note: Applicants must indicate the absolute priority addressed in the application on the one-page abstract submitted with the application and on the Training Program Profile Sheet.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are in 34 CFR 642.21 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

For this competition, a panel of non-Federal reviewers will review each application in accordance with the selection criteria in 34 CFR 642.21. The individual scores of the reviewers will be added and the sum divided by the number of reviewers to determine the peer review score received in the review process. Additionally, in accordance with 34 CFR 642.22, the Secretary will award prior experience points to eligible applicants by evaluating the applicant's current performance under its expiring Training Program grant. Pursuant to 34 CFR 642.22(b)(1), prior experience points, if any, will be added to the application's averaged peer review score to determine the total score for each application.

Under section 402A(c)(3) of the HEA, the Secretary is not required to make awards under the Training Program in the order of the scores received.

In the event a tie score exists, the Secretary will select for funding the applicant that has the greatest capacity to provide training to eligible participants in all regions of the Nation in order to assure accessibility to the greatest number of prospective training participants, consistent with 34 CFR 642.20(e).

3. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html*.

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

4. *Performance Measures:* The success of the Training Program is measured by its cost-effectiveness based on the number of TRIO project personnel receiving training each year; the percentage of Training Program

participants that, each year, evaluate the training as benefiting them in increasing their qualifications and skills in meeting the needs of disadvantaged students; and the percentage of Training Program participants that, each year, evaluate the training as benefiting them in increasing their knowledge and understanding of the Federal TRIO Programs. All grantees will be required to submit an annual performance report documenting their success in training personnel working on TRIO-funded projects, including the average cost per trainee and the trainees' evaluations of the effectiveness of the training provided. The success of the Training Program also is assessed on the quantitative and qualitative outcomes of the training projects based on project evaluation results.

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: Suzanne Ulmer or, if unavailable, Dr. Katie Blanding, OPE, U.S. Department of Education, 400 Maryland Avenue SW., Room 7E311, Washington, DC 20202. Telephone: (202) 502–7600 or by email: *TRIO@ed.gov*.

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to one of the program contact persons listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: February 10, 2016.

Lynn Mahaffie,

Deputy Assistant Secretary for Policy, Planning and Innovation Delegated the Duties of Assistant Secretary for Postsecondary Education.

[FR Doc. 2016–03089 Filed 2–12–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0138]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Enterprise Complaint System

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before March 17, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2015–ICCD–0138. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E–103, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Enterprise Complaint System.

OMB Control Number: 1845—NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 43,200.

Total Estimated Number of Annual Burden Hours: 7,344.

Abstract: This is a request for a new information collection. On March 10, 2015, the White House issued a Student Aid Bill of Rights. Among the objectives identified was the creation of a centralized complaint system. The purpose of the Enterprise Complaint System is to meet the objective: ''Create a Responsive Student Feedback System: The Secretary of Education will create a new Web site by July 1, 2016, to give students and borrowers a simple and straightforward way to file complaints and provide feedback about federal

student loan lenders, servicers, collections agencies, and institutions of higher education. Students and borrowers will be able to ensure that their complaints will be directed to the right party for timely resolution, and the Department of Education will be able to more quickly respond to issues and strengthen its efforts to protect the integrity of the student financial aid programs.'' The Department of Education has charged Federal Student Aid with the development and oversight of this new collection.

Dated: February 10, 2016.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–03057 Filed 2–12–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 15–168–LNG]

Flint Hills Resources, LP; Application for Long-Term, Multi-Contract Authorization To Export Liquefied Natural Gas to Non-Free Trade Agreement Nations

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application), filed on November 5, 2015, by Flint Hills Resources, LP (Flint Hills), requesting long-term, multi-contract authorization to export domestically produced liquefied natural gas (LNG) primarily by use of approved ISO IMO7–TVAC–ASME LNG (ISO) containers transported on ocean-going carriers to any country with which the United States does not have a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries).[1] Flint Hills seeks authorization to export the LNG in a volume equivalent to approximately 3.62 billion cubic feet of natural gas per year (Bcf/yr) (0.01 Bcf per day), which it states is approximately 120,000 gallons of LNG per day. Flint Hills seeks to purchase the LNG for export from a LNG liquefaction facility owned by Stabilis LNG Eagle Ford, LLC (Stabilis Facility), located in George West, Texas.[2] According to Flint Hills, the Stabilis Facility has the capacity to produce 120,000 gallons of LNG per day and to store approximately 270,000 gallons of LNG. Flint Hills states that the Stabilis Facility is currently operational and can accommodate both ISO container loadings and tanker truck loadings.[3] Flint Hill therefore asserts that no additional plant infrastructure will be required as a result of the proposed exports. Flint Hills requests the authorization for a 20-year term to commence on the earlier of the date of first commercial export or a date three months from the issuance of a final order granting the requested authorization. Flint Hills seeks to export this LNG on its own behalf and as agent for other entities who hold title to the LNG at the time of export. The Application was filed under section 3 of the Natural Gas Act (NGA). Additional details can be found in Flint Hills's Application, posted on the DOE/FE Web site at: *http://energy.gov/sites/prod/files/2015/11/f27/15_168_lng%20fta_nfta.pdf.* Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, April 18, 2016.

ADDRESSES: *Electronic Filing by email: fergas@hq.doe.gov.*

Regular Mail

U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.)

U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Larine Moore or Benjamin Nussdorf, U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478; (202) 586–7893.

Cassandra Bernstein, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9793.

SUPPLEMENTARY INFORMATION:

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3(a) of the NGA, 15 U.S.C. 717b(a), and DOE will consider any issues required by law or policy. To the extent determined to be relevant, these issues will include the domestic need for the natural gas proposed to be exported, the adequacy of domestic natural gas supply, U.S. energy security, and the cumulative impact of the requested authorization and any other LNG export application(s) previously approved on domestic natural gas supply and demand fundamentals. DOE may also consider other factors bearing on the public interest, including the impact of the proposed exports on the U.S. economy (including GDP, consumers, and industry), job creation, the U.S. balance of trade, and international considerations; and whether the authorization is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. As part of this analysis, DOE will consider the following two studies examining the cumulative impacts of LNG:

- *Effect of Increased Levels of Liquefied Natural Gas on U.S. Energy Markets,* conducted by the U.S. Energy Information Administration upon DOE's request (2014 EIA LNG Export Study);[4] and
- *The Macroeconomic Impact of Increasing U.S. LNG Exports,* conducted jointly by the Center for Energy Studies at Rice University's Baker Institute for Public Policy and Oxford Economics, on

[1] In the Application, Flint Hills also requests authorization to export LNG to any nation that currently has, or in the future may enter into, a FTA requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (FTA countries). DOE/FE will review that request for a FTA export authorization separately pursuant to NGA section 3(c), 15 U.S.C. 717b(c).

[2] Flint Hills states that Stabilis LNG is owned in part (49%) by Flint Hills's affiliate, FHR LNG, LLC. App. at 3 n.4.

[3] Flint Hills states that it generally intends to use ISO containers to export LNG. Under this scenario, the ISO containers will be trucked to a port or dock located along the Gulf Coast, where the containers will be loaded onto a barge or ship for delivery to non-FTA countries. If Flint Hills uses tanker trucks, it will truck LNG from the Stabilis Facility directly to a bulk transport barge, ship, or floating storage container for distribution to customers in both FTA and non-FTA countries. App. at 4–5. Appendix A of the Application contains a list of ports from which Flint Hills may export LNG.

[4] The 2014 EIA LNG Export Study, published on Oct. 29, 2014, is available at: *https://www.eia.gov/analysis/requests/fe/.*

behalf of DOE (2015 LNG Export Study).[5]

Additionally, DOE will consider the following environmental document: *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States,* 79 FR 48132 (Aug. 15, 2014).[6] Parties that may oppose this Application should address these issues in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Due to the complexity of the issues raised by the Applicant, interested parties will be provided 60 days from the date of publication of this Notice in which to submit their comments, protests, motions to intervene, or notices of intervention.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 15–168–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Regulation and International Engagement at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Regulation and International Engagement at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 15–168–LNG. PLEASE **Note:** If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Office of Regulation and International Engagement docket room, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on February 9, 2016.

John A. Anderson,

Director, Office of Regulation and International Engagement, Office of Oil and Natural Gas.

[FR Doc. 2016–03093 Filed 2–12–16; 8:45 am]

BILLING CODE 6450–01–P

[5] The 2015 LNG Export Study, dated Oct. 29, 2015, is available at: *http://energy.gov/sites/prod/files/2015/12/f27/20151113_macro_impact_of_lng_exports_0.pdf.*

[6] The Addendum and related documents are available at: *http://energy.gov/fe/draft-addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Energy Savings Performance Contract Energy Sales Agreement

AGENCY: Federal Energy Management Program (FEMP), Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy (DOE).

ACTION: Notice of availability and request for comments.

SUMMARY: The Federal Energy Management Program Office (FEMP), within the U.S. Department of Energy (DOE), published a notice, ''Request for Comments on Including Onsite Renewable Energy Generation under Energy Savings Performance Contracts,'' on its Web site to obtain information on potential obstacles associated with the implementation of privately-owned onsite renewable energy generation projects under the federal energy savings performance contract (ESPC) authority, including potential issues with regard to project eligibility for the federal solar investment tax credit (ITC) and the use of the ESPC ENABLE Program for such projects.

DATES: Written comments and information are requested on or before March 2, 2016.

ADDRESSES: Interested parties are to submit comments electronically to: *tracy.logan@ee.doe.gov.*

Instructions: All submissions received must include ''Feb 2016 ESPC Request for Comments'' in the subject of the message. The notice is available at *http://energy.gov/eere/femp/downloads/request-comments-including-onsite-renewable-energy-generation-under-energy.*

FOR FURTHER INFORMATION CONTACT: Tracy Logan, U.S. Department of Energy, Federal Energy Management Program (EE–2L), 1000 Independence Avenue SW., Washington, DC 20585; email: *Tracy.Logan@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: FEMP published a notice, ''Request for Comments on Including Onsite Renewable Energy Generation under Energy Savings Performance Contracts,'' to obtain information on potential obstacles associated with the implementation of privately-owned onsite renewable energy generation projects under the federal energy savings performance contract (ESPC) authority, including potential issues with regard to project eligibility for the federal solar investment tax credit (ITC) and the use of the ESPC ENABLE

Program for such projects. The notice is available at *http://energy.gov/eere/femp/downloads/request-comments-including-onsite-renewable-energy-generation-under-energy.*

FEMP invites all interested parties to submit in writing by March 2, 2016, comments and information on matters addressed in the notice.

Issued in Washington, DC, on February 3, 2016.

Hayes Jones,

Operations Supervisor, Federal Energy Management Program.

[FR Doc. 2016–03103 Filed 2–12–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Request for Information: Accounting Conventions for Non-Combustible Renewable Energy Use

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of Request for Information (RFI).

SUMMARY: The Department of Energy (DOE) gives notice of a Request for Information: ''Accounting Conventions for Non-Combustible Renewable Energy Use'' regarding using an alternative methodology for calculating source energy from non-combustible renewable resources in analysis that informs DOE, Office of Energy Efficiency and Renewable Energy (EERE) products, reports, and standards—such as the Home Energy Score. The current approach uses the equivalent average heat rate of fossil fuels to convert renewable electricity to source energy (approximately 9,500 BTU/kWh), while the proposed approach would use the heat content of electricity (3,412 BTU/kWh). This proposed change would better represent the lack of fuels used in generating renewable electricity, and would result in a slightly lower site-to-source ratio than the current approach.

DATES: Written comments and information are requested on or before March 14, 2016, no later than 5:00 p.m. (ET).

ADDRESSES: Interested persons are encouraged to submit comments, which must be submitted electronically to *EERE.Analysis@ee.doe.gov.* Please visit *https://eere-exchange.energy.gov/* for the full RFI and to ask and view responses to questions regarding this RFI.

FOR FURTHER INFORMATION CONTACT: Requests for additional information may be sent to Steve Capanna, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: 202–586–7367. Email: *Steve.Capanna@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Background

EERE publishes reports, tools, and standards that include analyses that examine the impact of energy efficiency measures on total energy savings, and that compare energy savings between different types of technologies. A commonly used methodology for this is to convert the ''site energy'' into source energy (or ''primary energy'') using a site-to-source ratio. For electricity, this essentially converts the energy used in a building (in kilowatt-hours, kWh) into the equivalent amount of fuel required to generate that electricity (typically in British Thermal Units, BTU).

The site-to-source ratio accounts for the useful energy lost in converting, transmitting, and distributing energy carriers. As a result, the source energy can be three times the size of the equivalent site energy, depending on location and electricity generation technology used. The benefit of using source energy as a metric for determining the impact of energy efficiency measures and technologies is that it is a more equitable ''apples-to-apples'' comparison of energy use than looking at site energy alone.

Typically, analyses use electricity energy data provided by the Energy Information Administration (EIA) in their Monthly Energy Review to calculate a site-to-source ratio. Using this EIA document, the total energy content of fuels used to generate electricity is divided by the total amount of electricity consumed by end users to calculate the site-to-source ratio.

Accounting for the total source energy of electricity produced from combustible fuels (*e.g.,* coal, natural gas, oil) is relatively straightforward as the energy content of these fuels is known. However, for non-combustible renewable resources (*i.e.,* wind, solar, hydro, and geothermal) because there is no ''fuel'' used, a choice must be made to determine how to account for the primary energy of electricity generated from these sources.

The current ''fossil fuel equivalency'' accounting convention used by the EIA to calculate the reported source energy number, assumes that non-combustible renewable electricity (RE) generation has the same source energy per kWh as the average of fossil fuel electricity. This factor, equivalent to a heat rate, represents the average amount of fossil fuel energy required to produce a kWh of electricity. Alternatively, the factor can be thought of as the amount of fossil energy displaced by a kWh of RE. The most recent value reported by EIA in Table A6 of the Monthly Energy Review is 9,541 BTU/kWh, which is equivalent to a generation efficiency of roughly 36%.

The ''captured energy'' alternative convention accounts only for the energy output from a non-combustible generator. This assumes that the conversion from energy resource (*e.g.* sunlight, wind, water, etc.) into electricity is 100% efficient. The energy content of electricity generated from a non-combustible source using this accounting convention is 3,412 BTU/kWh, which is a unit conversion.

An example comparison of the two methods of calculating source energy and site-to-source ratios using 2014 data is presented in the table below. Using the captured energy approach decreases the site-to-source ratio from 2.98 to 2.77 as compared to the fossil fuel equivalency approach.

COMPARISON OF DIFFERENT METHODOLOGIES OF NON-COMBUSTIBLE RENEWABLE ENERGY ACCOUNTING ON SITE-TO-SOURCE RATIOS, USING 2014 DATA [a]

Method	RE gen. (TWh) [b]	Conversion factor (BTU/kWh)	RE source energy (quad)	Non-RE source energy (quad) [c]	Total source energy (quad)	End use (quad) [d]	Site-to-source ratio [e]
Fossil Fuel Equivalency	475	[f] 9,541	4.53	35.21	39.74	13.32	2.98

COMPARISON OF DIFFERENT METHODOLOGIES OF NON-COMBUSTIBLE RENEWABLE ENERGY ACCOUNTING ON SITE-TO-SOURCE RATIOS, USING 2014 DATA [a]—Continued

Method	RE gen. (TWh) [b]	Conversion factor (BTU/kWh)	RE source energy (quad)	Non-RE source energy (quad) [c]	Total source energy (quad)	End use (quad) [d]	Site-to-source ratio [e]
Captured Energy	475	[g] 3,412	1.62	35.21	36.83	13.32	2.77

[a] 2014 data from December 2015 edition of EIA's *Monthly Energy Review* (*http://www.eia.gov/totalenergy/data/monthly*) Tables 7.1, 7.2a, 7.3a, and A6. 1 Quad = 10^{15} BTU.
[b] Includes wind, solar photovoltaic, solar thermal, geothermal, and hydro generation
[c] Coal, petroleum, natural gas, and nuclear generation from Table 7.2a is converted to Quads using the heat contents from Table A6. Wood, waste, other gases, and other generation source energy used as reported in Table 7.3a.
[d] End use energy is calculated as net generation of electricity (13.97 Quads) plus imports (0.16 Quads) minus transmission & distribution losses (0.82 Quads), as reported in Table 7.1 and converted to Quads using 3,412 BTU/kWh.
[e] Note that ratios reported here were calculated without independent rounding.
[f] As reported in Table A6.
[g] A constant unit conversion, Table A6.

The fossil fuel equivalency approach to calculating RE source energy may be sufficient when the level of RE generation is small. However, with generation from RE resources increasing due to the continued trend of de-carbonizing the grid, the importance of the RE source energy accounting methodology also increases. EERE believes that using the ''captured energy'' approach most accurately reflects how RE generation differs from other types of conventional generation, and is therefore the best way to include it when accounting for the benefits of energy efficiency measures and standards.

Purpose

The purpose of this RFI is to solicit feedback from industry, academia, research laboratories, government agencies, and other stakeholders on issues related to the proposed modification to the accounting of RE source energy. EERE proposes to replace the fossil-fuel equivalency approach with the alternative captured energy approach presented above. This would impact the site-to-source ratios used in analyses that inform EERE reports, standards, and evaluations. This methodological choice is important as renewable generation continues to grow and accounts for more significant portions of the nation's electricity production. This is not announcing a proposed rule or policy change at this time, and is solely an effort to gather information from stakeholders to help inform EERE on whether a change to the source energy calculation should be proposed.

Request for Information Categories and Questions

1. Describe your organization and its relationship to any EERE products, analyses, or standards.

2. Please provide comment on the proposed change in methodology from the current ''fossil fuel equivalency'' (*e.g.* 9,541 BTU/kWh) to the ''captured energy'' approach (*e.g.* 3,412 BTW/kWh) discussed in the background section. What are the advantages and disadvantages of each? How might it affect you/your organization?

3. Please describe any alternative methodology not discussed in the background section that you think merits consideration, along with the advantages and disadvantages.

4. Please describe any other important aspects of primary energy and site-to-source ratio methodologies for EERE to consider. What are these aspects and why are they important?

Request for Information Response Guidelines

Responses to this RFI must be submitted electronically to *EERE.Analysis@ee.doe.gov* no later than 5:00 p.m. (ET) on March 14, 2016. Responses must be provided as attachments to an email. It is recommended that attachments with file sizes exceeding 25MB be compressed (*i.e.,* zipped) to ensure message delivery. Responses must be provided as a Microsoft Word (.docx) attachment to the email, and no more than 20 pages in length, 12 point font, 1 inch margins. Only electronic responses will be accepted.

Please identify your answers by responding to a specific question or topic if applicable. Respondents may answer as many or as few questions as they wish. EERE will not respond to individual submissions or publish publicly a compendium of responses. A response to this RFI will not be viewed as a binding commitment to develop or pursue the project or ideas discussed.

Respondents are requested to provide the following information at the start of their response to this RFI:

- Company/institution name;
- Company/institution contact;
- Contact's address, phone number, and email address.

Confidential Business Information

Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person that would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

Issued in Washington, DC, on February 9, 2016.

Kathleen Hogan,

Deputy Assistant Secretary.

[FR Doc. 2016–03118 Filed 2–12–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2972–024]

The City of Woonsocket; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 2972–024.

c. *Date Filed:* October 19, 2015.

d. *Submitted By:* The City of Woonsocket.

e. *Name of Project:* Woonsocket Falls Project.

f. *Location:* On the Blackstone River, in Providence County, Rhode Island. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Charles Rosenfield, Thundermist Hydropower, 87 Senexet Road, Woodstock, CT 06281; (860) 928–7100; or by email—*putnamhydro@charter.net.*

i. *FERC Contact:* Patrick Crile at (202) 502–8042; or email at *patrick.crile@ferc.gov.*

j. The City of Woonsocket filed its request to use the Traditional Licensing Process on October 19, 2015. The City of Woonsocket provided public notice of its request on December 21, 2015. In a letter dated February 9, 2016, the Director of the Division of Hydropower Licensing approved the City of Woonsocket's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402. We are also initiating consultation with the Rhode Island Historical Preservation and Heritage Commission, the State Historic Preservation Office (SHPO), as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating the City of Woonsocket as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and consultation pursuant to section 106 of the National Historic Preservation Act.

m. The City of Woonsocket filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 2972–024. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by October 31, 2018.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: February 9, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–03022 Filed 2–12–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–162–016; ER11–3876–019; ER16–438–002; ER11–2044–019; ER15–2211–007; ER10–2611–017.

Applicants: Bishop Hill Energy II LLC, Cordova Energy Company LLC, Marshall Wind Energy LLC, MidAmerican Energy Company, MidAmerican Energy Services, LLC, Saranac Power Partners, L.P.

Description: Notification of Change in Status of the BHE MBR Sellers.

Filed Date: 2/8/16.

Accession Number: 20160208–5181.

Comments Due: 5 p.m. ET 2/29/16.

Docket Numbers: ER15–13–004.

Applicants: Transource Wisconsin, LLC.

Description: Compliance filing: Transource Wisconsin Compliance Filing to be effective 12/1/2014.

Filed Date: 2/8/16.

Accession Number: 20160208–5171.

Comments Due: 5 p.m. ET 2/29/16.

Docket Numbers: ER15–1196–006.

Applicants: Nevada Power Company.

Description: Compliance filing: OATT Errata to Attachment P NPC to be effective 2/16/2016.

Filed Date: 2/9/16.

Accession Number: 20160209–5056.

Comments Due: 5 p.m. ET 3/1/16.

Docket Numbers: ER15–1627–001.

Applicants: PJM Interconnection, L.L.C.

Description: Compliance filing: Correction Filing to Beech Ridge II ISA No. 3087, Queue No. M24 to be effective 3/31/2015.

Filed Date: 2/8/16.

Accession Number: 20160208–5089.

Comments Due: 5 p.m. ET 2/29/16.

Docket Numbers: ER15–958–004.

Applicants: Transource Kansas, LLC.

Description: Compliance filing: Transource Kansas Compliance Filing to be effective 4/3/2015.

Filed Date: 2/8/16.

Accession Number: 20160208–5161.

Comments Due: 5 p.m. ET 2/29/16.

Docket Numbers: ER16–909–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original Service Agreement No. 4400; Queue Position Z2–046/AA1–066 to be effective 1/8/2016.

Filed Date: 2/8/16.

Accession Number: 20160208–5086.

Comments Due: 5 p.m. ET 2/29/16.

Docket Numbers: ER16–910–000.

Applicants: EPP New Jersey Solar, LLC.

Description: Tariff Cancellation: Cancellation of market-based rate tariff. to be effective 2/8/2016.

Filed Date: 2/8/16.

Accession Number: 20160208–5147.

Comments Due: 5 p.m. ET 2/29/16.

Docket Numbers: ER16–911–000.

Applicants: EPP New Jersey Biogas, LLC.

Description: Tariff Cancellation: Cancellation of market-based rate tariff. to be effective 2/8/2016.

Filed Date: 2/8/16.

Accession Number: 20160208–5148.

Comments Due: 5 p.m. ET 2/29/16.

Docket Numbers: ER16–912–000.

Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: Rate Schedule No. 274—Planning Participation Agreement to be effective 4/9/2016.

Filed Date: 2/8/16.

Accession Number: 20160208–5160.

Comments Due: 5 p.m. ET 2/29/16.

Docket Numbers: ER16–913–000.

Applicants: NextEra Energy Transmission West, LLC.

Description: Compliance filing: NextEra Energy Transmission West, LLC Compliance Filing-2 to be effective 10/20/2015.

Filed Date: 2/8/16.

Accession Number: 20160208–5170.

Comments Due: 5 p.m. ET 2/29/16.

Docket Numbers: ER16–914–000.

Applicants: Axpo U.S. LLC.

Description: Baseline eTariff Filing: Axpo U.S. LLC Application for Market-Based Rate Authorization to be effective 4/5/2016.

Filed Date: 2/4/16.

Accession Number: 20160204–5238.

Comments Due: 5 p.m. ET 2/25/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 9, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–03017 Filed 2–12–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice Establishing Post-Technical Conference Comments

	Docket Nos.
PJM Interconnection, L.L.C	ER15–2562–000 ER15–2563–000.
Consolidated Edison Company of New York, Inc. v. PJM Interconnection, L.L.C	EL15–18–001.
Linden VFT, LLC v. PJM Interconnection, L.L.C	EL15–67–000.
Delaware Public Service Commission and Maryland Public Service Commission v. PJM Interconnection, L.L.C	EL15–95–000.
PJM Interconnection, L.L.C	ER14–972–003.
PJM Interconnection, L.L.C	ER14–1485–005 Not Consolidated.

In an order dated November 24, 2015,[1] the Commission found that the assignment of cost allocation for the projects in the filings and complaints listed in the caption using PJM's solution-based distribution factor (DFAX) cost allocation method had not been shown to be just and reasonable and may be unjust, unreasonable, or unduly discriminatory or preferential. The Commission directed its staff to establish a technical conference to explore both whether there is a definable category of reliability projects within PJM for which the solution-based DFAX cost allocation method may not be just and reasonable, such as projects addressing reliability violations that are not related to flow on the planned transmission facility, and whether an alternative just and reasonable *ex ante* cost allocation method could be established for any such category of projects.

The technical conference was held on January 12, 2016. At the technical conference, staff indicated that it would establish a schedule for post-technical conference comments after reviewing the technical conference transcript. A revised technical conference transcript was placed in the above-referenced dockets on February 9, 2016.

Post-technical conference comments, not to exceed 20 pages, are due on or before March 1, 2016.

For more information about this technical conference, please contact *PJMDFAXconfDL@ferc.gov;* or Sarah McKinley, 202–502–8368, *sarah.mckinley@ferc.gov,* regarding logistical issues.

Dated: February 9, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–03018 Filed 2–12–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

[1] *PJM Interconnection, L.L.C., et al.,* 153 FERC ¶ 61,245 (2015) (November 2015 Order).

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	File date	Presenter or requester
Prohibited:		
1. CP16–96–000	1–27–2016	Paul M. Blanch.
2. CP15–554–000	1–27–2016	Peggy Quarles.
3. CP15–500–000	1–27–2016	Brent Ducker.
4. CP15–500–000	1–29–2016	Joe Moore.
5. CP15–89–000	2–1–2016	FERC Staff.[1]
6. CP15–500–000	2–2–2016	Grouped Letters.[2]
7. CP15–500–000	2–2–2016	Grouped Letters.[3]
8. CP15–500–000	2–2–2016	James Glendinning.
9. CP15–500–000	2–2–2016	Barbel Helmert.
10. CP15–500–000	2–2–2016	Case Southerland.
11. CP15–500–000	2–2–2016	Linda Kay Wilde.
12. CP15–500–000	2–3–2016	Williams McGhee.
13. CP15–500–000	2–4–2016	Grouped Letters.[4]
14. CP16–21–000	2–5–2016	North Central Massachusetts Chamber of Commerce.
Exempt:		
1. CP15–91–000	1–12–2016	FERC Staff.[5]
2. CP14–347–000	1–27–2016	U.S. Senator David Vitter.
3. CP15–91–000	1–28–2016	FERC Staff.[6]
4. CP16–10–000, CP15–554–000	1–29–2016	State of Virginia Delegate Tony Wilt.
5. CP15–554–000	1–29–2016	State of North Carolina General Assembly Senator Philip E. Berger.
6. CP15–89–000	2–2–2016	State of New Jersey Legislature.[7]
7. CP15–554–000	2–4–2016	FERC Staff.[8]
8. CP09–6–001	2–8–2016	FERC Staff.[9]

[1] Phone Memorandum dated February 1, 2016 with Keith Sturn (New Jersey Natural Gas) regarding Garden State Expansion Project.
[2] Mass Mailing: 82 letters have been sent to FERC Commissioners and staff under this docket number.
[3] Mass Mailing: 82 letters have been sent to FERC Commissioners and staff under this docket number.
[4] Mass Mailing: 33 letters have been sent to FERC Commissioners and staff under this docket number.
[5] Email dated January 12, 2016 between Lisa Connolly of Spectra Energy Transmissions and FERC Staff.
[6] Memo to the File regarding two meetings (January 7 and 13, 2016) between FERC, Spectra/East Tennessee staff, and Spectra/East Tennessee contractors.
[7] Senator Samuel D. Thompson, Assemblyman Ronald S. Dancer, and Assemblyman Robert D. Clifton.
[8] Record of Project Meeting on January 14, 2016 with participants from FERC, U.S. Forest Service, and Dominion Transmission Inc.
[9] LNG Engineering Phone Correspondence from November 23, 2015 and November 24, 2015 phone conferences between FERC and Oregon LNG Representatives.

Dated: February 9, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–03024 Filed 2–12–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1894–207—South Carolina Parr Hydroelectric Project]

South Carolina Electric & Gas Company; Notice of Revised Restricted Service List for a Programmatic Agreement

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.2010, provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding concerning non-public information. The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the South Carolina Department of Archives & History (South Carolina SHPO) and the Advisory Council on Historic Preservation (Advisory Council) pursuant to the Advisory Council's regulations, 36 CFR part 800, implementing section 106 of the National Historic Preservation Act, *as amended,* (54 U.S.C. 306108), to prepare a Programmatic Agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places that could be affected by issuance of a new license for the Parr Hydroelectric Project No. 1894–207.

On November 18, 2014, Commission staff established a restricted service list for the Parr Hydroelectric Project. Since that time, the United Keetoowah Band of Cherokee Indians in Oklahoma requested a change in the restricted service list and therefore, the restricted service list is revised as follows:

Replace ''Lisa C. Baker, Acting THPO, United Keetoowah Band of Cherokee Indians in Oklahoma'' with ''Assistant Chief Joe Bunch, or Representative, United Keetoowah Band of Cherokee Indians in Oklahoma.''

Dated: February 9, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–03020 Filed 2–12–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR15–26–000]

Enterprise Texas Pipeline LLC; Notice of Informal Settlement Conference

Take notice that an informal settlement conference will be convened in the above-captioned proceeding on February 24, 2016, at 10:00 a.m. (EDT), in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

At the conference, Enterprise Texas Pipeline LLC should be prepared to provide, as necessary, additional support for its position.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or 202–502–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

All interested parties and staff are permitted to attend. For further information please contact David Tishman at (202) 502–8515 or email at *david.tishman@ferc.gov* or Seong-Kook Berry at (202) 502–6544 or email at *seong-kook.berry@ferc.gov.*

Dated: February 9, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–03023 Filed 2–12–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IS16–61–000]

Colonial Pipeline Company; Notice of Technical Conference

Take notice that a technical conference will be held on Wednesday, March 9, 2016, at 9:00 a.m. (Eastern Standard Time), in Hearing Room 1 at the offices of the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

At the technical conference, the Commission Staff and the parties to the proceeding should be prepared to discuss all issues set for technical conference as established in the December 3, 2015 Order (*Colonial Pipeline Company,* 153 FERC ¶ 61,270 (2015)).

All interested persons are permitted to attend. Advanced registration is required for all attendees. Attendees may register in advance at the following Web page: *https://www.ferc.gov/whats-new/registration/03-09-16-form.asp.* Information on this event will be posted on the Calendar of Events on the Commission's Web site, *www.ferc.gov,* prior to the event.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–502–8659 (TTY); or send a fax to 202–208–2106 with the required accommodations.

For more information about this technical conference, please contact Adrianne Cook, 202–502–8849, *adrianne.cook@ferc.gov* or David Faerberg, 202–502–8275, *david.faerberg@ferc.gov.*

Dated: February 9, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–03019 Filed 2–12–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP15–1322–000]

Sabine Pipe Line, LLC; Notice of Informal Settlement Conference

Take notice that an informal settlement conference will be convened in this proceeding commencing at 1:00 p.m. on February 17, 2016, at the offices of the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to the undersigned Trial Staff contacts with the required accommodations.

For additional information, please contact Lorna Hadlock at 202–502–8737, *Lorna.Hadlock@ferc.gov.*

Dated: February 9, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–03025 Filed 2–12–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Brookfield White Pine Hydro LLC, Project No. 2322–060—Maine, Shawmut Hydroelectric Project; Notice of Proposed Restricted Service List for a Programmatic Agreement

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.2010, provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding concerning non-public information. The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the Maine Historic Preservation Commission (Maine SHPO) and the Advisory Council on Historic Preservation (Advisory Council) pursuant to the Advisory Council's regulations, 36 CFR part 800, implementing section 106 of the National Historic Preservation Act, *as amended,* (54 U.S.C. 306108), to prepare a Programmatic Agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places that could be affected by issuance of a new license for the Shawmut Hydroelectric Project No. 2322–060.

The Programmatic Agreement, when executed by the Commission and the Maine SHPO, would satisfy the Commission's section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.13[e]). The Commission staff proposes to draft the Programmatic Agreement in consultation with certain parties listed below.

Brookfield White Pine Hydro LLC, as licensee for the Shawmut Hydroelectric Project, is invited to participate in consultations to develop the Programmatic Agreement and to sign as a concurring party to the Programmatic

Agreement. For purposes of commenting on the Programmatic Agreement, we propose to restrict the service list for Project No. 2322–060 as follows:

Dr. John Eddins, Advisory Council on Historic Preservation, 401 F Street NW., Suite 308, Washington, DC 20001–2637

Kirk F. Mohney, SHPO, Maine Historic Preservation Commission, 55 Capitol Street, 65 State House Station, Augusta, ME 04333–0065

Robin K. Reed or Representative, Maine Historic Preservation Commission, 55 Capitol Street, 65 State House Station, Augusta, ME 04333–0065

Frank Dunlap and Representative, Brookfield Renewable Energy Group, 26 Katherine Drive, Hallowell, ME 04347

Jennifer Pictou, THPO, or Representative, Aroostook Band of Micmac, 7 Northern Road, Presque Isle, ME 04769

Chris Sockalexis, THPO, or Representative, Penobscot Indian Nation, 12 Wabanaki Way, Indian Island, ME 04468

Donald Soctomah, THPO, Passamaquoddy Tribe—Pleasant Point, or Representative, P.O. Box 159, Princeton, ME 04668

Chief William Nicolas, Sr. or Representative, Passamaquoddy Tribe—Indian Township, P.O. Box 301, Princeton, ME 04668

Chief Brenda Commander or Representative, Houlton Band of Maliseet, 88 Bell Road, Littleton, ME 04730

David Saunders, Bureau of Indian Affairs, Eastern Region, 545 Marriott Drive, Suite 700, Nashville, TN 37214

Harold Peterson, Bureau of Indian Affairs, Eastern Region, 545 Marriott Drive, Suite 700, Nashville, TN 37214

Any person on the official service list for the above-captioned proceedings may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date. A copy of any such motion must be filed with the Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 and must be served on each person whose name appears on the official service list. If no such motions are filed, the restricted service list will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on the motion.

Dated: February 9, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–03021 Filed 2–12–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD16–16–000]

Implementation Issues Under the Public Utility Regulatory Policies Act of 1978; Notice of Technical Conference

Take notice that the Federal Energy Regulatory Commission plans to hold a technical conference in the above-captioned docket on implementation issues under the Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 796(17)–(18), 824a–3 (2012) (PURPA). The technical conference will take place on June 29, 2016. The conference will be held at the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The technical conference will be webcast and transcribed.

Further information concerning topics and speakers, as well as matters relevant to the organization of the technical conference, will be provided at a later date in supplemental notices.

Dated: February 9, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–03016 Filed 2–12–16; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 9942–42–OA]

Local Government Advisory Committee (LGAC); Notice of Charter Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

Notice is hereby given that the Environmental Protection Agency (EPA) has determined that, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, the Local Government Advisory Committee (LGAC) is a necessary committee which is in the public interest. Accordingly, LGAC will be renewed for an additional two-year period. The purpose of LGAC is to provide advice and recommendations to EPA's Administrator on ways to improve its partnership with Local Governments and provide more efficient and effective environmental protection.

Inquiries may be directed to Frances Eargle, Designated Federal Officer, LGAC, U.S. EPA, (Mail Code 1301A), 1200 Pennsylvania Avenue NW., Washington, DC 20460, or *eargle.frances@epa.gov.*

Dated: February 4, 2016.

Nichole Distefano,

Associate Administrator, Office of Congressional and Intergovernmental Relations.

[FR Doc. 2016–03101 Filed 2–12–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2015–0469; FRL–9942–26–OW]

Draft Technical Support Document: Recommended Estimates for Missing Water Quality Parameters for Application in EPA's Biotic Ligand Model

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency (EPA) is announcing availability of the draft technical support document: *Recommended Estimates for Missing Water Quality Parameters for Application in EPA's Biotic Ligand Model* for public comment. In 2007, EPA published updated criteria for freshwater copper using the Biotic Ligand Model (BLM), a bioavailability model that relies on ten water quality input parameters to estimate copper criteria protective of aquatic life in freshwater. This draft technical support document summarizes data analysis approaches EPA used to develop recommendations for default values for water quality parameters used in the Freshwater Copper BLM when data are lacking. These default values may also be used to fill in missing water quality input parameters in the application of other metal BLM models as well, when data are lacking. Following closure of this 30 day public comment period, EPA will consider the comments, revise the document, as appropriate, and then publish a final technical support document that will serve as a source of information for states, tribes, territories, and other stakeholders.

DATES: Comments must be received on or before March 17, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2015–0469, to the *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Kathryn Gallagher, Health and Ecological Criteria Division, Office of Water (Mail Code 4304T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone: (202) 564–1398; email address: *gallagher.kathryn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. How can I get copies of this document and other related information?

1. Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Water Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426. For additional information about EPA's public docket, visit EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

II. What is the relationship between state or tribal water quality standards and the draft technical support document?

Recommended estimates for missing water quality parameters for application in EPA's biotic ligand model?

As part of the water quality standards triennial review process defined in section 303(c)(1) of the CWA, the states and authorized tribes are responsible for maintaining and revising water quality standards. Water quality standards consist of designated uses, water quality criteria to protect those uses, a policy for antidegradation, and may include general policies for application and implementation. States and authorized tribes must adopt water quality criteria that protect designated uses. Protective criteria are based on a sound scientific rationale and contain sufficient parameters or constituents to protect the designated uses. States and authorized tribes have four options when adopting water quality criteria for which EPA has published section 304(a) criteria. They can:

(1) Establish numerical values based on recommended section 304(a) criteria;

(2) Adopt section 304(a) criteria modified to reflect site-specific conditions;

(3) Adopt criteria derived using other scientifically defensible methods; or

(4) Establish narrative criteria where numeric criteria cannot be established or to supplement numerical criteria (40 CFR 131.11(b)).

The current 304(a) criteria recommendation for freshwater copper relies on implementation of the BLM model. The model requires 10 inputs to determine the criteria. This technical support document provides default values for 8 of the 10 parameters, where site-specific data are not available, and thereby facilitates the use of the BLM model. The document describes the methods used to estimate missing parameters.

III. Information on the Draft Technical Support Document

Recommended Estimates for Missing Water Quality Parameters for Application in EPA's Biotic Ligand Model

The Biotic Ligand Model (BLM) is used to derive Aquatic Life Ambient water quality criteria for copper in freshwater. The BLM requires 10 input parameters: Temperature, pH, dissolved organic carbon, alkalinity, calcium, magnesium, sodium, potassium, sulfate, and chloride to derive water quality criteria. In 2007, EPA published updated criteria for freshwater copper using the biotic ligand model. An ongoing implementation challenge for state water quality standards is completing a parameter database for BLM use when a site has missing model input parameters. EPA developed approaches to estimate missing water quality parameters including geochemical ions (calcium, magnesium, sodium, potassium, sulfate, chloride, and alkalinity) and dissolved organic carbon (DOC). For geochemical ions (GI) parameter estimates, specific conductivity was combined with geostatistical techniques (Kriging) to generate protective estimates for use in the BLM when data are not available. DOC estimates were derived using several water quality databases including the National Organic Carbon Database, Storage and Retrieval Data System, National Waters Information System, Wadeable Stream Assessment, and National River and Stream Assessment (NRSA) database.

This draft support document provides default recommended values that could be used to fill in missing water quality input parameters when data are lacking for 8 of 10 BLM parameters. Default recommended values for GI parameters are 10th percentile ecoregional, stream-order specific values. Default recommended values for DOC are 10th percentile ecoregional values. These default values could also be used to fill in missing water quality input parameters in the application of other metal BLM models as well, when data are lacking. In addition, the document also recommends that the other two parameters, temperature and pH, be measured directly in the field. Site-specific data are always preferable for use in the BLM and should be used to develop copper criteria via the BLM when possible. Users of the BLM are encouraged to sample their water body of interest, and to analyze the samples for the constituent (parameter) concentrations as a basis for determining BLM inputs, when possible.

This document underwent an internal EPA review and an independent contractor-led external peer review.

IV. Solicitation of Scientific Views

EPA is soliciting additional scientific views, data, and information regarding the science and technical approach used in the derivation of this draft technical document.

Dated: February 4, 2016.

Elizabeth Southerland,

Director, Office of Science and Technology.

[FR Doc. 2016–03119 Filed 2–12–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9942–45–OEI]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Courtney Kerwin (202) 566–1669, or email at *kerwin.courtney@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR Number 2031.08; Protection of Stratospheric Ozone: Request for Applications from Critical Use Exemption for the Phase out of Methyl Bromide (Renewal); 40 CFR part 82; was approved with change on 8/4/2015; OMB Number 2060–0482; expires on 8/31/2018.

EPA ICR Number 2207.06; Exchange Network Grants Progress Reports (Renewal); 2 CFR parts 200 and 1500; was approved without change on 8/4/2015; OMB Number 2025–0006; expires on 8/31/2018.

EPA ICR Number 2183.06; Drug Testing for Contractor Employees (Renewal); 5 CFR parts 731, 732 and 736; was approved without change on 8/4/2015; OMB Number 2030–0044; expires on 8/31/2018.

EPA ICR Number 2159.06; Background Checks for Contractor Employees (Renewal); 5 CFR parts 731, 732 and 736; was approved without change on 8/4/2015; OMB Number 2030–0043; expires on 8/31/2018.

EPA ICR Number 2494.01; Survey of the Public and Commercial Building Industry (New); was approved without change on 8/5/2015; OMB Number 2070–0193; expires on 8/31/2018.

EPA ICR Number 1250.10; Request for Contractor Access to TSCA Confidential Business Information (CBI); 15 CFR part 2613; was approved without change on 8/11/2015; OMB Number 2070–0075; expires on 8/31/2018.

EPA ICR Number 1365.10; Asbestos-Containing Materials in Schools and Asbestos Model Accreditation Plans (Renewal); 40 CFR part 763 subpart E appendix C, 40 CFR part 763 subpart E; was approved without change on 8/17/2015; OMB Number 2070–0091; expires on 8/31/2018.

EPA ICR Number 2403.03; EG for Sewage Sludge Incinerators (Renewal); 40 CFR part 60, subparts A and MMMM; was approved without change on 8/18/2015; OMB Number 2060–0661; expires on 8/31/2015.

EPA ICR Number 2025.06; NESHAP for Friction Materials Manufacturing (Renewal); 40 CFR part 63, subpart QQQQQ and 40 CFR part 63, subpart A; was approved without change on 8/18/2015; OMB Number 2060–0481; expires on 8/31/2018.

EPA ICR Number 1284.10; NSPS for Polymeric Coating of Supporting Substrates Facilities (Renewal); 40 CFR part 60, subparts VVV and A; was approved without change on 8/18/2015; OMB Number 2060–0181; expires on 8/31/2018.

EPA ICR Number 1643.08; Application Requirements for the Approval and Delegation of Federal Air Toxics Programs to State, Territorial, Local, and Tribal Agencies (Renewal); 40 CFR part 63, subpart E; was approved without change on 8/18/2015; OMB Number 2060–0264; expires on 8/31/2018.

EPA ICR Number 2303.04; NESHAP for Ferroalloys Production Area Sources (Renewal); 40 CFR part 63, subpart YYYYYY and subpart A; was approved with change on 8/18/2015; OMB Number 2060–0625; expires on 8/31/2018.

EPA ICR Number 2014.06; Reporting and Recordkeeping Requirements of the HCFC Allowance System (Change); 40 CFR part 82, subpart A; was approved without change on 8/18/2015; OMB Number 2060–0498; expires on 4/30/2016.

EPA ICR Number 2466.01; Revisions to the Total Coliform Rule (Final Rule) (Revision); 40 CFR parts 141 and 142; was approved without change on 8/18/2015; OMB Number 2040–0288; expires on 8/31/2018.

EPA ICR Number 1789.09; NESHAP for Natural Gas Transmission and Storage (Renewal); 40 CFR part 63, subparts HHH and A; was approved without change on 8/19/2015; OMB Number 2060–0418; expires on 8/31/2018.

EPA ICR Number 1684.18; Emissions Certification and Compliance Requirements for Nonroad Compression-Ignition Engines and On-Highway Heavy Duty Engines (Renewal); 40 CFR part 63, subpart YYYYYY; 40 CFR part 1042, subparts C, D, G and H; 40 CFR parts 85, 86, 89, 94, 1027, 1039, 1042, 1045, 1060, 1065, and 1068; was approved with change on 8/20/2015; OMB Number 2060–0287; expires on 8/31/2018.

EPA ICR Number 1051.13; NSPS for Portland Cement Plants (Renewal); 40 CFR part 40, subparts A and F; was approved without change on 8/21/2015; OMB Number 2060–0025; expires on 8/31/2018.

EPA ICR Number 0276.15; Experimental Use Permits (EUPs) for Pesticides (Renewal); 40 CFR part 172; was approved without change on 8/21/2015; OMB Number 2070–0040; expires on 8/31/2018.

EPA ICR Number 2455.02; Revision to the Export Provisions of the Cathode Ray Tube (CRT) Rule (Final Rule); 40 CFR part 261; was approved without change on 8/21/2015; OMB Number 2050–0208; expires on 8/31/2018.

EPA ICR Number 1630.12; Oil Pollution Act Facility Response Plans (Renewal); 40 CFR parts 112.20, 112.21, and 40 CFR part 112, subpart D; was approved without change on 8/21/2015; OMB Number 2050–0135; expires on 8/31/2018.

EPA ICR Number 0664.11; NSPS for Bulk Gasoline Terminals (Renewal); 40 CFR part 60, subparts XX and A; was approved without change on 8/24/2015; OMB Number 2060–0006; expires on 8/31/2018.

Comment Filed

EPA ICR Number 2517.01; Proposed Rule Related Addendum to the Existing EPA ICR Entitled: Chemical-Specific Rules; Toxic Substances Control Act Section 8(a) (Proposed Rule); 40 CFR part 704; OMB filed comment on 8/21/2015.

EPA ICR Number 2394.04; Greenhouse Gas Emissions and Fuel Efficiency Standards (Proposed Rule for Medium- and Heavy-Duty Engines and Vehicles—Phase 2); 40 CFR parts 1043, 1065, 1066, 1068, 22, 600, 85, 86, 1033, 1036, 1037, 1039, 1042, 523, 5234, 534 and 535; OMB filed comment on 8/21/2015.

EPA ICR Number 2506.01; Carbon Pollution Standards for Modified and Reconstructed Stationary Sources: Electric Utility Generating Units; 40 CFR part 60, subpart TTTT; OMB filed comment on 8/24/2015.

Courtney Kerwin,

Acting Director, Collections Strategies Division.

[FR Doc. 2016–03149 Filed 2–12–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2012–0546; FRL–9942–21–OAR]

Contractor Access to Information Claimed as Confidential Business Information Submitted Under Title II of the Clean Air Act and Related to the Renewable Fuel Standard Program

Correction

In notice document 2016–02728, appearing on pages 7095–7096 in the issue of Wednesday, February 10, 2016, make the following correction:

On page 7096, in the first column, in the **DATES:** section, ''FEBRUARY 10, 2021'' should read ''February 16, 2016''.

[FR Doc. C1–2016–02728 Filed 2–12–16; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9942–35–OECA]

National Environmental Justice Advisory Council: Notification of Public Meeting and Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, the U.S. Environmental Protection Agency (EPA) hereby provides notice that the National Environmental Justice Advisory Council (NEJAC) will meet on the dates and times described below. All meetings are open to the public. Members of the public are encouraged to provide comments relevant to the specific issues being considered by the NEJAC. For additional information about registering to attend the meeting or to provide public comment, please see ''Registration'' under **SUPPLEMENTARY INFORMATION**. Due to a limited space, seating at the NEJAC meeting will be on a first-come, first served basis. Pre-registration is required.

DATES: The NEJAC will convene Wednesday, March 16, 2016 and Thursday, March 17, 2016, from 8:00 a.m. until 5:00 p.m. Central Time each day. The discussion will focus on several topics including, but not limited to, an update on recovery efforts; resources and technical assistance available to communities with environmental justice concerns; and climate change concerns of coastal communities.

One public comment period relevant to the specific issues being considered by the NEJAC (see **SUPPLEMENTARY INFORMATION**) is scheduled for Wednesday, March 16, 2016, starting at 6:00 p.m. Central Time. Members of the public who wish to participate during the public comment period are highly encouraged to pre-register by Midnight, Central Time, on Monday, March 7, 2016.

ADDRESSES: The NEJAC meeting will be held at the Courtyard Gulfport Beachfront located at 1600 E Beach Blvd., Gulfport, MS 39501.

FOR FURTHER INFORMATION CONTACT: Questions or correspondence concerning the teleconference meeting should be directed to Karen L. Martin, U.S. Environmental Protection Agency, by mail at 1200 Pennsylvania Avenue NW. (MC2201A), Washington, DC 20460; by telephone at 202–564–0203; via email at *martin.karenl@epa.gov;* or by fax at 202–564–1624. Additional information about the NEJAC is available at: *www.epa.gov/environmentaljustice/nejac.*

SUPPLEMENTARY INFORMATION: The Charter of the NEJAC states that the advisory committee ''will provide independent advice and recommendations to the Administrator about broad, crosscutting issues related to environmental justice. The NEJAC's efforts will include evaluation of a broad range of strategic, scientific, technological, regulatory, community engagement and economic issues related to environmental justice.''

Registration

Registrations for the March 16–17, 2016, pubic meeting will be processed *http://nejac-public-meeting-march-16th-17th-2016.eventbrite.com.* Pre-registration is required. Registration for the March 16–17, 2016, teleconference meeting closes at Midnight, Central Time on Friday, March 11, 2016. The deadline to sign up to speak during the public comment period, or to submit written public comments, is Midnight, Central Time Monday, March 7, 2016. When registering, please provide your name, organization, city and state, email address, and telephone number for follow up. Please also state whether you would like to be put on the list to provide public comment, and whether you are submitting written comments before the Monday, March 7, 2016, Midnight deadline. Due to a limited number of telephone lines, attendance will be on a first-come, first served basis.

A. Public Comment

Individuals or groups making remarks during the public comment period will be limited to seven (7) minutes. To accommodate the number of people who want to address the NEJAC, only one representative of a particular community, organization, or group will be allowed to speak. Written comments can also be submitted for the record. The suggested format for individuals providing public comments is as follows: Name of speaker; name of organization/community; city and state; and email address; brief description of the concern, and what you want the NEJAC to advise EPA to do. Written comments received by registration deadline, will be included in the materials distributed to the NEJAC prior to the teleconference. Written comments received after that time will be provided to the NEJAC as time allows. All written comments should be sent to Karen L. Martin, EPA, via email at *martin.karenl@epa.gov*.

B. Information About Services for Individuals With Disabilities or Requiring English Language Translation Assistance

For information about access or services for individuals requiring assistance, please contact Karen L. Martin, at (202) 564–0203 or via email at *martin.karenl@epa.gov*. To request special accommodations for a disability or other assistance, please submit your request at least four working days prior to the meeting, to give EPA sufficient time to process your request. All requests should be sent to the address, email, or phone/fax number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Dated: February 3, 2016.

Matthew Tejada,

Designated Federal Officer, National Environmental Justice Advisory Council.

[FR Doc. 2016–03115 Filed 2–12–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2016–0015; FRL–9942–34–OECA]

Inquiry To Learn Whether Businesses Assert Business Confidentiality Claims Regarding Waste Import and Export

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comment.

SUMMARY: The Environmental Protection Agency (EPA) receives from time to time Freedom of Information Act (FOIA) requests for documentation received or issued by EPA or data contained in EPA database systems pertaining to the export and import of Resource Conservation and Recovery Act (RCRA) hazardous waste from/to the United States, the export of cathode ray tubes (CRTs) and spent lead acid batteries (SLABs) from the United States, and the export and import of RCRA universal waste from/to the United States. These documents and data may identify or reference multiple parties, and describe transactions involving the movement of specified materials in which the parties propose to participate or have participated. The purpose of this notice is to inform ''affected businesses'' about the documents and/or data sought by these types of FOIA requests in order to provide the businesses with the opportunity to assert claims that any of the information sought that pertains to them is entitled to treatment as confidential business information (CBI), and to send comments to EPA supporting their claims for such treatment. Certain businesses, however, do not meet the definition of ''affected business,'' and are not covered by today's notice. They consist of any business that actually submitted to EPA any document at issue pursuant to applicable RCRA regulatory requirements and did not assert a CBI claim as to information that pertains to that business in connection with the document at the time of its submission; they have waived their right to do so at a later time. Nevertheless, other businesses identified or referenced in the documents that were submitted to EPA by the submitting business may have a right to assert a CBI claim concerning information that pertains to them and may do so in response to this notice.

DATES: Comments must be received on or before March 17, 2016. The period for submission of comments may be extended if, before the comments are due, you make a request for an extension of the comment period and it is approved by the EPA legal office. Except in extraordinary circumstances, the EPA legal office will not approve such an extension without the consent of any person whose request for release of the information under the FOIA is pending.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OECA–2016–0015, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: kreisler.eva@epa.gov.*
- *Address*: Eva Kreisler, International Compliance Assurance Division, Office of Federal Activities, Office of Enforcement and Compliance Assurance, Environmental Protection Agency, Mailcode: 2254A, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OECA–2016–0015. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. Instructions about how to submit comments claimed as CBI are given later in this notice.

The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment. Please include your name and other contact information with any disk or CD–ROM you submit by mail. 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.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the HQ EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the docket for this notice is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: Eva Kreisler, International Compliance Assurance Division, Office of Federal Activities, Office of Enforcement and Compliance Assurance, Environmental Protection Agency, Mailcode: 2254A, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–8186; email address: *kreisler.eva@epa.gov.*

SUPPLEMENTARY INFORMATION: Today's notice relates to any documents or data in the following areas: (1) Export of Resource Conservation and Recovery Act (RCRA) hazardous waste, during calendar year 2015 or before, under 40 CFR part 262, subparts E and H; (2) import of RCRA hazardous waste, during calendar year 2015 or before, under 40 CFR part 262, subparts F and H; (3) transit of RCRA hazardous waste, during calendar year 2015 or before, under 40 CFR part 262, subpart H, through the United States and foreign countries; (4) export of cathode ray tubes, during calendar year 2015 or before, under 40 CFR part 261, subpart E; (5) exports of non-crushed, spent lead acid batteries with intact casings, during calendar year 2015 or before, under 40 CFR part 266 subpart G; (6) export and import of RCRA universal waste, during calendar year 2015 or before, under 40 CFR part 273, subparts B, C, D, and F; (7) submissions from transporters, during calendar year 2015 or before, under 40 CFR part 263, or from treatment, storage or disposal facilities under 40 CFR parts 264 and 265, related to exports or imports of hazardous waste which occurred during calendar year

2015 or before, including receiving facility notices under 40 CFR 264.12(a)(1) and 265.12(a)(1) and import consent documentation under 40 CFR 264.71(a)(3) and 265.71(a)(3).

I. General Information

EPA has previously published notices similar to this one in the **Federal Register**, the latest one being at 80 FR 19080, April 9, 2015, that address issues similar to those raised by today's notice. The Agency did not receive any comments on the previous notices. Since the publication of the April 9, 2015, **Federal Register** notice, the Agency has continued to receive FOIA requests for documents and data contained in EPA's database related to hazardous waste exports and imports.

II. Issues Covered by This Notice

Specifically, EPA receives FOIA requests from time to time for documentation or data related to hazardous waste exports and imports that may identify or reference multiple parties, and that describe transactions involving the movement of specified materials in which the parties propose to participate or have participated. This notice informs ''affected businesses,'' [1] which could include, among others, ''transporters,'' [2] and ''consignees,'' [3] of the requests for information in EPA database systems and/or contained in one or more of the following documents: (1) Documents related to the export of Resource Conservation and Recovery Act (RCRA) hazardous waste, during calendar year 2015 or before, under 40 CFR part 262, subparts E and H, including but not limited to the ''notification of intent to export,'' [4] ''manifests,'' [5] ''annual reports,'' [6] ''EPA acknowledgements of consent,'' [7] ''any subsequent communication withdrawing a prior consent or objection,'' [8] ''responses that neither consent nor object,'' ''exception reports,'' [9] ''transit notifications,'' [10] and ''renotifications''; [11] (2) documents related to the import of hazardous waste, during calendar year 2015 or before, under 40 CFR part 262, subparts F and H, including but not limited to notifications of intent to import hazardous waste into the U.S. from foreign countries; (3) documents related to the transit of hazardous waste, during calendar year 2015 or before, under 40 CFR part 262, subpart H, including notifications from U.S. exporters of intent to transit through foreign countries, or notifications from foreign countries of intent to transit through the U.S.; (4) documents related to the export of cathode ray tubes (CRTs), during calendar year 2015 or before, under 40 CFR part 261, subpart E, including but not limited to notifications of intent to export CRTs; (5) documents related to the export of non-crushed spent lead acid batteries (SLABs) with intact casings, during calendar year 2015 or before, under 40 CFR part 266 subpart G, including but not limited to notifications of intent to export SLABs; (6) submissions from transporters under 40 CFR part 263, or from treatment, storage or disposal facilities under 40 CFR parts 264 and 265, related to exports or imports of hazardous waste which occurred during calendar year 2015 or before, including receiving facility notices under 40 CFR 264.12(a)(1) and 265.12(a)(1) and import consent documentation under 40 CFR 264.71(a)(3) and 265.71(a)(3); and (7) documents related to the export and import of RCRA ''universal waste'' [12] under 40 CFR part 273, subparts B, C, D, and F.

[1] The term ''affected business'' is defined at 40 CFR 2.201(d), and is set forth in this notice, below.

[2] The term ''transporter'' is defined at 40 CFR 260.10.

[3] The term ''consignee'' is defined, for different purposes, at 40 CFR 262.51 and 262.81(c).

[4] The term ''notification of intent to export'' is described at 40 CFR 262.53.

[5] The term ''manifest'' is defined at 40 CFR 260.10.

[6] The term ''annual reports'' is described at 40 CFR 262.56.

[7] The term ''EPA acknowledgement of consent'' is defined at 40 CFR 262.51.

[8] The requirement to forward to the exporter ''any subsequent communication withdrawing a prior consent or objection'' is found at 42 U.S.C. 6938(e).

[9] The term ''exception reports'' is described at 40 CFR 262.55.

[10] The term ''transit notifications'' is described at 40 CFR 262.53(e).

[11] The term ''renotifications'' is described at 40 CFR 262.53(c).

[12] The term ''universal waste'' is defined at 40 CFR 273.9.

Certain businesses, however, do not meet the definition of ''affected business,'' and are not covered by today's notice. They consist of any business that actually submitted information responsive to a FOIA request, under the authority of 40 CFR parts 260 through 266 and 268, and did not assert a claim of business confidentiality covering any of that information at the time of submission. As set forth in the RCRA regulations at 40 CFR 260.2(b), ''if no such [business confidentiality] claim accompanies the information when it is received by EPA, it may be made available to the public without further notice to the person submitting it.'' Thus, for purposes of this notice and as a general matter under 40 CFR 260.2(b), a business that submitted to EPA the documents at issue, pursuant to applicable regulatory requirements, and that failed to assert a claim as to information that pertains to it at the time of submission, cannot later make a business confidentiality claim.[13] Nevertheless, other businesses identified or referenced in the same documents that were submitted to EPA by the submitting business may have a right to assert a CBI claim concerning information that pertains to them and may do so in response to this notice.

[13] However, businesses having submitted information to EPA relating to the export and import of RCRA universal waste are not subject to 40 CFR 260.2(b) since they submitted information in accordance with 40 CFR part 273, and not parts 260 through 266 and 268, as set forth in 40 CFR 260.2(b). They are therefore affected businesses that could make a claim of CBI at the time of submission or in response to this notice.

In addition, EPA may develop its own documents and organize into its database systems information that was originally contained in documents from submitting businesses relating to exports and imports of hazardous waste. If a submitting business fails to assert a CBI claim for the documents it submits to EPA at the time of submission, not only does it waive its right to claim CBI for those documents, but it also waives its right to claim CBI for information in EPA's documents or databases that is based on or derived from the documents that were originally submitted by that business.[14]

[14] With the exception, noted above, of the submission of information relating to the export and import of RCRA universal waste.

In accordance with 40 CFR 2.204(c) and (e), this notice inquires whether any affected business asserts a claim that any of the requested information constitutes CBI, and affords such business an opportunity to comment to EPA on the issue. This notice also informs affected businesses that, if a claim is made, EPA would determine under 40 CFR part 2, subpart B, whether any of the requested information is entitled to business confidential treatment.

1. Affected Businesses

EPA's FOIA regulations at 40 CFR 2.204(c)(1) require an EPA office that is responsible for responding to a FOIA

request for the release of business information (''EPA office'') to determine which businesses, if any, are affected businesses. ''Affected business'' is defined at 40 CFR 2.201(d) as: With reference to an item of business information, a business which has asserted (and not waived or withdrawn) a business confidentiality claim covering the information, or a business which could be expected to make such a claim if it were aware that disclosure of the information to the public was proposed.

2. The Purposes of This Notice

This notice encompasses two distinct steps in the process of communication with affected businesses prior to EPA's making a final determination concerning the business confidentiality of the information at issue: The preliminary inquiry and the notice of opportunity to comment.

a. Inquiry To Learn Whether Affected Businesses (Other Than Those Businesses That Previously Asserted a CBI Claim) Assert Claims Covering Any of the Requested Information

Section 2.204(c)(2)(i) provides, in relevant part: If the examination conducted under paragraph (c)(1) of § 2.204 discloses the existence of any business which, although it has not asserted a claim, might be expected to assert a claim if it knew EPA proposed to disclose the information, the EPA office shall contact a responsible official of each such business to learn whether the business asserts a claim covering the information.

b. Notice of Opportunity To Submit Comments

Sections 2.204(d)(1)(i) and 2.204(e)(1) of Title 40 of the Code of Federal Regulations require that written notice be provided to businesses that have made claims of business confidentiality for any of the information at issue, stating that EPA is determining under 40 CFR part 2, subpart B, whether the information is entitled to business confidential treatment, and affording each business an opportunity to comment as to the reasons why it believes that the information deserves business confidential treatment.

3. The Use of Publication in the ***Federal Register***

Section 2.204(e)(1) of Title 40 of the Code of Federal Regulations requires that this type of notice be furnished by certified mail (return receipt requested), by personal delivery, or by other means which allows verification of the fact and date of receipt. EPA, however, has determined that in the present circumstances the use of a **Federal Register** notice is a practical and efficient way to contact affected businesses and to furnish the notice of opportunity to submit comments. The Agency's decision to follow this course was made in recognition of the administrative difficulty and impracticality of directly contacting potentially thousands of individual businesses.

4. Submission of Your Response in the English Language

All responses to this notice must be in the English language.

5. The Effect of Failure To Respond to This Notice

In accordance with 40 CFR 2.204(e)(1) and 2.205(d)(1), EPA will construe your failure to furnish timely comments in response to this notice as a waiver of your business's claim(s) of business confidentiality for any information in the types of documents identified in this notice.

6. What To Include in Your Comments

If you believe that any of the information contained in the types of documents which are described in this notice and which are currently, or may become, subject to FOIA requests, is entitled to business confidential treatment, please specify which portions of the information you consider business confidential. Information not specifically identified as subject to a business confidentiality claim may be disclosed to the requestor without further notice to you.

For each item or class of information that you identify as being subject to your claim, please answer the following questions, giving as much detail as possible:

1. For what period of time do you request that the information be maintained as business confidential, *e.g.,* until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for business confidentiality, please specify that event.

2. Information submitted to EPA becomes stale over time. Why should the information you claim as business confidential be protected for the time period specified in your answer to question no. 1?

3. What measures have you taken to protect the information claimed as business confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered business confidential?

4. Is the information contained in any publicly available material such as the Internet, publicly available data bases, promotional publications, annual reports, or articles. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?

5. Has any governmental body made a determination as to the business confidentiality of the information? If so, please attach a copy of the determination.

6. For each category of information claimed as business confidential, explain with specificity why and how release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?

7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If the business asserts that the information is voluntarily submitted information, please explain whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.

8. Any other issue you deem relevant.

Please note that you bear the burden of substantiating your business confidentiality claim. Conclusory allegations will be given little or no weight in the determination. If you wish to claim any of the information in your response as business confidential, you must mark the response ''BUSINESS CONFIDENTIAL'' or with a similar designation, and must bracket all text so claimed. Information so designated will be disclosed by EPA only to the extent allowed by, and by means of, the procedures set forth in, 40 CFR part 2, subpart B. If you fail to claim the information as business confidential, it may be made available to the requestor without further notice to you.

III. What should I consider as I prepare my comments for EPA?

1. Submitting CBI. Do not submit this information to EPA through *http://www.regulations.gov* or email. Please submit this information by mail to the address identified in the **ADDRESSES** section of today's notice for inclusion in the non-public CBI docket. 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. Information so marked will not be disclosed except in accordance with the procedures set forth in 40 CFR part 2, subpart B. In addition to the submission of 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.

2. Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the notice by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Describe any assumptions and provide any technical information and/or data that you used.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Make sure to submit your comments by the comment period deadline identified.

Dated: January 14, 2016.

Shari Wilson,

Acting Director, Office of Federal Activities.

[FR Doc. 2016–03102 Filed 2–12–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2015–0684; FRL–9942–25–ORD]

Notice of Availability of Draft Guidelines for Human Exposure Assessment: Extension of Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: On January 7, 2016 the U.S. Environmental Protection Agency (EPA) announced the release of the external review draft of ''Guidelines for Human Exposure Assessment'' for public review and comment (81 FR 774–775). With this notice EPA is announcing the extension of the comment period to March 22, 2016. EPA is seeking public comment prior to external peer review. The document will undergo review during an expert peer review meeting, which will be convened, organized, and conducted by an independent contractor. The date and location of the peer review meeting will be announced in a subsequent **Federal Register** notice. All comments received in the docket by the closing date March 22, 2016 will be shared with the peer review panel for their consideration. Comments received after the close of the comment period may be considered by EPA when it finalizes the document. Members of the public may obtain the draft guidance at *http://www.regulations.gov;* or *www.epa.gov/osa/guidelines-human-exposure-assessment* or from Dr. Michael Broder via the contact information below.

DATES: All comments received in the docket by March 22, 2016 will be shared with the external peer review panel for their consideration. Comments received beyond that time may be considered by EPA when it finalizes the document.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2015–0684 by one of the following methods:

Internet: http://www.regulations.gov: Follow the on-line instructions for submitting comments.

Email: ord.docket@epa.gov.

Mail: ORD Docket, Environmental Protection Agency, *Mailcode:* 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

Hand Delivery: EPA Docket Center (EPA/DC), Room 3334, EPA West Building, 1301 Constitution Avenue NW., Washington, DC 20460, Attention Docket ID No EPA–HQ–ORD–2015–0684. Deliveries are only accepted from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2015–0684. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected by statute through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA, without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, 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.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the ORD Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the ORD Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: Dr. Michael Broder, Office of the Science Advisor, Mail Code 8105R, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number (202) 564–3393; fax number (202) 564–2070; or email: *broder.michael@epa.gov.*

SUPPLEMENTARY INFORMATION: The current guidance document for human exposure assessment, *Guidelines for Exposure Assessment,* was published in 1992, reflecting the state-of-the-science in the 1970s and 1980s. Since its publication, the field of exposure science has undergone significant transformation in methods and approaches, which EPA has incorporated into its policies and practices to better align with the current state-of-the-science. The 1992 guidelines are being updated to reflect the updated methods and approaches.

The draft guidelines benefit from over two decades of experience with EPA assessments conducted by Agency programs under their respective authorities and constraints, and from input from external panels, including the National Academies of Sciences and EPA's Science Advisory Board. This draft document builds on topics covered in the 1992 exposure guidelines including planning and scoping for an assessment, data acquisition and use, modeling, and considerations of uncertainty in exposure assessment. It also includes new material on planning and conducting an observational human exposure measurement study and considerations of lifestages and sensitive populations in exposure assessments. These draft guidelines present the most current science used in EPA exposure assessments and incorporates information about the Agency's current policies.

Dated: February 4, 2016.

Thomas Burke,

EPA Science Advisor.

[FR Doc. 2016–03110 Filed 2–12–16; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Public Hearing

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of public hearing.

SUMMARY: Notice is hereby given that the Equal Employment Opportunity Commission has scheduled a public hearing to gather information and hear public comment on its proposed revision of the Employer Information Report (EEO–1) published for public comment at 81 FR 5113 (February 1, 2016).

Time and Date: March 16, 2016; 9:30 a.m. EDST.

Place: 131 M Street NE., Washington, DC 20507, Jacqueline A. Berrien Commission Meeting Room.

FOR FURTHER INFORMATION CONTACT: Ronald Edwards, Director, Program Research and Surveys Division, Equal Employment Opportunity Commission, 131 M Street NE., Room 4SW30F, Washington, DC 20507; (202) 663–4949 (voice) or (202) 663–7063 (TTY). Requests for this notice in an alternative format should be made to the Office of Communications and Legislative Affairs at (202) 663–4191 (voice) or (202) 663–4494 (TTY).

SUPPLEMENTARY INFORMATION: Under section 709(c) of Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e–8(c)), the Equal Employment Opportunity Commission (EEOC) on February 1, 2016, published proposed revisions to the EEO–1 Report form to include collection of pay and hours worked data. 81 FR 5113. The proposed revised EEO–1 Report form can be found at *http://www.eeoc.gov/employers/eeo1survey/2016_new_survey.cfm.* The February 1, 2016, notice requested comments on the proposed changes to the EEO–1 Report and stated that a hearing would be held. This notice sets the hearing for March 16, 2016.

Persons wishing to speak at the hearing should notify the Commission of their desire to do so by February 22, 2016. EEOC requests that written requests to participate in the hearing include a brief summary of the planned statement. Written requests may be submitted in hard copy to Bernadette Wilson, Acting Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507. The Office of the Executive Secretariat also will accept written requests by fax. The telephone number of the fax receiver is (202) 663–4114. (This is not a toll-free number.) Receipt of fax transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4070 (voice) or (202) 663–4074 (TTY). (These are not toll-free telephone numbers.) Because of time limitations, all interested persons may not be able to testify at the hearing, but the Commission will consider all written statements submitted. EEOC will request that the speakers selected to testify limit their testimony to the time period allotted.

Members of the public have until April 1, 2016, to submit written comments in accordance with the procedures set out in the February 1, 2016, notice. These comments will be available for review at the Commission's library between the hours of 9 a.m. and 5 p.m. To schedule an appointment to inspect the comments at the EEOC's library, contact the library staff at (202) 663–4630 (voice) or (202) 663–4641 (TTY). (These are not toll-free numbers.) The comments submitted in response to the February 1, 2016, notice will automatically become part of the hearing record unless the submitter directs otherwise.

Dated: February 10, 2016.

For the Commission.

Jenny R. Yang,

Chair.

[FR Doc. 2016–03088 Filed 2–12–16; 8:45 am]

BILLING CODE P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Wednesday, February 17, 2016, to consider the following matters:

SUMMARY AGENDA: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' Meetings.

Memorandum and resolution: Notice of Proposed Rulemaking Regarding the Orderly Liquidation of Covered Brokers or Dealers under the Provisions of Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act-12 CFR part 380.

DISCUSSION AGENDA: Memorandum and resolution re: Notice of Proposed Rulemaking Regarding Recordkeeping for Timely Deposit Insurance Determination.

The meeting will be held in the Board Room located on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, DC.

This Board meeting will be Webcast live via the Internet and subsequently made available on-demand approximately one week after the event. Visit *https://fdic.primetime.mediaplatform.com/#!/channel/1232003497484/Board+Meetings* to view the event. If you need any technical assistance, please visit our Video Help page at: *http://www.fdic.gov/video.html.*

The FDIC will provide attendees with auxiliary aids (*e.g.,* sign language interpretation) required for this meeting. Those attendees needing such assistance should call 703–562–2404 (Voice) or 703–649–4354 (Video Phone) to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at 202–898–7043.

Dated: February 10, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–03142 Filed 2–11–16; 11:15 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 1, 2016.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Bruce J. Essex, Jr. individually and as Trustee of the Bruce J. Essex, Jr. 2016 Revocable Trust; and the Bruce J. Essex, Jr. 2016 Revocable Trust, both of Spring Lake, Michigan (which will become part of the Essex Family Control Group), and Bruce J. Essex, Sr.,* individually, Twin Lake, Michigan; to acquire voting shares of Community Shores Bank Corporation, and thereby indirectly acquire voting shares of Community Shores Bank both in Muskegon, Michigan.

Board of Governors of the Federal Reserve System, February 10, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–03048 Filed 2–12–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED DECEMBER 1, 2015 THRU DECEMBER 31, 2015

12/01/2015		
20151413	G	Waste Management Inc.; Southern Waste Systems Holdings, LP; Waste Management Inc.
20160186	G	Green Equity Investors Side VI, L.P.; Ensemble Investors, L.P.; Green Equity Investors Side VI, L.P.
20160188	G	Green Equity Investors VI, L.P.; Ensemble Investors, L.P.; Green Equity Investors VI, L.P.
20160194	G	TPG VII Ensemble Co-Invest, L.P.; Ensemble Investors, L.P.; TPG VII Ensemble Co-Invest, L.P. 20160218 G Acuity Brands, Inc.; Schneider Electric SE; Acuity Brands, Inc.
20160270	G	Liberty Interactive Corporation; Lending Tree, Inc.; Liberty Interactive Corporation.
20160271	G	Metawater Co., Ltd.; John D. Brubaker; Metawater Co., Ltd.
20160299	G	Brenntag AG; David J. Waltz; Brenntag AG.
20160300	G	Hon Hai Precision Industry Company Limited; Avago Technologies Limited; Hon Hai Precision Industry Company Limited.
20160306	G	Simonpietro Salini; Lane Industries Incorporated; Simonpietro Salini.
20160340	G	Rizvi Opportunistic Equity Fund III, L.P.; RealD Inc.; Rizvi Opportunistic Equity Fund III, L.P.
12/02/2015		
20160292	G	Verizon Communications Inc.; AT&T Inc.; Verizon Communications Inc.
20160293	G	AT&T; Verizon Communications Inc.; AT&T.
20160332	G	Tailwind Capital Partners II, L.P.; Distinct Holdings, Inc.; Tailwind Capital Partners II, L.P.
20160333	G	Shire plc; Dyax Corp.; Shire plc.
20160345	G	CONMED Corporation; SurgiQuest, Inc.; CONMED Corporation.
20160351	G	Callaway Golf Company; TopGolf International, Inc.; Callaway Golf Company.
20160362	G	GTCR Fund XI/B LP; WV AIV II (PPT), LLC; GTCR Fund XI/B LP.
20160378	G	Reliance Steel & Aluminum Co.; TSI Holding Company Voting Trust Agreement dated September; Reliance Steel & Aluminum Co.
12/03/2015		
20151091	G	ARRIS Group, Inc.; Pace plc; ARRIS Group, Inc.
20160189	G	JANA Nirvana Offshore Fund, Ltd.; Mattel, Inc.; JANA Nirvana Offshore Fund, Ltd.
20160190	G	JANA Offshore Partners, Ltd.; Mattel, Inc.; JANA Offshore Partners, Ltd.
20160198	G	Tsinghua Holdings Co., Ltd.; Western Digital Corporation; Tsinghua Holdings Co., Ltd.
20160290	G	Deutsche Telekom AG; AB Spectrum LLC; Deutsche Telekom AG.
20160307	G	Bristol-Myers Squibb Company; Cardioxyl Pharmaceuticals, Inc.; Bristol-Myers Squibb Company.
20160319	G	Thurman J. Rodgers; Cypress Semiconductor Corporation; Thurman J. Rodgers.
20160323	G	JR Shaw; BVIP Fund VIII, L.P.; JR Shaw.

EARLY TERMINATIONS GRANTED DECEMBER 1, 2015 THRU DECEMBER 31, 2015—Continued

20160338	G	Glanbia Co-operative Society Limited; TSG5 L.P.; Glanbia Co-operative Society Limited.
20160366	G	Novant Health, Inc.; Novant Health UVA Health System; Novant Health, Inc.
		12/04/2015
20160211	G	Blackstone Tactical Opportunities Fund II; NCR Corporation; Blackstone Tactical Opportunities Fund II.
20160212	G	Blackstone Capital Partners VI L.P.; NCR Corporation; Blackstone Capital Partners VI L.P.
20160305	G	Roche Holding Ltd; Upsher-Smith Laboratories, Inc.; Roche Holding Ltd.
20160357	G	Kinder Morgan, Inc.; Myria Holdings Inc.; Kinder Morgan, Inc.
		12/07/2015
20160230	G	Atlantic Street Capital II, L.P.; Mohammad Honarkar; Atlantic Street Capital II, L.P.
20160303	G	Tenable Holdings, Inc.; Tenable Network Security, Inc.; Tenable Holdings, Inc.
20160326	G	John Wood Group PLC; Infinity Construction Holding, LLC; John Wood Group PLC.
20160349	G	AMN Healthcare Services, Inc.; John D. Smith; AMN Healthcare Services, Inc.
20160353	G	Triton Container International Limited; TAL International Group, Inc.; Triton Container International Limited.
20160360	G	Neighborhood Credit Union; Pegasus Community Credit Union; Neighborhood Credit Union.
20160364	G	Brookfield Infrastructure Partners, L.P.; Myria Holdings Inc.; Brookfield Infrastructure Partners, L.P.
20160371	G	GCA Holding Corp.; Blackstone RGIS Capital Partners V L.P.; GCA Holding Corp.
20160381	G	Bain Capital Fund XI, L.P.; H.I.G. Capital Partners IV, L.P.; Bain Capital Fund XI, L.P.
20160384	G	Revelstoke Capital Partners Fund I, L.P.; Charterhouse Equity Partners IV, L.P.; Revelstoke Capital Partners Fund I, L.P.
20160397	G	RoundTable Healthcare Partners III, L.P.; W. Whitfield Gardner; RoundTable Healthcare Partners III, L.P.
20160406	G	Hawkins, Inc.; ICV Partners II, L.P.; Hawkins, Inc.
20160411	G	Paychex, Inc.; Joel E. Adelman; Paychex, Inc.
		12/08/2015
20160261	G	Sun Capital Partners VI, L.P.; General Electric Company; Sun Capital Partners VI, L.P.
20160294	G	Letterone Investment Holdings S.A.; MedAssets, Inc.; Letterone Investment Holdings S.A.
20160315	G	Activision Blizzard, Inc.; King Digital Entertainment plc; Activision Blizzard, Inc.
20160320	G	Eminence Partners, L.P.; Autodesk, Inc.; Eminence Partners, L.P.
20160321	G	Eminence Fund, Ltd.; Autodesk, Inc.; Eminence Fund, Ltd.
20160336	G	LSF9 Atlantis, LP; Atlantic Street Capital II, L.P.; LSF9 Atlantis, LP.
20160363	G	Howard W. Lutnick; Intercontinental Exchange, Inc.; Howard W. Lutnick.
20160367	G	Ashford Inc.; Archie Bennett, Jr.; Ashford Inc.
20160368	G	Ashford Inc.; Monty J. Bennett; Ashford Inc.
20160383	G	Calumet Concession Partners LLC; Ferrovial Corporacion, S.A.; Calumet Concession Partners LLC.
20160388	G	New Mountain Partners IV, L.P.; Great Point Partners I, L.P.; New Mountain Partners IV, L.P.
20160392	G	New Mountain Partners IV, L.P.; ABRY Partners VI, L.P.; New Mountain Partners IV, L.P.
		12/09/2015
20160245	G	Berkshire Fund VIII, L.P.; Archive Systems Holding, Inc.; Berkshire Fund VIII, L.P.
20160373	G	ACP Investment Fund II–A, L.P.; Michael McMenamin; ACP Investment Fund II–A, L.P.
20160379	G	Quintana Energy Partners, L.P.; Archer Limited; Quintana Energy Partners, L.P.
20160405	G	Tenex Capital Partners, L.P.; MVC Capital, Inc.; Tenex Capital Partners, L.P.
		12/10/2015
20160313	G	Elliott Associates, L.P.; CenterPoint Energy, Inc.; Elliott Associates, L.P.
20160316	G	Berkshire Hathaway, Inc.; Robert and Margaret Petrone; Berkshire Hathaway, Inc.
20160317	G	Berkshire Hathaway, Inc.; James and Dorothy Petrone; Berkshire Hathaway, Inc.
20160342	G	Stifel Financial Corp.; Eaton Holdings, LLC; Stifel Financial Corp.
20160377	G	Perrigo Company plc; AstraZeneca PLC; Perrigo Company plc.
20160389	G	Interval Leisure Group, Inc.; Starwood Hotels & Resorts Worldwide, Inc.; Interval Leisure Group, Inc.
		12/11/2015
20160358	G	The Walt Disney Company; Steven Spielberg; The Walt Disney Company.
20160359	G	The Walt Disney Company; Anil D. Ambani; The Walt Disney Company.
20160391	G	Carl C. Icahn; Xerox Corporation; Carl C. Icahn.
20160414	G	DCA Acquisition Holdings LLC; Sentinel Capital Partners IV, L.P.; DCA Acquisition Holdings LLC.
20160417	G	Marubeni Corporation; XL Parts Partnership, Ltd.; Marubeni Corporation.
20160420	G	Trust 463; SCB Holdings, LLC; Trust 463.
20160422	G	JAZ Ventures, LP; NRG Energy, Inc.; JAZ Ventures, LP.
20160424	G	WS Atkins plc; Energy Capital Partners II–A, LP; WS Atkins plc.
20160437	G	C.R. Bard, Inc.; Liberator Medical Holdings, Inc.; C. R. Bard, Inc.
20160448	G	Mikhail Prokhorov; Forest City Enterprises, Inc.; Mikhail Prokhorov.
		12/14/2015
20160262	G	Fairholme Funds, Inc.; The St. Joe Company; Fairholme Funds, Inc.
20160428	G	CVC Scooby Jersey Limited; Petco Holdings, Inc.; CVC Scooby Jersey Limited.
20160432	G	Dnata; Jeffrey M. Kinsella; Dnata.

EARLY TERMINATIONS GRANTED DECEMBER 1, 2015 THRU DECEMBER 31, 2015—Continued

20160454	G	Energy Transfer Equity, L.P.; ConocoPhillips; Energy Transfer Equity, L.P.
		12/15/2015
20160370	G	OCP Trust; Primus Capital Fund VI, LP; OCP Trust.
20160386	G	ATOS S.E.; Unify Holdings B.V.; ATOS S.E.
20160394	G	CEOF II DE I AIV, L.P.; WestView Capital Partners II, L.P.; CEOF II DE I AIV, L.P.
20160410	G	EMP Holdings, Ltd.; MEP Health, LLC; EMP Holdings, Ltd.
20160415	G	James Mark Burnett and Roma Burnett; MGM Holdings, Inc.; James Mark Burnett and Roma Burnett.
20160425	G	Ascension Health Alliance; Wheaton Franciscan Services, Inc.; Ascension Health Alliance.
		12/16/2015
20160310	G	Elliott Associates, L.P.; American Capital, Ltd.; Elliott Associates, L.P.
20160311	G	Elliott International Limited; American Capital, Ltd.; Elliott International Limited.
20160339	G	Wang Jianlin; SMH Theatres, Inc.; Wang Jianlin.
20160374	G	The Kroger Co.; Roundy's, Inc.; The Kroger Co.
20160403	G	Computer Programs and Systems, Inc.; Francisco Partners II, L.P.; Computer Programs and Systems, Inc.
20160404	G	Francisco Partners II, L.P.; Computer Programs and Systems, Inc.; Francisco Partners II, L.P.
20160427	G	BlackRock, Inc.; Bank of America Corporation; BlackRock, Inc.
20160429	G	Dr. Patrick Soon-Shiong; 3BE Holdings, LLC; Dr. Patrick Soon-Shiong.
20160434	G	Vroom, Inc.; Richard D. Williams; Vroom, Inc.
20160435	G	Vroom, Inc.; Michael D. Welch; Vroom, Inc.
20160450	G	Pinnacle Foods Inc.; Boulder Brands, Inc.; Pinnacle Foods Inc.
		12/17/2015
20160382	G	International Business Machines Corporation; BBN Holdings, Inc.; International Business Machines Corporation.
20160438	G	Spalding Cooperative Elevator Company; All Points Cooperative; Spalding Cooperative Elevator Company.
		12/18/2015
20160344	G	WAFRA Real Assets & Infrastructure Fund I, L.P.; Ronald K. Henriksen; WAFRA Real Assets & Infrastructure Fund I, L.P.
20160421	G	Wellspring Capital Partners V, L.P.; Mason Wells Buyout Fund II, LP; Wellspring Capital Partners V, L.P.
20160451	G	Devon Energy Corporation; EnCap Flatrock Midstream Fund II, L.P.; Devon Energy Corporation.
20160453	G	Comtech Telecommunications Corp.; TeleCommunication Systems, Inc.; Comtech Telecommunications Corp.
20160466	G	CST Brands, Inc.; The Jones Company; CST Brands, Inc.
20160467	G	CST Brands, Inc.; Patrick C. Jones; CST Brands, Inc.
20160468	G	CST Brands, Inc.; James C. Jones III; CST Brands, Inc.
20160472	G	Welsh Carson Anderson & Stowe XII, L.P.; Total Community Options, Inc.; Welsh Carson Anderson & Stowe XII, L.P.
20160482	G	Station Holdco LLC; Frank J. Fertitta, III; Station Holdco LLC.
20160483	G	Station Holdco LLC; Lorenzo J. Fertitta; Station Holdco LLC.
		12/21/2015
20160426	G	Duke Energy Corporation; Piedmont Natural Gas Company, Inc.; Duke Energy Corporation.
20160443	G	Linde AG; Highland Crusader Offshore Partners; Linde AG.
20160456	G	Golden Gate Capital Opportunity Fund, L.P.; Jonathan Hershberg; Golden Gate Capital Opportunity Fund, L.P.
20160471	G	Stichting Administratiekantoor Lauerwecht; The Heritage Group; Stichting Administratiekantoor Lauerwecht.
20160492	G	Tesoro Corporation; Great Northern Midstream Holdings LLC; Tesoro Corporation.
		12/22/2015
20160493	G	CACI International Inc.; L–3 Communications Holdings, Inc.; CACI International Inc.
20160494	G	JLL Partners Fund VI, L.P.; Mr. and Mrs. Richard T. Williams; JLL Partners Fund VI, L.P.
		12/23/2015
20160162	G	Blackhawk Network Holdings, Inc.; Jason Wolfe; Blackhawk Network Holdings, Inc.
20160246	G	Genstar Capital Partners VI, L.P.; Bankrate, Inc.; Genstar Capital Partners VI, L.P.
20160444	G	Warburg Pincus Private Equity X, L.P.; Financial Engines, Inc.; Warburg Pincus Private Equity X, L.P.
20160445	G	Financial Engines, Inc.; Warburg Pincus Private Equity X, L.P.; Financial Engines, Inc.
20160446	G	Carl C. Icahn; The Pep Boys—Manny, Moe & Jack; Carl C. Icahn.
20160455	G	William H. Gates III; Bunzl plc; William H. Gates III.
20160488	G	IMS Health Holdings, Inc.; STG III, L.P.; IMS Health Holdings, Inc.
		12/28/2015
20151120	Y	ArcLight Energy Partners Fund VI, L.P.; Cumberland Farms, Inc.; ArcLight Energy Partners Fund VI, L.P.
20160485	G	TowerBrook Investors IV (Onshore), L.P.; Accretive Health, Inc.; TowerBrook Investors IV (Onshore), L.P.
20160495	G	Newco Holdings; Southern Glazer's Wine and Spirits, LLC; Newco Holdings.
20160498	G	RPX Corporation; Clearlake Capital Partners III, L.P.; RPX Corporation.
20160499	G	Supreme Union Limited; Mindray Medical International Limited; Supreme Union Limited.
20160500	G	NV Bekaert SA; Blue Topco Ltd; NV Bekaert SA.
20160507	G	James S. Mahan III; Live Oak Bancshares, Inc.; James S. Mahan III.

EARLY TERMINATIONS GRANTED DECEMBER 1, 2015 THRU DECEMBER 31, 2015—Continued

20160510	G	CH Holding L.P.; Derek G. Hennecke; CH Holding L.P.
20160513	G	John J. Siegel; Peabody Energy Corporation; John J. Siegel.
12/29/2015		
20160470	G	Nordex SE; Acciona S.A.; Nordex SE.
20160511	G	Louisville Resources LLC; John J. Siegel; Louisville Resources LLC.
12/30/2015		
20151680	G	Rangers Renal Holdings LP; Dialysis Parent, LLC; Rangers Renal Holdings LP.
20160458	G	Kevin M. Ulrich; Conn's, Inc.; Kevin M. Ulrich.
20160479	G	BGM Holding, L.P.; BATS Global Markets, Inc.; BGM Holding, L.P.
20160480	G	ESL Partners, L.P.; Lands End, Inc.; ESL Partners, L.P.
20160496	G	Lilia Neumann de Sielecky; ACP III AIV, L.P.; Lilia Neumann de Sielecky.
12/31/2015		
20160459	G	Piper Jaffray Companies; Simmons & Company International; Piper Jaffray Companies.
20160489	G	Owl Creek Overseas Master Fund, Ltd.; Yahoo! Inc.; Owl Creek Overseas Master Fund, Ltd.
20160490	G	Owl Creek II, L.P.; Yahoo! Inc.; Owl Creek II, L.P.

FOR FURTHER INFORMATION CONTACT: Theresa Kingsberry Program Support Specialist, Federal Trade Commission Premerger Notification Office Bureau of Competition, Room CC–5301, Washington, DC 20024, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2016–03036 Filed 2–12–16; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott- Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

01/05/2016		
20160481	G	Altimeter Partners Fund, L.P.; United Continental Holdings, Inc.; Altimeter Partners Fund, L.P.
20160503	G	Canyon Value Realization Fund, L.P.; Yahoo! Inc.; Canyon Value Realization Fund, L.P.
20160519	G	Aurora Resurgence Fund II L.P.; Cardiac Science Corporation; Aurora Resurgence Fund II L.P.
20160526	G	Blackstone Capital Partners (Cayman) VI L.P.; Ultima Global Holdings S.a.r.l.; Blackstone Capital Partners (Cayman) VI L.P.
20160530	G	WestRock Company; Cenveo, Inc.; WestRock Company.
20160538	G	John R. Fields; A. Dano Davis; John R. Fields.
20160541	G	KKR European Fund IV L.P.; LGC Science Group Limited; KKR European Fund IV L.P.
20160542	G	American Securities Partners VI, L.P.; Blount International, Inc.; American Securities Partners VI, L.P.
20160543	G	Cerberus Institutional Partners VI, L.P.; Avon Products, Inc.; Cerberus Institutional Partners VI, L.P.
20160544	G	SPC Partners V, L.P.; Leland A. Swanson; SPC Partners V, L.P.
20160547	G	PTC Inc.; G. Corson Ellis, II; PTC Inc.
20160548	G	DaVita Healthcare Partners, Inc.; The Everett Clinic, P.S.; DaVita Healthcare Partners, Inc.
20160558	G	Baring Asia Private Equity Fund VI, L.P.2; Interplex Holdings Ltd.; Baring Asia Private Equity Fund VI, L.P.2.
01/06/2016		
20160520	G	Thomas H. Lee Parallel (Cayman) Fund VII, L.P.; New Century Hospice, Inc.; Thomas H. Lee Parallel (Cayman) Fund VII, L.P.
20160539	G	Textron Inc.; Lee Benson; Textron Inc.
01/07/2016		
20151730	G	Gray Television, Inc.; Schurz Communications, Inc.; Gray Television, Inc.
20160540	G	40 North Latitude Fund LP; Mattress Firm Holding Corp.; 40 North Latitude Fund LP.

		01/08/2016
20160487	G	Checkers Control Partnership, L.P.; TalentWise, Inc.; Checkers Control Partnership, L.P.
20160518	G	HEICO Corporation; ASP-Robertson LLC; HEICO Corporation.
20160560	G	Blackstone Capital Partners VI, L.P.; SunEdison, Inc.; Blackstone Capital Partners VI, L.P.
20160568	G	LCM Investments II, LLP; Jeffrey P. Cadwell; LCM Investments II, LLP.
20160582	G	Algonquin Power & Utilities Corp.; CIP U.S. Direct GP, L.P.; Algonquin Power & Utilities Corp.
		01/11/2016
20160517	G	Gilead Sciences, Inc.; Galapagos NV; Gilead Sciences, Inc.
20160561	G	Community Health System, Inc.; Indiana University Health, Inc.; Community Health System, Inc.
20160564	G	salesforce.com, inc.; SteelBrick, Inc.; salesforce.com, inc.
20160572	G	Hillenbrand, Inc.; Red Valve Company, Inc.; Hillenbrand, Inc.
20160508	G	Beijing E-Town International Investment & Development Co.,; Mattson Technology, Inc.; Beijing E-Town International Investment & Development Co.
20160534	G	Accor SA; Lodge Investment Company; Accor SA.
20160557	G	AEA Investors Fund V LP; Thomas H. Lee Equity Fund VI, L.P.; AEA Investors Fund V LP.
		01/13/2016
20160497	G	Linsalata Capital Partners Fund VI, L.P.; Robert James Campbell, Jr.; Linsalata Capital Partners Fund VI, L.P.
		01/14/2016
20160533	G	General Motors Company; Lyft, Inc.; General Motors Company.
		01/19/2016
20160535	G	The Guardian Life Insurance Company of America; Avesis Incorporated; The Guardian Life Insurance Company of America.
20160536	G	Tyco International plc; ShopperTrak RCT Corporation; Tyco International plc.
20160546	G	AstraZeneca PLC; Acerta Pharma B.V.; AstraZeneca PLC.
20160581	G	LCP VIII (AIV I), L.P.; AM Holdco, LLC; LCP VIII (AIV I), L.P.
20160583	G	Blue2 Topco Limited; Herculean CC S.A.R.L.; Blue2 Topco Limited.
20160585	G	Bain Capital Asia Fund II, L.P.; QuEST Global Services Pte. Ltd.; Bain Capital Asia Fund II, L.P.
20160590	G	Oracle Corporation; AddThis, Inc.; Oracle Corporation.
20160593	G	Roger S. Penske; Roger S. Penske; Roger S. Penske.
20160594	G	NuVasive, Inc.; Ellipse Technologies, Inc.; NuVasive, Inc.
20160596	G	Nomura Holdings, Inc.; American Century Companies, Inc.; Nomura Holdings, Inc.
20160598	G	Leonard M. Tannenbaum; Fifth Street Finance Corp.; Leonard M. Tannenbaum.
20160603	G	Bakk AL Holdings Limited; Bakkavor Group Limited; Bakk AL Holdings Limited.
		01/20/2016
20160452	G	Prestige Brands Holdings, Inc.; TSG5 L.P.; Prestige Brands Holdings, Inc.
20160527	G	WellStar Health System, Inc.; Tenet Healthcare; WellStar Health System, Inc.
		01/21/2016
20160587	G	Aegion Corporation; Underground Solutions, Inc.; Aegion Corporation.
20160216	G	BIF III Holtwood Holding (Delaware) LLC; Talen Energy Corporation; BIF III Holtwood Holding (Delaware) LLC.
20160565	G	KKR North America Fund XI (Indigo) Blocker L.P.; Intuit Inc.; KKR North America Fund XI (Indigo) Blocker L.P.
20160584	G	Cubic Corporation; Paul A. Gierow; Cubic Corporation.
20160595	G	Hooker Furniture Corporation; HMI Acquisition, Inc.; Hooker Furniture Corporation.
20160605	G	AP VIII Aegis Holdings, L.P.; James H. Engen; AP VIII Aegis Holdings, L.P.
20160611	G	Mr. Godard Abel; salesforce.com, inc.; Mr. Godard Abel.
20160613	G	Hawaiian Electric Industries, Inc.; ArcLight Energy Partners Fund IV, L.P.; Hawaiian Electric Industries, Inc.
20160617	G	Brynwood Partners VII L.P.; Winter Street Opportunities Fund, L.P.; Brynwood Partners VII L.P.
20160621	G	ISQ Global Infrastructure Fund, L.P.; WPX Energy, Inc.; ISQ Global Infrastructure Fund, L.P.
20160630	G	Mr. Aloke Lohia and Mrs. Suchitra Lohia; BP plc; Mr. Aloke Lohia and Mrs. Suchitra Lohia.
20160642	G	Graphic Packaging International, Inc.; Walter G. Anderson, Inc.; Graphic Packaging International, Inc.
		01/29/2016
20160608	G	KKR North America XI (Platinum) Blocker Parent L.P.; Voting Trust with regard to Mills Fleet Farm entities; KKR North America XI (Platinum) Blocker Parent L.P.
20160614	G	Stingray Holdco LLC; VEPF IV AIV V, L.P.; Stingray Holdco LLC.
20160625	G	Henry Ford Health System; Allegiance Health Services; Henry Ford Health System.
20160626	G	William Goldring; Brown-Forman Corporation; William Goldring.
20160628	G	Western Refining, Inc.; Northern Tier Energy LP; Western Refining, Inc.

FOR FURTHER INFORMATION CONTACT: Theresa Kingsberry, Program Support Specialist, Federal Trade Commission, Premerger Notification Office Bureau of Competition, Room CC–5301, Washington, DC 20024 (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2016–03035 Filed 2–12–16; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0029; Docket 2016–0053; Sequence 10]

Information Collection; Extraordinary Contractual Action Requests

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning extraordinary contractual action requests.

DATES: Submit comments on or before April 18, 2016.

ADDRESSES: Submit comments identified by Information Collection 9000–0029, Extraordinary Contractual Action Requests, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0029, Extraordinary Contractual Action Requests''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0029, Extraordinary Contractual Action Requests'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0029, Extraordinary Contractual Action Requests.

Instructions: Please submit comments only and cite Information Collection 9000–0029, Extraordinary Contractual Action Requests, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, at 202–219–0202 or email at *cecelia.davis@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR subpart 50.1 prescribes policies and procedures that allow contracts to be entered into, amended, or modified in order to facilitate national defense under the extraordinary emergency authority granted under 50 U.S.C. 1431 *et seq.* and Executive Order (E.O.) 10789 dated November 14, 1958, *et seq.*

This authority applies to the Government Printing Office; the Department of Homeland Security; the Tennessee Valley Authority; the National Aeronautics and Space Administration; the Department of Defense; the Department of the Army; the Department of the Navy; the Department of the Air Force; the Department of the Treasury; the Department of the Interior; the Department of Agriculture; the Department of Commerce; and the Department of Transportation. Also included is the Department of Energy for functions transferred to that Department from other authorized agencies and any other agency that may be authorized by the President.

In order for a contractor to be granted relief under the FAR, specific evidence must be submitted which supports the firm's assertion that relief is appropriate and that the matter cannot be disposed of under the terms of the contract.

FAR 50.103–3 specifies the minimum information that a contractor must include in a request for contract adjustment in accordance with FAR 50–103–1 and 50.103–2.

FAR 50–103–4 sets forth additional information that the contracting officer or other agency official may request from the contractor to support any request made under FAR 50.103–3.

FAR 50.104–3 sets forth the information that the contractor shall include in a request for the indemnification clause to cover unusually hazardous or nuclear risks.

FAR 52.250–1, Indemnification under Public Law 850804, requires in paragraph (g) that the contractor shall promptly notify the contracting officer of any claim or action against, or loss by, the contractor or any subcontractors that may reasonably to involve indemnification under the clause.

The information is used by the Government to determine if relief can be granted under FAR and to determine the appropriate type and amount of relief.

B. Annual Reporting Burden

Respondents: 28.

Responses per Respondent: About 6.

Total Responses: 164.

Hours per Response: About 41.5.

Total Burden Hours: 6,800.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulations (FAR), and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requester may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0029, Extraordinary Contractual Action Requests, in all correspondence.

Dated: February 10, 2016.

Lorin S. Curit,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2016–03045 Filed 2–12–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0058; Docket 2016–0053; Sequence 9]

Information Collection; Schedules for Construction Contracts

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension regarding an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning schedules for construction contracts.

DATES: Submit comments on or before April 18, 2016.

ADDRESSES: Submit comments identified by Information Collection 9000–0058, Schedules for Construction Contracts by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0058, Schedules for Construction Contracts''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0058, Schedules for Construction Contracts'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0058, Schedules for Construction Contracts.

Instructions: Please submit comments only and cite Information Collection 9000–0058, Schedules for Construction Contracts, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, Office of Acquisition Policy, 202–501–1448 or email *curtis.glover@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Federal construction contractors may be required to submit schedules, in the form of a progress chart, showing the order in which the Contractor proposes to perform the work. In accordance with FAR 52.236–15, Schedules for Construction Contracts, the Contractor shall, within five days after work commences on the contract or another period of time determined by the contracting officer, prepare and submit to the contracting officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring materials, plants, and equipment). This information is used to monitor progress under a Federal construction contract when other management approaches for ensuring adequate progress are not used. If the Contractor fails to submit a schedule within the time prescribes, the Contracting Officer may withhold approval of progress payments until the Contractor submits the required schedule.

B. Annual Reporting Burden

Respondents: 3,804.

Responses per Respondent: 2.

Annual Responses: 7,608.

Hours per Response: 4.

Total Burden Hours: 30,432.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0058, Schedules for Construction Contracts, in all correspondence.

Dated: February 8, 2016.

Lorin S. Curit,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Govenrmentwide Policy.

[FR Doc. 2016–03012 Filed 2–12–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Patient Safety Organizations: Voluntary Relinquishment From Verge Patient Safety Organization

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of delisting.

SUMMARY: The Patient Safety and Quality Improvement Act of 2005, 42 U.S.C. 299b–21 to b–26, (Patient Safety Act) and the related Patient Safety and Quality Improvement Final Rule, 42 CFR part 3 (Patient Safety Rule), published in the **Federal Register** on November 21, 2008, (73 FR 70732–70814), provide for the formation of Patient Safety Organizations (PSOs), which collect, aggregate, and analyze confidential information regarding the quality and safety of health care delivery. The Patient Safety Rule authorizes AHRQ, on behalf of the Secretary of HHS, to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' by the Secretary if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. AHRQ has accepted a notification of voluntary relinquishment from Verge Patient Safety Organization of its status as a PSO, and has delisted the PSO accordingly.

DATES: The directories for both listed and delisted PSOs are ongoing and reviewed weekly by AHRQ. The delisting was effective at 12:00 Midnight ET (2400) on February 2, 2016.

ADDRESSES: Both directories can be accessed electronically at the following HHS Web site: *http://www.pso.AHRQ.gov/listed.*

FOR FURTHER INFORMATION CONTACT: Eileen Hogan, Center for Quality Improvement and Patient Safety, AHRQ, 5600 Fishers Lane, Room 06N94B, Rockville, MD 20857; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *PSO@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety Act authorizes the listing of PSOs, which are entities or component organizations whose

mission and primary activity are to conduct activities to improve patient safety and the quality of health care delivery.

HHS issued the Patient Safety Rule to implement the Patient Safety Act. AHRQ administers the provisions of the Patient Safety Act and Patient Safety Rule relating to the listing and operation of PSOs. The Patient Safety Rule authorizes AHRQ to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when the PSO's listing expires. Section 3.108(d) of the Patient Safety Rule requires AHRQ to provide public notice when it removes an organization from the list of federally approved PSOs.

AHRQ has accepted a notification from Verge Patient Safety Organization, a component entity of Verge Solutions, LLC, PSO number P0118, to voluntarily relinquish its status as a PSO. Accordingly, Verge Patient Safety Organization was delisted effective at 12:00 Midnight ET (2400) on February 2, 2016.

Verge Patient Safety Organization has patient safety work product (PSWP) in its possession. The PSO will meet the requirements of section 3.108(c)(2)(i) of the Patient Safety Rule regarding notification to providers that have reported to the PSO. In addition, according to sections 3.108(c)(2)(ii) and 3.108(b)(3) of the Patient Safety Rule regarding disposition of PSWP, the PSO has 90 days from the effective date of delisting and revocation to complete the disposition of PSWP that is currently in the PSO's possession.

More information on PSOs can be obtained through AHRQ's PSO Web site at *http://www.pso.ahrq.gov/*.

Sharon B. Arnold,

AHRQ Deputy Director.

[FR Doc. 2016–03034 Filed 2–12–16; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2015–0049]

Notice of Availability of the Final Environmental Assessment and a Finding of No Significant Impact for HHS/CDC Lawrenceville Campus Proposed Improvements 2015–2025, Lawrenceville, Georgia

AGENCY: Centers for Disease Control and Prevention, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services (HHS), is issuing this notice to advise the public that HHS/CDC has prepared and signed on February 9, 2016 a Finding of No Significant Impact (FONSI) based on the Final Environmental Assessment (Final EA) for the HHS/CDC Lawrenceville Campus Proposed Improvements 2015–2025 on the HHS/CDC Lawrenceville Campus, Lawrenceville, Georgia. The Final EA has been prepared in accordance with the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality (CEQ) implementing regulations (40 CFR 1500–1508) and the HHS General Administration Manual (GAM) Part 30 Environmental Procedures, dated February 25, 2000.

DATES: The FONSI and Final EA are available as February 16, 2016.

FOR FURTHER INFORMATION CONTACT: Copies of the FONSI and/or the Final EA or additional information may be obtained by contacting Angela Wagner, Portfolio Manager, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–K96, Atlanta, GA 30329. Telephone: (770) 488–8170.

SUPPLEMENTARY INFORMATION: The Centers for Disease Control and Prevention (CDC) within the U.S. Department of Health and Human Services (HHS), has prepared an Environmental Assessment (EA), to assess the potential impacts associated with the undertaking of proposed improvements on the HHS/CDC's Lawrenceville Campus located at 602 Webb Gin House Road in Lawrenceville, Georgia. The proposed improvements include: (1) Building demolition; (2) new building construction, including an approximately 12,000 gross square feet (gsf) Science Support Building, a new Transshipping and Receiving Area at approximately 2,500 gsf and two new small Office Support Buildings at 8,000 gsf and 6,000 gsf; (3) expansion and relocation of parking on campus; and (4) the creation of an additional point of access to the campus. The proposed improvements would be undertaken between the time period of 2015 and 2025 and are contingent on receipt of funding. The proposed improvements are needed to maintain an appropriate facilities quality level on the Lawrenceville Campus.

On August 14, 2015, HHS/CDC published a notice in the **Federal Register** (80 FR 48863) announcing the availability of a Draft EA and requesting public comment. The comment period ended on September 28, 2015. No substantive comments were received that raised specific issues or concerns with the methodology, analysis, conclusion or accurateness of the EA.

Based on the analysis of environmental impacts in the EA and in accordance with NEPA, HHS/CDC has determined that the proposed action will not significantly affect the human or natural environment and therefore does not require the preparation of an environmental impact statement.

Dated: February 10, 2016.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2016–03059 Filed 2–12–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–0573]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of

the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov*. Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

National HIV Surveillance System (NHSS) (OMB Control No. 0920–0573, Expires 02/29/2016)—Revision—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Data collected as part of the National HIV Surveillance System (NHSS) are the primary data used to monitor the impact of HIV infection in the United States. The NHSS provides critical data that are used to describe the incidence and prevalence of HIV disease and the characteristics of infected persons. HIV surveillance data are used widely at the local, state and national levels for planning, evaluation and allocation of funding for HIV prevention and care programs.

The NHSS has been updated periodically as science, technology, and our understanding of HIV has evolved. CDC in collaboration with health departments in the 50 states, the District of Columbia, and U.S. dependent areas, conducts national surveillance for cases of HIV infection that includes critical data across the spectrum of HIV disease from HIV diagnosis, to stage 3 (AIDS), the end-stage disease caused by infection with HIV, and death. In addition, this national system provides essential data to estimate HIV incidence and monitor patterns in HIV drug resistance and genetic diversity, as well as provide information on perinatal exposures in the United States.

The CDC surveillance case definition has been modified periodically to accurately monitor disease in adults, adolescents and children and reflect use of new testing technologies and changes in HIV treatment. Information is then updated in the case report forms and reporting software as needed.

In 2014, following extensive consultation and peer review, CDC and the Council of State and Territorial Epidemiologists (CSTE) revised and combined the surveillance case definitions for human immunodeficiency virus (HIV) infection into a single case definition for persons of all ages. Laboratory criteria for defining a confirmed case now accommodate new multi-test algorithms, including criteria for differentiating between HIV–1 and HIV–2 infection and for recognizing early HIV infection. Clinical (non-laboratory) criteria for defining a case for surveillance purposes have been made more practical by eliminating the requirement for information about laboratory tests. The surveillance case definition is intended primarily for monitoring the HIV infection burden and planning for prevention and care on a population level, not as a basis for clinical decisions for individual patients. CDC and CSTE recommend that all states and territories conduct case surveillance of HIV infection using this revised surveillance case definition.

Modifications to data elements to accommodate the 2014 HIV case surveillance definition were approved in the last renewal of OMB Control No. 0920–0573. The revisions requested in this extension include modifications to currently collected data elements and forms to accommodate new testing technologies as well as clinical practice guidelines. Specifically, the HIV Testing and Antiretroviral Use History section will be revised on the adult/adolescent and pediatric case report forms to include new laboratory tests, additional information on use of antiretrioviral (ARV) medications for pre-exposure prophylaxis (PrEP), post-exposure prophylaxis (PEP), prevention of mother-to-child-transmission among HIV infected women during pregnancy, and hepatitis B virus (HBV) treatment. Other changes include addition of dates to the address and patient ID fields to better track residence information and minor formatting changes to the form used for Perinatal HIV Exposure Reporting (PHER).

The revisions to this request also include the addition of burden hours for annual reporting by health departments for the Standards Evaluation Report (SER) and Annual Performance Report (APR). Findings from these reports are used to improve data quality and ensure the accuracy, timeliness, and completeness of the national HIV surveillance, as well as to monitor performance and progress in achieving both state and national HIV surveillance program objectives. Fifty-nine health departments funded for HIV surveillance will report a Standards Evaluation Report (SER) and APR annually.

CDC provides funding for 59 health departments to conduct adult and pediatric HIV case surveillance and report information to CDC. Health department staff compile information from laboratories, physicians, hospitals, clinics and other health care providers to complete adult and adolescent and pediatric HIV confidential case reports. Updates to case reports are also entered into an electronic database by health departments, as additional information may be received from laboratories, vital statistics offices, or additional providers. Evaluations are also conducted by health departments on a subset of case reports (*e.g.,* re-abstraction/validation activities and routine interstate de-duplication) in all jurisdictions.

Supplemental surveillance data are collected in a subset of areas to provide additional information necessary to estimate HIV incidence, to better describe the extent of HIV viral resistance and quantify HIV subtypes among persons infected with HIV and to monitor and evaluate perinatal HIV prevention efforts. Health departments funded for these supplemental data collections obtain this information from laboratories, health care providers, and medical records. CDC estimates that 25 health departments will be reporting data elements containing HIV Incidence Surveillance (HIS) data, 53 health departments will report additional data elements on HIV nucleotide sequences as part of Molecular HIV Surveillance (MHS), and 35 areas will be reporting data as part of 35 health departments will be reporting data collected as part of Perinatal HIV Exposure Reporting (PHER) annually. The total estimated annual burden hours are 50,504.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Health Departments	Adult HIV Case Report	59	1,061	20/60
Health Departments	Pediatric HIV Case Report	59	5	20/60
Health Departments	Case Report Evaluations	59	107	20/60
Health Departments	Case Report Updates	59	1,576	2/60
Health Departments	Laboratory Updates	59	6,303	1/60
Health Departments	HIV Incidence Surveillance (HIS)	25	2,288	10/60
Health Departments	Molecular HIV Surveillance (MHS)	53	829	5/60
Health Departments	Perinatal HIV Exposure Reporting (PHER)	35	114	30/60
Health Departments	Annual Reporting: Standards Evaluation Report (SER).	59	1	8
Health Departments	Annual Reporting: Annual Performance Report (APR).	59	1	42

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–03046 Filed 2–12–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0001]

Food and Drug Administration Clinical Trial Requirements, Regulations, Compliance, and Good Clinical Practices; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following public workshop entitled ''Educational Conference Co-Sponsored With the Society of Clinical Research Associates (SOCRA).'' The public workshop on FDA's clinical trial requirements is designed to aid the Clinical Research Professional's understanding of the mission, responsibilities, and authority of FDA and to facilitate interaction with FDA representatives. The program will focus on the relationships among FDA, clinical trial staff, investigators, and institutional review boards (IRBs). Individual FDA representatives will discuss the informed consent process and informed consent documents; regulations relating to drugs, devices, and biologics; as well as inspections of clinical investigators, of IRBs, and of research sponsors.

DATES: The public workshop will be held on March 9 and 10, 2016, from 8 a.m. to 5 p.m.

ADDRESSES: The public workshop will be held at the Holiday Inn San Diego Bayside, 4875 North Harbor Dr., San Diego, CA 92106, 619–224–3621.

FOR FURTHER INFORMATION CONTACT: Jane Kreis, Food and Drug Administration, 1301 Clay St., Suite 1180N, Oakland, CA 94612, 510–287–2708, FAX: 510–287–2739, or Society of Clinical Research Associates (SOCRA), 530 West Butler Ave., Suite 109, Chalfont, PA 18914, telephone: 800–762–7292 or 215–822–8644, FAX: 215–822–8633, *Office@socra.org,* Web site: *www.socra.org.* (FDA has verified the Web site addresses throughout this document, but we are not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

SUPPLEMENTARY INFORMATION:

I. Background

The public workshop helps fulfill the Department of Health and Human Services' and FDA's important mission to protect the public health. The workshop will provide those engaged in FDA-regulated (human) clinical trials with information on a number of topics concerning FDA requirements related to informed consent, clinical investigation requirements, IRB inspections, electronic record requirements, and investigator initiated research.

FDA has made education of the drug and device manufacturing community a high priority to help ensure the quality of FDA-regulated drugs and devices. The workshop helps to achieve objectives set forth in section 406 of the FDA Modernization Act of 1997 (21 U.S.C. 393), which include working closely with stakeholders and maximizing the availability and clarity of information to stakeholders and the public. The workshop also is consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), as outreach activities by Government Agencies to small businesses.

II. Topics for Discussion at the Public Workshop

Topics for discussion include the following: (1) The Role of the FDA District Office Relative to the Bioresearch Monitoring Program (BIMO); (2) Modernizing FDA's Clinical Trials/BIMO; (3) What FDA Expects in a Pharmaceutical Clinical Trial; (4) Medical Device Aspects of Clinical Research; (5) Adverse Event Reporting—Science, Regulation, Error, and Safety; (6) Working With FDA's Center for Biologics Evaluation and Research; (7) Ethical Issues in Subject Enrollment; (8) Keeping Informed and Working Together; (9) FDA Conduct of Clinical Investigator Inspections; (10) Investigator Initiated Research; (11) Meetings With FDA—Why, When, and How; (12) Part 11 Compliance—Electronic Signatures; (13) IRB Regulations and FDA Inspections; (14) Informed Consent Regulations; (15) The Inspection is Over—What Happens Next? Possible FDA Compliance Actions; and (16) Question and Answer Session/Panel Discussion.

Registration: The registration fee will cover actual expenses including refreshments, lunch, materials, and speaker expenses. Seats are limited; please submit your registration as soon as possible. Workshop space will be filled in order of receipt of registration. Those accepted into the workshop will receive confirmation. The cost of the registration is as follows: SOCRA member—$575, SOCRA nonmember (includes membership)—$650, Federal Government member—$450, Federal

Government nonmember—$525, and FDA Employee—(free) Fee Waived.

Attendees are responsible for their own accommodations. Please mention SOCRA to receive the hotel room rate of $142 plus applicable taxes (available until the SOCRA room block is filled).

If you need special accommodations due to a disability, please contact SOCRA (see **FOR FURTHER INFORMATION CONTACT**) at least 21 days in advance.

Extended periods of question and answer and discussion have been included in the program schedule. SOCRA designates this education activity for a maximum of 13.3 Continuing Education (CE) Credits for SOCRA CE and Nurse CNE; SOCRA designates this live activity for a maximum of 13.3 AMA PRA Category 1 Credit(s)™. Physicians should claim only the credit commensurate with the extent of their participation. *CME for Physicians:* SOCRA is accredited by the Accreditation Council for Continuing Medical Education to provide continuing medical education for physicians. *CNE for Nurses:* Society of Clinical Research Associates is accredited as a provider of continuing nursing education by the American Nurses Credentialing Center's Commission on Accreditation.

Registration Instructions: To register, please submit a registration form with your name, affiliation, mailing address, telephone, fax number, and email, along with a check or money order payable to ''SOCRA.'' Mail to: SOCRA (see **FOR FURTHER INFORMATION CONTACT**). To register via the Internet, go to *http://www.socra.org/html/FDAConference.htm.* Payment by major credit card is accepted (Visa/MasterCard/AMEX only). For more information on the meeting registration, or for questions on the workshop, contact SOCRA (see **FOR FURTHER INFORMATION CONTACT**).

Dated: February 9, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–02965 Filed 2–12–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0001]

Request for Nominations for Individuals and Consumer Organizations for Advisory Committees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting that any consumer organizations interested in participating in the selection of voting and/or nonvoting consumer representatives to serve on its advisory committees or panels notify FDA in writing. FDA is also requesting nominations for voting and/or nonvoting consumer representatives to serve on advisory committees and/or panels for which vacancies currently exist or are expected to occur in the near future. Nominees recommended to serve as a voting or nonvoting consumer representative may be self-nominated or may be nominated by a consumer organization.

FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees and, therefore, encourages nominations of appropriately qualified candidates from these groups.

DATES: Any consumer organization interested in participating in the selection of an appropriate voting or nonvoting member to represent consumer interests on an FDA advisory committee or panel may send a letter or email stating that interest to FDA (see **ADDRESSES**) by March 17, 2016, for vacancies listed in this notice. Concurrently, nomination materials for prospective candidates should be sent to FDA (see **ADDRESSES**) by March 17, 2016. Nominations will be accepted for current vacancies and for those that will or may occur through March 31, 2016.

ADDRESSES: All statements of interest from consumer organizations interested in participating in the selection process and consumer representative nominations should be submitted electronically to *kimberly.hamilton@fda.hhs.gov,* by mail to Advisory Committee Oversight and Management Staff, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002, or by FAX: 301–847–8640.

Consumer Representative nominations should be submitted electronically by logging into the FDA Advisory Committee Membership Nomination Portal: *https://www.accessdata.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm,* by mail to Advisory Committee Oversight and Management Staff, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002, or by FAX: 301–847–8640. Additional information about becoming a member on an FDA advisory committee can also be obtained by visiting FDA's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm.*

FOR FURTHER INFORMATION CONTACT: *For questions relating to participation in the selection process:* Kimberly Hamilton, Advisory Committee Oversight and Management Staff (ACOMS), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32., Rm. 5117, Silver Spring, MD 20993–0002, 301–796–8224, email: *kimberly.hamilton@fda.hhs.gov.*

For questions relating to specific advisory committees or panels, contact the appropriate Contact Person listed in table 1 in the **SUPPLEMENTARY INFORMATION** section.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is requesting that any consumer organizations interested in participating in the selection of voting and/or nonvoting consumer representatives to serve on its advisory committees or panels notify FDA in writing (see table 1 for Contact Person).

TABLE 1—ADVISORY COMMITTEE CONTACTS

Contact person	Committee/panel
Janie Kim, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 6129, Silver Spring, MD 20993–0002, Phone: 301–796–9016, Email: *Janie.Kim@fda.hhs.gov*.	Cellular, Tissue and Gene Therapies.
Philip Bautista, Center for Drugs Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2410, Silver Spring, MD 20993–0002, Phone: 301–796–9006, Email: *Philip.Bautista@fda.hhs.gov*.	Drug Safety and Risk Management Advisory Committee.
Natasha Facey, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1552, Silver Spring, MD 20993–0002, Phone: 301–796–5290, Email: *Natasha.Facey@fda.hhs.gov*.	Immunology Devices Panel.

TABLE 1—ADVISORY COMMITTEE CONTACTS—Continued

Contact person	Committee/panel
Terri Crescenzi, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5152, Silver Spring, MD 20993–0002, Phone: 301–796–8646, Email: *Terrie.Crescenzi@fda.hhs.gov*.	Pediatrics Advisory Committee.
Donna Mendrick, National Center for Toxicological Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 2208, Silver Spring, MD 20993–0002, Phone: 301–796–8892, Email: *Donna.Mendrick@fda.hhs.gov*.	Science Advisory Board to National Center for Toxicological Research (NCTR).
Bryan Emery, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 6132, Silver Spring, MD 20993–0002, Phone: 240–402–8054, Email: *Bryan.Emery@fda.hhs.gov*.	Transmissible Spongiform Encephalopathies Advisory Committee.
Sujata Vijh, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 6128, Silver Spring, MD 20993–0002, Phone: 240–402–7107, Email: *Sujata.Vijh@fda.hhs.gov*.	Vaccines and Related Biological Products Advisory Committee.

FDA is requesting nominations for voting and/or nonvoting consumer representatives for the vacancies listed in table 2.

TABLE 2—COMMITTEE DESCRIPTIONS, TYPE OF CONSUMER REPRESENTATIVE VACANCY AND APPROXIMATE DATE NEEDED

Committee/panel/areas of expertise needed	Type of vacancy	Approximate date needed
Cellular, Tissue and Gene Therapies Advisory Committee—Knowledgeable in the fields of cellular therapies, tissue transplantation, gene transfer therapies and xenotransplantation (biostatistics, bioethics, hematology/oncology, human tissues and transplantation, reproductive medicine, general medicine and various medical specialties including surgery and oncology, immunology, virology, molecular biology, cell biology, developmental biology, tumor biology, biochemistry, rDNA technology, nuclear medicine, gene therapy, infectious diseases, and cellular kinetics.	1-Voting	3/31/2016.
Drug Safety and Risk Management Advisory Committee—Knowledgeable in risk communication, risk management, drug safety, medical, behavioral, and biological sciences as they apply to risk management, and drug abuse.	1-Voting	Immediately.
Immunology Devices Panel—Persons with experience in medical, surgical, or clinical oncology, internal medicine, clinical immunology, allergy, molecular diagnostics, or clinical laboratory medicine.	1-Non-Voting	2/28/2016.
Pediatrics Advisory Committee—Knowledgeable in pediatric research, pediatric subspecialties, statistics, and/or biomedical ethics. The core of voting members shall also include one representative from a pediatric health organization and one representative from a relevant patient or patient-family organization and may include one technically qualified member, selected by the Commissioner or designee, who is identified with consumer interests and is recommended by either a consortium of consumer-oriented organizations or other interested persons. In addition to the voting members, the Committee may include one non-voting member who is identified with industry interests.	1-Voting	Immediately.
Science Advisory Board to the NCTR—Knowledgeable in the fields related to toxicological research	1-Voting	Immediately.
Transmissible Spongiform Encephalopathies Advisory Committee—Knowledgeable in the fields of clinical and administrative medicine, hematology, virology, neurovirology, neurology, infectious diseases, immunology, transfusion medicine, surgery, internal medicine, biochemistry, biostatistics, epidemiology, biological and physical sciences, sociology/ethics, and other related professions.	1-Voting	Immediately.
Vaccines and Related Biological Products Advisory Committee—Knowledgeable in the fields of immunology, molecular biology, rDNA, virology, bacteriology, epidemiology or biostatistics, allergy, preventive medicine, infectious diseases, pediatrics, microbiology, and biochemistry.	1-Voting	Immediately.

II. Functions and General Description of the Committee Duties

A. Cellular, Tissue, and Gene Therapies Advisory Committee

Reviews and evaluates available data relating to the safety, effectiveness, and appropriate use of human cells, human tissues, gene transfer therapies and xenotransplantation products which are intended for transplantation, implantation, infusion and transfer in the prevention and treatment of a broad spectrum of human diseases and in the reconstruction, repair or replacement of tissues for various conditions, as well as considers the quality and relevance of FDA's research program which provides scientific support for the regulation of these products.

B. Drug Safety and Risk Management Advisory Committee

Risk management, risk communication, and quantitative evaluation of spontaneous reports for drugs for human use and for any other product for which the FDA has regulatory responsibility. Scientific and medical evaluation of all information gathered by the Department of Health and Human Service (DHHS) and the Department of Justice with regard to safety, efficacy, and abuse potential of drugs or other substances, and recommends actions to be taken by DHHS with regard to the marketing, investigation, and control of such drugs or other substances.

C. Certain Panels of the Medical Devices Advisory Committee

The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation. The panels engage in a number of activities to fulfill the functions the Federal Food, Drug, and Cosmetic Act (the act) envisions for device advisory panels. With the exception of the Medical Devices Dispute Resolution Panel, each panel, according to its specialty area, advises

the Commissioner of Food and Drugs (the Commissioner) regarding recommended classification or reclassification of devices into one of three regulatory categories, advises on any possible risks to health associated with the use of devices, advises on formulation of product development protocols, reviews premarket approval applications for medical devices, reviews guidelines and guidance documents, recommends exemption of certain devices from the application of portions of the act, advises on the necessity to ban a device, and responds to requests from the Agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices. With the exception of the Medical Devices Dispute Resolution Panel, each panel, according to its specialty area, may also make appropriate recommendations to the Commissioner on issues relating to the design of clinical studies regarding the safety and effectiveness of marketed and investigational devices. The Dental Products Panel also functions at times as a dental drug panel. The functions of the dental drug panel are to evaluate and recommend whether various prescription drug products should be changed to over-the-counter status and to evaluate data and make recommendations concerning the approval of new dental drug products for human use.

D. Pediatrics Advisory Committee

The Committee advises and makes recommendations to the Commissioner of Food and Drugs regarding: (1) Pediatric research; (2) identification of research priorities related to pediatric therapeutics and the need for additional treatments of specific pediatric diseases or conditions; (3) the ethics, design, and analysis of clinical trials related to pediatric therapeutics; (4) pediatric labeling disputes; (5) pediatric labeling changes; (6) adverse event reports for drugs granted pediatric exclusivity and any safety issues that may occur; (7) any other pediatric issue or pediatric labeling dispute involving FDA regulated products; (8) research involving children as subjects; and (9) any other matter involving pediatrics for which FDA has regulatory responsibility. The Committee also advises and makes recommendations to the Secretary directly or to the Secretary through the Commissioner on research involving children as subjects that is conducted or supported by DHHS.

E. Science Advisory Board to the National Center for Toxicological Research

Reviews and advises the Agency on the establishment, implementation and evaluation of the research programs and regulatory responsibilities as it relates to NCTR. The Board will also provide an extra-agency review in ensuring that the research programs at NCTR are scientifically sound and pertinent.

F. Transmissible Spongiform Encephalopathies Advisory Committee

Reviews and evaluates available scientific data concerning the safety of products which may be at risk for transmission of spongiform encephalopathies having an impact on the public health, as well as considers the quality and relevance of FDA's research program which provides scientific support for the regulation of these products.

G. Vaccines and Related Biological Products Advisory Committee

Reviews and evaluates data concerning the safety, effectiveness, and appropriate use of vaccines and related biological products which are intended for use in the prevention, treatment, or diagnosis of human diseases, as well as considers the quality and relevance of FDA's research program which provides scientific support for the regulation of these products.

III. Criteria for Members

Persons nominated for membership as consumer representatives on committees or panels should meet the following criteria: (1) Demonstrate ties to consumer and community-based organizations, (2) be able to analyze technical data, (3) understand research design, (4) discuss benefits and risks, and (5) evaluate the safety and efficacy of products under review. The consumer representative should be able to represent the consumer perspective on issues and actions before the advisory committee; serve as a liaison between the committee and interested consumers, associations, coalitions, and consumer organizations; and facilitate dialogue with the advisory committees on scientific issues that affect consumers.

IV. Selection Procedures

Selection of members representing consumer interests is conducted through procedures that include the use of organizations representing the public interest and public advocacy groups. These organizations recommend nominees for the Agency's selection. Representatives from the consumer health branches of Federal, State, and local governments also may participate in the selection process. Any consumer organization interested in participating in the selection of an appropriate voting or nonvoting member to represent consumer interests should send a letter stating that interest to FDA (see **ADDRESSES**) within 30 days of publication of this document.

Within the subsequent 30 days, FDA will compile a list of consumer organizations that will participate in the selection process and will forward to each such organization a ballot listing at least two qualified nominees selected by the Agency based on the nominations received, together with each nominee's current curriculum vitae or resume. Ballots are to be filled out and returned to FDA within 30 days. The nominee receiving the highest number of votes ordinarily will be selected to serve as the member representing consumer interests for that particular advisory committee or panel.

V. Nomination Procedures

Any interested person or organization may nominate one or more qualified persons to represent consumer interests on the Agency's advisory committees or panels. Self-nominations are also accepted. Nominations should include a cover letter and current curriculum vitae or résumé for each nominee, including a current business and/or home address, telephone number, and email address if available, and a list of consumer or community-based organizations for which the candidate can demonstrate active participation.

Nominations should also specify the advisory committee(s) or panel(s) for which the nominee is recommended. In addition, nominations should include confirmation that the nominee is aware of the nomination, unless self-nominated. FDA will ask potential candidates to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflicts of interest. Members will be invited to serve for terms up to 4 years.

FDA will review all nominations received within the specified timeframes and prepare a ballot containing the names of qualified nominees. Names not selected will remain on a list of eligible nominees and be reviewed periodically by FDA to determine continued interest. Upon selecting qualified nominees for the ballot, FDA will provide those consumer organizations that are participating in the selection process with the opportunity to vote on the

listed nominees. Only organizations vote in the selection process. Persons who nominate themselves to serve as voting or nonvoting consumer representatives will not participate in the selection process.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: February 8, 2016.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2016–03010 Filed 2–12–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0382]

Building the National Evaluation System for Medical Devices: Using Real-World Evidence To Improve Device Safety and Effectiveness; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA), in collaboration with the University of Maryland Center of Excellence in Regulatory Science and Innovation, is announcing a public workshop titled ''Building the National Evaluation System for Medical Devices: Using Real-World Evidence to Improve Device Safety and Effectiveness.'' The objective of the workshop is to discuss the scientific progress being made in harnessing evidence generated from the real-world use of medical devices to improve device safety and effectiveness. A national evaluation system for medical devices, which leverages real-world evidence, can help FDA more efficiently strike the right balance between premarket and postmarket data collection, facilitate access to medical devices, and more quickly and robustly identify safety signals that may arise in the postmarket period. The promise of using real-world evidence to promote the safety and effectiveness of medical devices can only be achieved through robust public-private partnerships and new approaches to informatics, epidemiology, biostatistics, and healthcare data systems integration.

DATES: The public workshop will be held on March 24, 2016, from 8:30 a.m. to 4:30 p.m.

ADDRESSES: The public workshop will be held at the University of Maryland, Pharmacy Hall, 20 North Pine St., Baltimore, MD 21201. For additional travel and hotel information, please refer to *www.pharmacy.umaryland.edu/DeviceEval.* (FDA has verified the Web site addresses throughout this notice, but FDA is not responsible for subsequent changes to the Web sites after this document publishes in the **Federal Register**).

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–N–0382 for ''Building the National Evaluation System for Medical Devices: Using Real-World Evidence to Improve Device Safety and Effectiveness; Public Workshop; Request for Comments''. Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ann Anonsen, University of Maryland, Fischell Department of Bioengineering, 2207 Jeong H. Kim Bldg., College Park, MD 20742, 301–405–0285, FAX: 304–405–9953, *aanonsen@umd.edu;* or Audrey Thomas, Office of Regulatory Science and Innovation, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4220, Silver Spring,

MD 20993–0002, *Audrey.Thomas@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The purpose of this public workshop is to discuss the scientific progress being made in harnessing evidence generated from the real-world use of medical devices to improve device safety and effectiveness. The role that unique device identification plays in improving device evaluation, to support more informed clinical and patient decision-making, and device innovation will also be discussed.

The foundation (strategy and steps) for the development of a national evaluation system for medical devices has been developed by FDA's Center for Devices and Radiological Health (available at *www.pharmacy.umaryland.edu/DeviceEval).* In 2015, two multistakeholder groups issued reports that develop the science and provide recommendations that further the establishment of this system: ''Building an Effective National Medical Device Surveillance System'' and ''Recommendations for a National Medical Device Evaluation System: Strategically Coordinated Registry Networks to Bridge the Clinical Care and Research'' (available at *www.pharmacy.umaryland.edu/DeviceEval*).

To successfully harness relevant information from the diverse set of real-world evidence, the United States must develop the necessary infrastructure which is not yet in place today. We continue to explore ways to improve the efficiency and cost-effectiveness of data generation in traditional medical device clinical trials while maintaining data quality. The goal is to streamline the process and restore the United States to the country of first choice to conduct clinical research for medical technology innovation and ultimately bring their products first to U.S. patients. Limitations of current postmarket surveillance tools, such as passive reporting, also constrain ability to rapidly address safety concerns. A national evaluation system for medical devices, which leverages real-world evidence, can help FDA more efficiently strike the right balance between premarket and postmarket data collection, facilitate access to medical devices, and more quickly and robustly identify safety signals that may arise in the postmarket period. The promise of using real-world evidence to promote the safety and effectiveness of medical devices can only be achieved through robust public-private partnerships and new approaches to informatics, epidemiology, biostatistics, and healthcare data systems integration.

This workshop will provide clinicians, researchers, and others from the medical device industry, professional societies, health care delivery systems groups, patient advocacy groups, and FDA the opportunity to discuss this important topic.

Agenda: The agenda is located at *www.pharmacy.umaryland.edu/DeviceEval.*

Registration: There is a registration fee to attend this public workshop. The registration fee is charged to help defray the costs for facilities, materials, and food. Seats are limited and registration will be on a first-come, first-served basis.

To register, please complete registration online at: *www.pharmacy.umaryland.edu/DeviceEval.* The costs of registration for the different categories of attendees are as follows:

Category	Cost
Industry Representative	$50
Charitable Nonprofit and Academic Other Than University of Maryland	50
University of Maryland, College Park and Baltimore	0
Government	0

Accommodations: Attendees are responsible for their own hotel accommodations. If you need special accommodations due to a disability, please contact Ann Anonsen (see **FOR FURTHER INFORMATION CONTACT**).

Dated: February 9, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–02966 Filed 2–12–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0407]

Proposed Pilot Project(s) Under the Drug Supply Chain Security Act; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public workshop entitled ''Proposed Pilot Project(s) under the Drug Supply Chain Security Act (DSCSA).'' This public workshop will provide a forum for discussing proposed design objectives of pilot projects that will explore and evaluate methods to enhance the safety and security of the pharmaceutical distribution supply chain. FDA would like to obtain information and input from interested pharmaceutical distribution supply chain members about issues related to utilizing the product identifier for product tracing, improving the technical capabilities of the supply chain, and identifying the system attributes that are necessary to implement the requirements established under the DSCSA. The information gathered from the workshop and the public comments submitted to the docket will further inform FDA's development of its pilot project program.

DATES: The public workshop will be held on April 5, 2016, from 9 a.m. to 5 p.m. and April 6, 2016, from 9 a.m. to 12:15 p.m. The deadline for submitting either electronic or written comments on this workshop is April 21, 2016. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public workshop will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503A), Silver Spring, MD 20993–0002. Entrance for the confirmed public workshop participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note

that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–N–0407 for ''Proposed Pilot Project(s) under the Drug Supply Chain Security Act; Public Workshop; Request for Comments.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Daniel Bellingham, Office of Compliance, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–3130, *CDERODSIRpublicmeetings@fda.hhs.gov* (include ''DSCSA pilot projects'' in the subject line).

SUPPLEMENTARY INFORMATION:

I. Background

On November 27, 2013, the Drug Supply Chain Security Act (DSCSA) (Title II of Pub. L. 113–54) was signed into law. The DSCSA outlines critical steps to build an electronic, interoperable system by November 27, 2023, which will identify and trace certain prescription drugs as they are distributed within the United States. Section 202 of the DSCSA added the new sections 581 and 582 to the Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360eee and 360eee–1). Under section 582(j), FDA is required to establish one or more pilot projects, in coordination with authorized manufacturers, repackagers, wholesale distributors, and dispensers, to explore and evaluate methods to enhance the safety and security of the pharmaceutical distribution supply chain.

FDA intends to establish a pilot project program to implement section 582(j) of the FD&C Act. The overarching goals of this program include assessing the ability of supply chain members to satisfy the requirements of section 582 and to identify, manage, and prevent the distribution of suspect and illegitimate drugs; identifying the system attributes needed to implement the requirements of section 582, particularly the requirement to utilize a product identifier for product tracing purposes; and demonstrating the electronic, interoperable exchange of product tracing information across the pharmaceutical distribution supply chain. FDA intends to coordinate its pilot project program efforts with stakeholders that reflect the diversity of the pharmaceutical distribution supply chain, including large and small entities from all industry sectors.

II. Purpose of the Public Workshop

This public workshop is intended to provide an opportunity for interested persons to provide comments on and discuss the proposed design objectives of pilot projects that will explore and evaluate methods to enhance the safety and security of the pharmaceutical distribution supply chain. FDA would like to obtain information and input from interested pharmaceutical distribution supply chain members about issues related to utilizing the product identifier for product tracing, improving the technical capabilities of the pharmaceutical distribution supply chain, and identifying the system attributes that are necessary to implement the requirements under section 582. FDA would also like to learn more about the practices, processes, and systems that supply chain stakeholders currently use or plan to use to meet the requirements under section 582, particularly the product tracing and verification requirements. These practices, processes, and systems may include those that supply chain stakeholders would consider using in pilot projects or those that supply chain stakeholders have already used in other previous pilot projects.

By March 29, 2016, FDA will post the workshop agenda and other relevant materials under the DSCSA section of its Web site at *http://www.fda.gov/Drugs/NewsEvents/ucm481767.htm.* Supply chain stakeholders that might be interested in attending the public workshop include manufacturers, repackagers, wholesale distributors, dispensers, State and Federal authorities, solution providers, and standards organizations. Participants at the workshop will not be asked to develop consensus opinions during the discussion, but rather to provide their individual perspectives.

Regardless of attendance at the public workshop, interested stakeholders may submit comments to the public docket related to any of the public workshop materials, including the agenda and other posted materials on FDA's Web site, in addition to comments specific to the design of pilot projects that will explore and evaluate methods to

enhance the safety and security of the pharmaceutical distribution supply chain. Stakeholders may comment on utilizing the product identifier for product tracing and the technical capabilities of the pharmaceutical distribution supply chain and the system attributes that are necessary to implement the requirements under section 582. The information gathered from the workshop participants and from the comments submitted to the docket for the public workshop will further inform FDA's development of its pilot project program under section 582(j) of the FD&C Act.

III. Registration for the Public Workshop

To request registration for the public workshop, provide your information including name, company or organization, address, telephone number, and email address to FDA at *http://www.fda.gov/Drugs/NewsEvents/ucm481767.htm.* Registration requests should be received by March 11, 2016. FDA is limiting workshop attendance due to limited space. FDA may limit the number of participants from each organization based on space limitations. FDA recommends that each organization determine who should register for the workshop to represent his/her organization. This will help ensure that the workshop will have broad and varied representation across the pharmaceutical distribution supply chain. Registrants will receive confirmation of participation for the workshop from FDA by March 18, 2016. There is no registration fee for the public workshop. There will be no onsite registration. If registration reaches maximum capacity, FDA will post a notice closing registration for the workshop on FDA's Web site at *http://www.fda.gov/Drugs/NewsEvents/ucm481767.htm.* If you need special accommodations due to a disability, please contact Daniel Bellingham (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the public workshop.

IV. Webcasting of the Public Workshop

Portions of this public workshop will be recorded and Webcasted on the day of the workshop. Information for how to access the Webcast will be available at *http://www.fda.gov/Drugs/NewsEvents/ucm481767.htm* by March 29, 2016. The Webcast will be conducted in listening-mode only.

Dated: February 9, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–02977 Filed 2–12–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0437]

Evaluation of the Safety of Drugs and Biological Products Used During Lactation; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public workshop entitled ''Evaluation of the Safety of Drugs and Biological Products used during Lactation.'' The purpose of this workshop is to provide a forum to discuss the current state and future directions of the collection of data on the potential risks to breastfed infants with maternal use of medications during lactation. The workshop will review current approaches to the collection of data when drugs are used or expected to be used during lactation. The workshop will also discuss and consider novel approaches to improve the quality and quantity of data, to inform of the potential risks of medication use during lactation, and to raise awareness and engage stakeholders about communication of safety information related to maternal use of medications during lactation.

DATES: The public workshop will be held on April 27, 2016, from 8 a.m. to 5 p.m.; and April 28, 2016, from 8 a.m. to 1 p.m. Registration closes on April 8, 2016. Submit electronic or written comments to the public docket by May 28, 2016.

ADDRESSES: The public workshop will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503A), Silver Spring, MD 20993–0002. Entrance for the public workshop participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–N–0437 for ''Evaluation of the Safety of Drugs and Biological Products used during Lactation; Public Workshop; Request for Comments.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available submit your

comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: For questions regarding the workshop, contact Denise Pica-Branco, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–1732, FAX: 301–796–9858, *denise.picabranco@fda.hhs.gov;* or Denise Johnson-Lyles, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–6169; FAX: 301–796–9858, *denise.johnson-lyles@fda.hhs.gov.*

Registration: Participation can be either in person attendance or by Webcast. There is no fee to attend the public workshop, but attendees must register in advance. Space is limited, and registration will be on a first-come, first-served basis. Persons interested in attending this workshop must register online at *lactation@fda.hhs.gov.* Please include: (1) First and last name, (2) contact phone or email address, (2) live attendance or via Webcast, (4) indicate if you plan to attend day 1, day 2, or both days. Registration closes on April 8, 2016. For those without Internet access, please contact Denise Pica-Branco or Denise Johnson-Lyles (see **FOR FURTHER INFORMATION CONTACT**) to register. Onsite registration will not be available.

If you need special accommodations due to a disability, please contact Denise Pica-Branco or Denise Johnson-Lyles (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has engaged with regulatory, academic, and industry experts to discuss the current state and future directions of the collection of data on the potential risks to breastfed infants with maternal use of medications during lactation. The first day of the workshop will focus on review and discussion of current approaches for the collection of data, and review and discussion of gaps in our present knowledge. The second day of the workshop will focus on consideration of novel approaches to improve the quality and quantity of data available to assess the safety of medications used during lactation as well as a review and discussion of strategies to communicate safety information related to maternal use of medications during lactation.

This workshop includes a public comment session. If you would like to present during this session, please identify the topic(s) you will address during the registration. FDA will do its best accommodate requests to speak. FDA urges individuals and organizations with common interests to coordinate and give a joint, consolidated presentation. Following the close of registration, FDA will allot time for each presentation and notify presenters by April 21, 2016. Do not present or distribute commercial or promotional material during the workshop. Registered presenters should check in before the workshop begins.

II. Transcripts

Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov.* It may be viewed at the Division of Dockets Management, Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20857. A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. The Freedom of Information office address is available on the Agency's Web site at *http://www.fda.gov.*

Dated: February 9, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–02967 Filed 2–12–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0369]

Bioequivalence Recommendations for Cyclosporine; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry on cyclosporine ophthalmic emulsion entitled ''Draft Guidance on Cyclosporine.'' The recommendations provide specific guidance on the design of bioequivalence (BE) studies to support abbreviated new drug applications (ANDAs) for cyclosporine ophthalmic emulsion. This draft guidance is a revised version of a previously issued draft guidance on the same subject.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comments on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by April 18, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note

that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2007–P–0369 for ''Draft Guidance on Cyclosporine.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Xiaoqiu Tang, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4730, Silver Spring, MD 20993–0002, 301–796–5850.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry, ''Bioequivalence Recommendations for Specific Products,'' which explained the process that would be used to make product-specific BE recommendations available to the public on FDA's Web site at *http://www.fda.gov/Drugs/GuidanceCompliance RegulatoryInformation/Guidances/default.htm.* As described in that guidance, FDA adopted this process as a means to develop and disseminate product-specific BE recommendations and provide a meaningful opportunity for the public to consider and comment on those recommendations. This notice announces the availability of revised draft BE recommendations for cyclosporine ophthalmic emulsion.

FDA initially approved new drug application 050790 for RESTASIS (cyclosporine ophthalmic emulsion), 0.05% in December 2002. There are no approved ANDAs for this product. In June 2013, we issued a draft guidance for industry on BE recommendations for generic cyclosporine ophthalmic emulsion.

Allergan, Inc., manufacturer of the reference listed drug, RESTASIS, submitted a citizen petition in February 2014 challenging the Agency's initial BE recommendations for generic cyclosporine ophthalmic emulsion. We responded to that petition on November 20, 2014 (Docket No. FDA–2014–P–0304). The following month, Allergan submitted a second citizen petition challenging the Agency's initial BE recommendations. In April 2015, FDA received a third citizen petition on its initial BE recommendations from Physical Pharmaceutica LLC. FDA has reviewed the issues raised by Allergan and Physical Pharmaceutica and is responding to their petitions (Docket Nos. FDA–2015–P–0065 and FDA–2015–P–1404).

In addition, we are now issuing a revised draft guidance for industry on BE recommendations for generic cyclosporine ophthalmic emulsion (''Draft Guidance on Cyclosporine'').

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on the design of BE studies to support ANDAs for cyclosporine ophthalmic emulsion. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: February 9, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–02975 Filed 2–12–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–0236]

Nonallergic Rhinitis: Developing Drug Products for Treatment; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Nonallergic Rhinitis: Developing Drug Products for Treatment.'' The purpose of this draft guidance is to assist applicants in the development of drug and biological products for the treatment of nonallergic rhinitis (NAR).

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by April 18, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal*: *http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–D–0236 for ''Nonallergic Rhinitis: Developing Drug Products for Treatment; Draft Guidance for Industry; Availability''. Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Sofia Chaudhry, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 3317, Silver Spring, MD 20993–0002, 301–796–4157.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Nonallergic Rhinitis: Developing Drug Products for Treatment.'' The purpose of this draft guidance is to assist applicants in the development of drug and biological products for the treatment of NAR.

The nomenclature and understanding of the pathophysiology of NAR continue to evolve. The recommendations in this guidance are based on the Agency's current understanding of the definition of NAR and an assessment of issues raised by the presumed heterogeneity of NAR. The guidance discusses issues regarding the definition of a clinical phenotype, trial design, efficacy, and safety for new products under development.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on developing drug products for the treatment of NAR. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: February 9, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–02976 Filed 2–12–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0001]

Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on April 12, 2016, from 8:30 a.m. to 1 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

Contact Person: Lauren D. Tesh, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *ODAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss new drug application (NDA) 208542, rociletinib tablets, application submitted by Clovis Oncology, Inc. The proposed indication (use) for this product is for the treatment of patients with mutant epidermal growth factor receptor (EGFR) non-small cell lung cancer (NSCLC) who have been previously treated with an EGFR-targeted therapy and have the EGFR T790M mutation as detected by an FDA approved test.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before March 29, 2016. Oral presentations from the public will be scheduled between approximately 11 a.m. and 12 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before March 21, 2016. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by March 22, 2016.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require special accommodations due to a disability, please contact Lauren D. Tesh at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 8, 2016.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2016–03011 Filed 2–12–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–0412]

Anthrax: Developing Drugs for Prophylaxis of Inhalational Anthrax; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Anthrax: Developing Drugs for Prophylaxis of Inhalational Anthrax.'' The purpose of this draft guidance is to assist sponsors in the development of new drugs for the prophylaxis of inhalational anthrax. This draft guidance supersedes the draft guidance entitled ''Inhalational Anthrax (Post-Exposure)—Developing Antimicrobial Drugs'' issued in March 2002.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by April 18, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal*: *http://www.regulations.gov.* Follow the

instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–D–0412 for ''Anthrax: Developing Drugs for Prophylaxis of Inhalational Anthrax; Draft Guidance for Industry; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of this draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Joseph G. Toerner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6244, Silver Spring, MD 20993–0002, 301–796–1300.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Anthrax: Developing Drugs for Prophylaxis of Inhalational Anthrax.'' The purpose of this draft guidance is to assist sponsors in the development of new drugs to be administered to persons who have inhaled *Bacillus anthracis* spores, but who have not yet manifested clinical evidence of disease, to prevent the development of inhalational anthrax disease. We refer to this indication as ''prophylaxis of inhalational anthrax.'' This draft guidance describes approaches for the designs of the animal model efficacy studies and recognizes that drug development for the sole indication of prophylaxis of inhalational anthrax is possible.

This draft guidance supersedes the draft guidance for industry entitled ''Inhalational Anthrax (Post-Exposure)—Developing Antimicrobial Drugs'' published in March 2002 (2002 draft guidance). The 2002 draft guidance stated that drugs for the prophylaxis of inhalational anthrax would be approved under the accelerated approval regulations (21 CFR part 314, subpart H, for drugs and 21 CFR part 601, subpart E, for biological products), unless the drug already carried an anthrax indication. Shortly after the 2002 draft guidance issued, FDA amended its regulations to provide a regulatory mechanism to approve drugs and biological products when human efficacy studies are not ethical or feasible (part 314, subpart I, for drugs and part 601, subpart H, for biological products). These regulations are commonly referred to as the ''animal rule.'' [1] This draft guidance states that drugs developed for prophylaxis of inhalational anthrax will be considered for approval under the animal rule regulations. Other changes from the 2002 draft guidance are incorporated into the appropriate sections of this guidance and are based on comments received to the docket for the 2002 draft guidance as well as recent developments in scientific information that pertain to drugs being developed for prophylaxis of inhalational anthrax.

Issuance of this draft guidance fulfills a portion of the requirements of Title VIII, section 804, of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), which requires FDA to review and, as appropriate, revise not fewer than three guidance documents per year for the conduct of clinical trials with respect to antibacterial and antifungal drugs.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding

[1] The animal rule regulations in this guidance specifically refer to part 314, subpart I, for drugs and part 601, subpart H, for biological products. In October 2015, FDA finalized the guidance for industry entitled ''Product Development Under the Animal Rule'' that contains general information and recommendations on the development and approval of products under the animal rule.

on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR parts 312 and 314 have been approved under OMB control numbers 0910–0014 and 0910–0001, respectively.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: February 9, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–02964 Filed 2–12–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–D–1010]

Completeness Assessments for Type II Active Pharmaceutical Ingredient Drug Master Files Under the Generic Drug User Fee Amendments of 2012; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a guidance for industry entitled ''Completeness Assessments for Type II API DMFs Under GDUFA''. It finalizes the draft guidance entitled ''Initial Completeness Assessments for Type II API DMFs Under GDUFA'', which published on October 2, 2012. This guidance is intended for holders of Type II active pharmaceutical ingredient (API) drug master files (DMFs) that are or will be referenced in an abbreviated new drug application (ANDA), an amendment to an ANDA, a prior approval supplement (PAS) to an ANDA, or an amendment to a PAS (generic drug submissions).

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2012–D–1010 for ''Completeness Assessments for Type II API DMFs Under GDUFA''. Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION''. The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Giaquinto Friedman, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New

Hampshire Ave., Bldg. 75, Rm. 1669, Silver Spring, MD 20993–0002, 240–402–7930; or Huyi Zhang, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave, Bldg. 75, Rm. 6604, Silver Spring, MD 20993–0002, 240–402–8843; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Completeness Assessments for Type II API DMFs Under GDUFA''. This guidance is intended for holders of Type II API DMFs that are or will be referenced in an ANDA, an amendment to an ANDA, a PAS to an ANDA, or an amendment to a PAS (generic drug submissions). The guidance makes recommendations about the information that should be included in the DMF to facilitate a Generic Drug User Fee Amendments of 2012 (GDUFA) Completeness Assessment (CA). The guidance does not apply to Type II API DMFs used to support new drug applications (NDAs), biologics license applications, other submissions that are not generic drug submissions, or any other types of DMFs.

Under GDUFA, beginning October 1, 2012, the holder of a Type II API DMF must pay a one-time DMF fee when the DMF is first referenced in a generic drug submission submitted to FDA on the basis of a letter of authorization from the DMF holder. Also under GDUFA, holders of Type II API DMFs that were evaluated before October 1, 2012, must pay a one-time fee for the DMF when their DMF is first referenced in a new ANDA, an ANDA amendment, or an ANDA PAS on or after October 1, 2012. Only Type II API DMFs for use in generic drug submissions incur this one-time fee. Type II API DMFs intended for reference in a generic drug submission for which the fee is paid will undergo a CA. Although the requirement for a CA for Type II API DMFs is new, FDA has previously evaluated DMFs in accordance with the criteria set out in the GDUFA Completeness Assessment Checklist for Type II API DMFs (CA Checklist), attached to the guidance.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Completeness Assessments for Type II API DMFs Under GDUFA''. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/Drugs/GuidanceCompliance RegulatoryInformation/Guidances/default.htm, http://www.fda.gov/BiologicsBloodVaccines/GuidanceCompliance RegulatoryInformation/Guidances/default.htm,* or *http://www.regulations.gov.*

Dated: February 9, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–02969 Filed 2–12–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2000–D–0277]

Allergic Rhinitis: Developing Drug Products for Treatment; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Allergic Rhinitis: Developing Drug Products for Treatment.'' The purpose of this draft guidance is to assist sponsors in the development of drug products for the treatment of seasonal allergic rhinitis (SAR) and perennial allergic rhinitis (PAR). This draft guidance revises the draft guidance for industry entitled ''Allergic Rhinitis: Clinical Development Programs for Drug Products'' issued April 2000.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by April 18, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2000–D–0277 for ''Allergic Rhinitis: Developing Drug Products for Treatment.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including

the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of this draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Sofia Chaudhry, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 3317, Silver Spring, MD 20993–0002, 301–796–4157.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Allergic Rhinitis: Developing Drug Products for Treatment.'' The purpose of this draft guidance is to assist sponsors in the development of drug and biologic products for the treatment of SAR and PAR. Information about the pathophysiology and treatment of allergic rhinitis and its subtypes, SAR and PAR, has grown markedly in the past decade. The recommendations in this draft guidance are based on an assessment of important issues raised in the review of both adult and pediatric allergic rhinitis clinical trials and the Agency's current understanding of the mechanism of the two related disorders of SAR and PAR. The pathophysiology of SAR and PAR are similar in terms of the chemical mediators produced and end-organ manifestations, with differences between the two entities primarily based on the causes and duration of disease. The trial design issues pertaining to SAR and PAR are also similar. Thus, these two categories are treated collectively in this draft guidance as allergic rhinitis, with differences in recommendations for the design of SAR and PAR trials indicated.

This draft guidance revises the draft guidance for industry entitled ''Allergic Rhinitis: Clinical Development Programs for Drug Products'' issued April 2000. All of the public comments we received for the draft guidance have been considered and the draft guidance has been revised as appropriate.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on the development of drug products for the treatment of allergic rhinitis. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: February 9, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–02978 Filed 2–12–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Correction

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Health Resources and Services Administration published a notice in the **Federal Register**, 80 FR 55861 (September 17, 2015) announcing the Bridging the Word Gap Competition Challenge. This correction notice extends the deadline for Phase 1 submissions by approximately 4 weeks to allow for additional submissions. Accordingly, the remaining timelines for all subsequent phases and judging periods will also be extended by approximately 4 weeks.

FOR FURTHER INFORMATION CONTACT: Jessie Buerlein, Public Health Analyst, Maternal and Child Health Bureau, Health Resources and Services Administration, 5600 Fishers Lane Rockville, MD 20852, *jbuerlein@hrsa.gov,* 301–443–8931.

Correction

In the ***Federal Register*** *80 FR 55861 (September 17, 2015), please make the following corrections:*

In the Summary section, correct dates of each phase to read:

Dates for each phase are as follows:

Phase 1 Effective: November 6, 2015

Phase 1 Submission Deadline: January 29, 2016, 11:59 p.m. ET

Phase 1 Judging Period: January 30–February 28, 2016

Phase 1 Winners Announced: March 8, 2016

Phase 2 Begins: March 11, 2016

Phase 2 Submission Deadline: August 11, 2016

Phase 2 Judging Period: August 12–September 16, 2016

Phase 2 Winners Announced: Week of September 19, 2016

Phase 3 Begins: September 26, 2016

Phase 3 Submission Deadline: March 26, 2017

Phase 3 Winner Announced: May 2017

Dated: January 29, 2016.

James Macrae,

Acting Administrator.

[FR Doc. 2016–03106 Filed 2–12–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than March 17, 2016.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Medicare Rural Hospital Flexibility Grant Program Performance.

OMB No.: 0915–0363—Revision.

Abstract: The Medicare Rural Hospital Flexibility Program (Flex) is authorized by Section 1820 of the Social Security Act (42 U.S.C. 1395i–4), as amended. Flex engages 45 state-designated entities in activities relating to planning and implementing rural health care plans and networks; designating facilities as Critical Access Hospitals (CAHs); providing support for CAHs for quality improvement, quality reporting, performance improvements, and benchmarking; and integrating rural emergency medical services (EMS). Given the shifting priorities in health care related to delivery system reform, Flex provides funding for states to also deliver technical assistance in activities supporting population health management and the integration of innovative care models. State-designated Flex programs act as a resource and focal point for these activities, promoting the stability and delivery of high quality health care services for residents in rural communities. Identifying areas for program improvement and enhanced technical assistance in a systematic approach is paramount. The revised measures identified in the Flex Program complement work plan data and take into consideration existing measures and priorities set forth by HHS, avoiding duplication of efforts and minimizing burden as indicated by public comments and programmatic feedback from partners.

Need and Proposed Use of the Information: For this program, measures were revised to provide performance data useful to the Flex Program and provide aggregate program data required by Congress under the Government Performance and Results Act (GPRA) of 2010. These measures cover principal topic areas of interest to the Federal Office of Rural Health Policy (FORHP) including: (a) Quality reporting; (b) quality improvement interventions; (c) financial and operational improvement initiatives; (d) population health management and EMS integration; and (e) innovative care models. Several measures related to critical access hospitals (CAHs) making improvements will be used for this program and will inform FORHP's progress toward meeting the goals set in GPRA. Furthermore, obtaining this information is important for identifying and understanding improvement trends across Flex program areas, prioritizing areas of need with technical assistance and support for grantees, and guiding future iterations of the Flex Program.

Likely Respondents: Respondents will be the Flex Program coordinator for each state participating in the Flex Program. There are currently 45 states participating in the Flex Program.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Medicare Rural Hospital Flexibility Grant Program Performance	45	1	45	70	3,150
Total	45	1	45	70	3,150

Jackie Painter,

Director, Division of the Executive Secretariat.

[FR Doc. 2016–03014 Filed 2–12–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Commission on Childhood Vaccines; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given of the following meeting:

Name: Advisory Commission on Childhood Vaccines (ACCV).

Date and Time: March 3, 2016, 10:00 a.m. to 3:15 p.m. EDT.

Place: Audio Conference Call and Adobe Connect Pro.

The ACCV will meet on Thursday, March 3, 2016, from 10:00 a.m. to 3:15 p.m. (EDT). The public can join the meeting by:

1. (Audio Portion) Calling the conference phone number 1–800–779–3561 and providing the following information:

Leaders Name: Dr. Narayan Nair.

Password: 8164763.

2. (Visual Portion) Connecting to the ACCV Adobe Connect Pro Meeting using the following URL: *https://hrsa.connectsolutions.com/accv/* (copy and paste the link into your browser if it does not work directly and enter as a guest). Participants should call and connect 15 minutes prior to the meeting in order for logistics to be set up. If you have never attended an Adobe Connect meeting, please test your connection using the following URL: *https://hrsa.connectsolutions.com/common/help/en/support/meeting_test.htm* and get a quick overview by following URL: *http://www.adobe.com/go/connectpro_overview.* Call (301) 443–6634 or send an email to *aherzog@hrsa.gov* if you are having trouble connecting to the meeting site.

Agenda: The agenda items for the March 2016 meeting will include, but are not limited to, updates from the Division of Injury Compensation Programs (DICP), Department of Justice (DOJ), National Vaccine Program Office (NVPO), Immunization Safety Office (Centers for Disease Control and Prevention), National Institute of Allergy and Infectious Diseases (National Institutes of Health) and Center for Biologics, Evaluation and Research (Food and Drug Administration). A draft agenda and additional meeting materials will be posted on the ACCV Web site (*http://www.hrsa.gov/vaccinecompensation/accv.htm*) prior to the meeting. Agenda items are subject to change as priorities dictate.

Public Comment: Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation to: Annie Herzog, DICP, Healthcare Systems Bureau (HSB), Health Resources and Services Administration (HRSA), Room 8N146B, 5600 Fishers Lane, Rockville, Maryland 20857 or email: *aherzog@hrsa.gov.* Requests should contain the name, address, telephone number, email address, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. DICP will notify each presenter by email, mail, or telephone of their assigned presentation time. Persons who do not file an advance request for a presentation, but desire to make an oral statement, may announce it at the time of the public comment period. Public participation and ability to comment will be limited to space and time as it permits. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person listed below at least 10 days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Anyone requiring information regarding the ACCV should contact Annie Herzog, DICP, HSB, HRSA, Room 8N146B, 5600 Fishers Lane, Rockville, Maryland 20857; telephone (301) 443–6593, or email: *aherzog@hrsa.gov.*

Jackie Painter,

Director, Division of the Executive Secretariat.

[FR Doc. 2016–03015 Filed 2–12–16; 8:45 am]

BILLING CODE 4165–15–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: Biological Chemistry and Macromolecular Biophysics.

Date: March 1, 2016.

Time: 3:00 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 (Telephone Conference Call).

Contact Person: David R Jollie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7806, Bethesda, MD 20892, (301)–435–1722, *jollieda@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Investigations on Primary Immunodeficiency Diseases.

Date: March 3, 2016.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jin Huang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095G, MSC 7812, Bethesda, MD 20892, 301–435–1230, *jh377p@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Review: Synthetic Psychoactive Drugs and Strategic Approaches to Counteract Their Deleterious Effects.

Date: March 4, 2016.

Time: 11:00 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Nicholas Gaiano, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892–7844, 301–435–1033, *gaianonr@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 9, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–02972 Filed 2–12–16; 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: AIDS and Related Research Integrated Review Group, AIDS Discovery and Development of Therapeutics Study Section.

Date: March 8, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Shiv A Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Infectious Diseases and Microbiology.

Date: March 8, 2016.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Guangyong Ji, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–1146, *jig@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, AREA application in Infectious Diseases and Microbiology.

Date: March 8, 2016.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, 301–996–5819, *zhengli@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 9, 2016.

Sylvia Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–02974 Filed 2–12–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing and/or co-development in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing and/or co-development.

ADDRESSES: Invention Development and Marketing Unit, Technology Transfer Center, National Cancer Institute, 9609 Medical Center Drive, Mail Stop 9702, Rockville, MD 20850–9702.

FOR FURTHER INFORMATION CONTACT: Information on licensing and co-development research collaborations, and copies of the U.S. patent applications listed below may be obtained by contacting: Attn. Invention Development and Marketing Unit, Technology Transfer Center, National Cancer Institute, 9609 Medical Center Drive, Mail Stop 9702, Rockville, MD, 20850–9702, Tel. 240–276–5515 or email *ncitechtransfer@mail.nih.gov.* A signed Confidential Disclosure Agreement may be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: Technology description follows.

Title of Invention

AAV-based Vectors for the Therapeutic Management of Menkes Disease and Related Copper Transport Disorders

Description of Technology

The only currently available treatment for Menkes disease, subcutaneous copper histidinate injections, is successful only in patients with ATP7A gene mutations that do not completely corrupt ATP7A copper transport function (estimated 20–25% of affected patients) and when started at a very early age (first month of life). The combination of viral gene therapy with copper injections provides working copies of the ATP7A copper transporter into the brain, together with a source of the substrate (copper) needed for proper brain growth and clinical neurodevelopment.

Codon-optimized nucleic acids encoding a reduced-size ATP7A protein and compositions of AAV vectors were discovered by NICHD researchers along with methods of administering this therapy. Human P-type ATPase copper-transporting ATPase 1 (ATP7A) transports copper from enterocytes (where it is taken up from dietary copper) into the blood. ATP7A also mediates passage of copper across the blood-cerebrospinal fluid (CSF) barrier and the blood-brain barrier. In Menkes disease and occipital horn syndrome (OHS), copper accumulates in intestinal cells and less copper is absorbed into the blood, resulting in restricted copper supply to other tissues, particularly the brain. Death in infancy or early childhood is a common consequence. Therapeutic delivery of the copper transport protein via an AAV vector, combined with subcutaneous copper histidinate treatment will relieve the copper deficiency to the brain and permit normal neurological development and function.

Potential Commercial Applications

- Treatment of Menkes Disease, Occipital Horn Syndrome, and of ATP7A-related distal motor neuropathy

Value Proposition

- Provides working copies of the ATP7A copper transporter into the brain, together with a source of the substrate (copper) needed for proper brain growth and clinical neurodevelopment.

Development Stage

Pre-clinical (in vivo validation)

Inventor(s)

Stephen G. Kaler, M.D. (NICHD)

Intellectual Property

HHS Reference No. E–062–2015/0

U.S. Provisional Application No. 62/244,594 filed 21 October 2015

Licensing Opportunity: Researchers at the NICHD seek licensing and/or co-development research collaborations for the therapeutic management of Menkes Disease and related copper transport disorders.

Contact Information

Requests for copies of the patent application or inquiries about licensing, research collaborations, and co-development opportunities should be sent to John D. Hewes, Ph.D., email: *john.hewes@nih.gov.*

Dated: February 8, 2016.

John D. Hewes,

Technology Transfer Specialist, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2016–02970 Filed 2–12–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing and/or co-development in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing and/or co-development.

ADDRESSES: Information on licensing, co-development research collaborations, and/or copies of the U.S. patent applications listed below may be obtained by contacting: Attn. Invention Development and Marketing Unit, Technology Transfer Center, National Cancer Institute, 9609 Medical Center Drive, Mail Stop 9702, Rockville, MD, 20850–9702, Tel. 240–276–5515 or email *ncitechtransfer@mail.nih.gov.* A signed Confidential Disclosure Agreement may be required to receive copies of the patent applications.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the patent application or inquiries about licensing and/or co-development should be sent to John D. Hewes, Ph.D., email: *john.hewes@nih.gov.*

SUPPLEMENTARY INFORMATION: Technology description follows.

Title of invention: Modified griffithsin tandemers for enhanced activity and reduced viral aggregation.

Description of Technology: Griffithsin (GRFT) is a lectin with potent antiviral properties that is capable of preventing and treating infections caused by a number of enveloped viruses (including HIV, SARS, HCV, HSV, and Japanese encephalitis) and is currently in clinical development as an anti-HIV microbicide. In addition to its broad antiviral activity, GRFT is stable at high temperature and at a broad pH range, displays low toxicity and immunogenicity, and is amenable to large-scale manufacturing. Native GRFT is a domain-swapped homodimer that binds to viral envelope glycoproteins and has displayed mid-picomolar activity in cell-based anti-HIV assays. This invention is directed to synthetic proteins that comprise two (or more) obligate monomers (''mGRFT'') joined by an amino acid linker to form tandemers (''mGRFT tandemers''). Each obligate monomer is generated by the addition of Gly-Ser residues in the hinge region of wild-type GRFT. Two or more obligate monomers are joined by an amino acid linker to form the mGRFT tandamers. The properties of the mGRFT tandemers can be modulated by the length of the amino acid linker and the number of obligate monomers co-joined. mGRFT tandemers exhibit gore potent anti-viral properties when compared against native GRFT and are equipotent against viruses that are both sensitive and resistant to naive GRFT. As such, potential uses of the invention tandemers include topical and intravenous therapy to treat HIV infection, particularly to treat HIV infections that are resistant to native GRFT.

Potential Commercial Applications

- Broad-spectrum antiviral agent similar to wild type GRFT
- Potential activity against SARS CoV, MERS, Ebola, HCV and influenza

Value Proposition

- Broad antiviral activity
- Stable at high temperature and at a broad pH range
- Displays low toxicity and immunogenicity.

Development Stage: In vivo/Lead Validation.

Inventor(s): Barry R. O'Keefe (NCI), A. Wlodawer (NCI), T. Moulaei (NCI).

Publication(s)

—Moulaei T. et al., Griffithsin tandemers: flexible and potent lectin inhibitors of the human immunodeficiency virus. Retrovirology. 2015 Jan 23;12:6.

—A. Chatterjee et al.,Griffithsin and Carrageenan Combination To Target Herpes Simplex Virus 2 and Human Papillomavirus, Antimicrob Agents Chemother. 2015 Dec; 59(12): 7290–7298.

Intellectual Property

HHS Reference No. E–034–2013/0–US–01.

PCT Application No. PCT/US2014/040992 (HHS Reference No. E–034–2013/0- US–01) filed June 5, 2013 entitled ''Modified griffithsin tandemers for enhanced activity and reduced viral aggregation''.

Licensing and Collaborative/Co-Development Research Opportunity: Researchers at the NCI seek licensees and/or co-development partners for the commercialization of Griffithsin and Griffithsin tandemers, specifically, additional studies on stability, toxicity, immunogenicity, and large-scale production.

Dated: February 1, 2016.

John D. Hewes,

Technology Transfer Specialist, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2016–02971 Filed 2–12–16; 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 Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topic: Social Sciences and Population Studies.

Date: February 23, 2016.

Time: 12:00 p.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Suzanne Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 435–1712, *ryansj@csr.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.

(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 9, 2016.

Sylvia Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–02973 Filed 2–12–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[CBP Dec. No. 16–04]

Expansion of Global Entry Eligibility to All Citizens of the Federal Republic of Germany

AGENCY: U.S. Customs and Border Protection; Department of Homeland Security.

ACTION: General notice.

SUMMARY: U.S. Customs and Border Protection (CBP) has established the Global Entry international trusted traveler program at most major U.S. airports. Global Entry allows pre-approved participants dedicated CBP processing into the United States using Global Entry kiosks located at designated airports. In 2013, CBP announced a limited pilot program through which certain citizens of the Federal Republic of Germany (Germany) were eligible to apply for participation in the Global Entry program. This document announces that CBP is concluding the pilot and expanding eligibility in the Global Entry program to include all German citizens. Additionally, this document announces that certain U.S. citizens may apply for membership in EasyPASS, Germany's registered traveler program.

DATES: Global Entry eligibility will be expanded to German citizens on February 16, 2016. Applications will be accepted beginning February 16, 2016.

FOR FURTHER INFORMATION CONTACT: Larry Panetta, Office of Field Operations, (202) 344–1253, *Larry.A.Panetta@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

Global Entry Program

Global Entry is a voluntary program that allows for dedicated CBP processing of pre-approved travelers arriving in the United States at Global Entry kiosks located at designated airports. On February 6, 2012, CBP issued the final rule that promulgated the regulation (8 CFR 235.12) to establish Global Entry as an ongoing voluntary regulatory program in the **Federal Register** (77 FR 5681). The final rule contains a detailed description of the program, the eligibility criteria, the application and selection process, and the initial airport locations. Travelers who wish to participate in Global Entry must apply via the Global On-Line Enrollment System (GOES) Web site, *https://goes-app.cbp.dhs.gov,* and pay the applicable fee. Applications for Global Entry must be completed and submitted electronically.

Eligibility for participation in Global Entry is limited to U.S. citizens, U.S. nationals, U.S. lawful permanent residents, and certain nonimmigrant aliens from countries that have entered into arrangements with CBP regarding international trusted traveler programs. Specifically, the regulation provides that certain nonimmigrant aliens from countries that have entered into arrangements with CBP concerning international trusted traveler programs may be eligible to apply for participation in Global Entry after CBP announces the arrangement by publication of a notice in the **Federal Register**. The notice will include the country, the scope of eligibility of nonimmigrant aliens from that country (*e.g.,* whether only citizens of the foreign country or citizens and non-citizens are eligible) and other conditions that may apply based on the terms of the arrangement. *See* 8 CFR 235.12(b)(1)(ii). In the preamble of the Global Entry final rule, CBP recognized the existence of previous arrangements it had with Mexico and the Netherlands regarding the international trusted traveler programs and announced that Mexican nationals and certain citizens of the Netherlands were eligible to apply for the Global Entry program. CBP further specified that Mexican nationals and citizens of the Netherlands who were existing participants in the Global Entry pilot would be automatically enrolled in the ongoing Global Entry program. CBP also stated that pursuant to a previous **Federal Register** notice,[1] participants in NEXUS and certain participants in SENTRI would still be allowed to use the Global Entry kiosks.

In a notice published in the **Federal Register** (78 FR 48706) on August 9, 2013, CBP expanded Global Entry eligibility to include citizens of the Republic of Korea who are participants in the Smart Entry System (SES), a trusted traveler program for pre-approved, low-risk travelers at designated airports in the Republic of Korea via the use of e-gates; a limited number of citizens of the State of Qatar; and a limited number of citizens of the United Kingdom who frequently travel to the United States.

In a notice published in the **Federal Register** (80 FR 1509) on January 12, 2015, CBP expanded Global Entry eligibility to include citizens of the Republic of Panama. Additionally, this document announced that U.S. citizens who participate in Global Entry or U.S. citizens who can utilize Global Entry kiosks as NEXUS or SENTRI participants have the option to apply for membership in Panama Global Pass, the Republic of Panama's trusted traveler program.

Limited Global Entry Pilot for Certain German Citizens

In the August 9, 2013 notice referenced in the previous section, CBP also announced a limited Global Entry pilot program allowing certain German citizens to apply for Global Entry. This pilot program allowed certain German citizens who participated in ABG Plus, Germany's former trusted traveler program, to apply for participation in Global Entry.[2] During this limited pilot, German citizens who were identified as potentially being eligible for participation in the pilot program received a promotional code and information about the program from the German government. The United States and Germany limited the number of citizens who could apply for Global Entry to allow for the development of the program's infrastructure. The notice stated that CBP expected to be able to expand eligiblility to include all German citizens in the near future and that such an expansion would be announced by notice in the **Federal Register** and on *http://www.globalentry.gov.*

Expansion of Global Entry Program to Include All Citizens of Germany

This document announces that pursuant to the Joint Declaration signed

[1] See the Utilization of Global Entry Kiosks by NEXUS and SENTRI Participants **Federal Register** notice, December 29, 2010 (75 FR 82202) for further information.

[2] ABG Plus has since been discontinued.

by U.S. Department of Homeland Security, CBP, and the Federal Ministry of the Interior of the Federal Republic of Germany on April 14, 2010, CBP is expanding Global Entry eligibility to include all German citizens in accordance with the terms and conditions set forth below. As a result, CBP is concluding the limited pilot program. All pilot participants will continue their Global Entry membership for the initial five-year membership period. If pilot participants want to renew their membership when their initial Global Entry membership expires, the renewal will be subject to the terms and conditions set forth below.

Terms and Conditions

Any German citizen may apply for Global Entry. Unlike the pilot, a German citizen does not have to participate in ABG Plus to be eligible to apply for Global Entry. As noted in the previous section, Germany's ABG Plus trusted traveler program has been discontinued.

Before a German citizen can apply for Global Entry, he or she must visit an EasyPASS [3] enrollment center in Germany and complete a thorough risk assessment by the German Federal Police. The list of EasyPASS enrollment center locations is available at *http://www.easypass.de/EasyPass/EN/EasyPASS-RTP/rtp_node.html.* After a German citizen is vetted for Global Entry by the German Federal Police, the German Federal Police will notify both CBP and the applicant that the applicant is eligible to apply for Global Entry. Then the applicant will be required to complete the online application for Global Entry located on the GOES Web site, pay the non-refundable Global Entry fee, and satisfy all the requirements of Global Entry. The applicant will be permitted to participate in Global Entry only upon successful completion of a risk assessment by CBP and completion of an interview with a CBP officer. If an applicant is not vetted by the German Federal Police prior to applying to Global Entry through GOES, the Global Entry application will not be processed. The vetting criteria were mutually agreed upon by both agencies and are consistent with each agency's applicable domestic laws and policies. CBP will notify the applicants whether or not they have been accepted in the Global Entry program.

Applicants may be denied enrollment in the Global Entry program for various reasons. An individual who is inadmissible to the United States under U.S. immigration law or has, at any time, been granted a waiver of inadmissibility or parole is ineligible to participate in Global Entry. Applications from such individuals will automatically be rejected. Applications for Global Entry may also be rejected if the applicant has ever been arrested for, or convicted of, a criminal offense, or if the individual has ever been found in violation of customs or immigration laws, or of any criminal law. Additionally, an applicant will not be accepted for participation in Global Entry if CBP determines that the applicant presents a potential risk of terrorism, or criminality (including smuggling), or if CBP cannot sufficiently determine that the applicant meets all the program eligibility criteria. The eligibility criteria are set forth in more detail in the Global Entry final rule and 8 CFR 235.12. *See also http://www.globalentry.gov.*

Validity Period

Global Entry has a five-year membership period. After the second year of membership, German citizens will be notified by CBP, via email, that they must again visit an EasyPASS enrollment center and be vetted by the German Federal Police. If a German citizen Global Entry member fails to be vetted by the German Federal Police within the allotted time, Global Entry membership will be terminated. These additional vetting requirements are not applicable to pilot participants during their initial five-year Global Entry membership.

U.S. Citizens' Participation in EasyPASS

Any U.S. citizen, 18 years of age or older, has the option to enroll in EasyPASS. EasyPASS is a registered traveler program in Germany that provides expedited entry into the country via the use of eGates, an automated border control system that uses facial recognition for biometric verification of the individual's identity. Consequently, an ePassport is required for EasyPASS. A U.S. citizen does not have to be a member of a CBP trusted traveler program to apply for EasyPASS.

U.S. applicants may apply for EasyPASS at an EasyPASS enrollment center in Germany. U.S. applicants must register for EasyPASS directly with the Government of Germany. There is currently no fee associated with EasyPASS. The applicant will be notified immediately at the enrollment center about whether he or she is approved for EasyPASS. The limited number of U.S. citizens who enrolled in ABG Plus, under the eligibility conditions described in the August 9, 2013 **Federal Register** notice, have been automatically enrolled in EasyPASS. More information about how to apply for EasyPASS and about the program is available at *http://www.easypass.de/EasyPass/EN/EasyPASS-RTP/rtp_node.html.*

Dated: February 10, 2016.

Todd C. Owen,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 2016–03030 Filed 2–12–16; 8:45 am]

BILLING CODE 9111–14–P

[3] EasyPASS is an automated border control process available to registered third-country nationals when entering Germany.

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0081]

Agency Information Collection Activities: Delivery Ticket

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Delivery Ticket (CBP Form 6043). CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before April 18, 2016 to be assured of consideration.

ADDRESSES: Written comments may be mailed to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on

proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Delivery Ticket.

OMB Number: 1651–0081.

Form Number: CBP Form 6043.

Abstract: CBP Form 6043, *Delivery Ticket,* is used to document transfers of imported merchandise between parties. This form collects information such as the name and address of the consignee; the name of the importing carrier; lien information; the location of where the goods originated and where they were delivered; and information about the imported merchandise. CBP Form 6043 is filled out by warehouse proprietors, carriers, Foreign Trade Zone operators and others involved in transfers of imported merchandise. This form is authorized by 19 U.S.C. 1551a and 1565, and provided for by 19 CFR 4.34, 4.37 and 19.9. It is accessible at: *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%206043.pdf.*

Action: CBP proposes to extend the expiration date of this information collection with no change to the estimated burden hours.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 1000.

Estimated Number of Annual Responses per Respondent: 200.

Estimated Number of Total Annual Responses: 200,000.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 66,000.

Dated: February 10, 2016.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2016–03068 Filed 2–12–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0017]

Agency Information Collection Activities: Protest

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Protest (CBP Form 19). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before March 17, 2016 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** (80 FR 75683) on December 3, 2015, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Protest.

OMB Number: 1651–0017.

Form Number: CBP Form 19.

Abstract: CBP Form 19, *Protest,* is filed to seek the review of a CBP officer. This review may be conducted by a CBP officer who participated directly in the underlying decision. This form is also used to request ''Further Review'' which means a request for review of the protest to be performed by a CBP officer who did not participate directly in the protested decision, or by the Commissioner, or his designee as provided in the CBP Regulations.

The matters that may be protested include: The appraised value of merchandise; the classification and rate and amount of duties chargeable; all charges within the jurisdiction of the U.S. Department of Homeland Security; exclusion of merchandise from entry or delivery, or demand for redelivery; the liquidation or reliquidation of an entry; and the refusal to pay a claim for drawback.

The parties who may file a protest or application for further review include: the importer or consignee shown on the entry papers, or their sureties; any person paying any charge or exaction; any person seeking entry or delivery, or upon whom a demand for redelivery has been made; any person filing a claim for

drawback; or any authorized agent of any of the persons described above.

CBP Form 19 collects information such as the name and address of the protesting party, information about the entry being protested, detailed reasons for the protest, justification for applying for further review.

The information collected on CBP Form 19 is authorized by Sections 514 and 514(a) of the Tariff Act of 1930 and provided for by 19 CFR part 174. This form is accessible at *http://www.cbp.gov/sites/default/files/documents/CBP_Form_19.pdf.*

Current Action: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (with no change).

Affected Public: Businesses.

Estimated Number of Respondents: 3,750.

Estimated Number of Total Annual Responses: 45,000.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 45,000.

Dated: February 10, 2016.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2016–03070 Filed 2–12–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2016–N016; FXES11130800000–167–FF08E00000]

Endangered Species Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (Act) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act also requires that we invite public comment before issuing recovery permits to conduct certain activities with endangered species.

DATES: Comments on these permit applications must be received on or before March 17, 2016.

ADDRESSES: Written data or comments should be submitted to the Endangered Species Program Manager, U.S. Fish and Wildlife Service, Region 8, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825 (telephone: 916–414–6464; fax: 916–414–6486). Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Daniel Marquez, Fish and Wildlife Biologist; see **ADDRESSES** (telephone: 760–431–9440; fax: 760–431–9624).

SUPPLEMENTARY INFORMATION: The following applicants have applied for scientific research permits to conduct certain activities with endangered species under section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*). We seek review and comment from local, State, and Federal agencies and the public on the following permit requests.

Applicants

Permit No. TE–067064

Applicant: Lindsay Messett, Long Beach, California

The applicant requests a permit renewal and amendment to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) and take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with surveys and population studies throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–84210B

Applicant: Amy Storck, Folsom, California

The applicant requests a permit to take (harass by survey, capture, handle, release, collect adult vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*) and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–134334

Applicant: Lincoln Hulse, Mission Viejo, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, and release) the San Bernardino Merriam's kangaroo rat (*Dipodomys merriami parvus*) in conjunction with survey activities throughout the range of the species for the purpose of enhancing the species' survival.

Permit No. TE–009018

Applicant: Rancho Santa Ana Botanic Garden, Claremont, California

The applicant requests a permit renewal to remove/reduce to possession the following species on Federal lands, in conjunction with surveys, population studies, establishment and maintenance of a living collection or seed bank, and research throughout the ranges of the species in California and Nevada for the purpose of enhancing the species' survival.

- *Acanthomintha duttonii* (*A. obovata* subsp. *d.*) (San Mateo thornmint),
- *Acanthoscyphus parishii* var. *goodmaniana* (*Oxytheca p.* var. *g.*) (Cushenbury oxytheca),
- *Acmispon dendroideus* var. *traskiae* (*Lotus d.* subsp. *t.*) (San Clemente Island lotus),
- *Allium munzii* (Munz's onion),
- *Alopecurus aequalis* var. *sonomensis* (Sonoma alopecurus),
- *Ambrosia pumila* (San Diego ambrosia),
- *Amsinckia grandiflora* (large-flowered fiddleneck),
- *Arabis mcdonaldiana* (McDonald's rockcress),
- *Arctostaphylos confertiflora* (Santa Rosa Island manzanita),
- *Arctostaphylos glandulosa* subsp. *crassifolia* (Del Mar manzanita),
- *Arctostaphylos mmontana* subsp. *ravenii* (*A. hookeri* subsp. *r.*) (Raven's manzanita (Presidio m.)),
- *Arenaria paludicola* (marsh sandwort),
- *Astragalus albens* (Cushenbury milk-vetch),
- *Astragalus brauntonii* (Braunton's milk-vetch),
- *Astragalus claranus* (Clara Hunt's milk-vetch),
- *Astragalus jaegerianus* (Lane Mountain milk-vetch),
- *Astragalus lentiginosus* var. *coachellae* (Coachella Valley milk-vetch),
- *Astragalus pycnostachyus* var. *lanosissimus* (Ventura Marsh milk-vetch),
- *Astragalus tener* var. *titi* (coastal dunes milk-vetch),
- *Astragalus tricarinatus* (triple-ribbed milk-vetch),
- *Atriplex coronata* var. *notatior* (San Jacinto Valley crownscale),
- *Berberis nevinii* (Nevin's barberry),
- *Berberis pinnata* subsp. *insularis* (island barberry),
- *Blennosperma bakeri* (Sonoma sunshine),
- *Boechera hoffmannii* (*Aribis h.*) (Hoffmann's rockcress),
- *Calystegia stebbinsii* (Stebbins' morning-glory),

- *Carex albida* (white sedge),
- *Castilleja affinis* subsp. *neglecta* (Tiburon paintbrush),
- *Castilleja grisea* (San Clemente Island paintbrush),
- *Castilleja mollis* (soft-leaved paintbrush),
- *Caulanthus californicus* (California jewelflower),
- *Ceanothus ferrisiae* (coyote ceanothus),
- *Ceanothus roderickii* (Pine Hill ceanothus),
- *Cercocarpus traskiae* (Catalina Island mountain-mahogany),
- *Chloropyron maritimum* subsp. *maritimum* (*Cordylanthus maritimus* subsp. *maritimus*) (salt marsh bird's-beak),
- *Chloropyron molle* subsp. *molle* (*Cordylanthus mollis* subsp. *mollis)* (soft bird's-beak),
- *Chorizanthe howellii* (Howell's spineflower),
- *Chorizanthe orcuttiana* (Orcutt's spineflower),
- *Chorizanthe pungens* var. *hartwegiana* (Ben Lomond spineflower),
- *Chorizanthe robusta* var. *hartwegii* (Scotts Valley spineflower),
- *Chorizanthe robusta* var. *robusta* (robust spineflower),
- *Chorizanthe valida* (Sonoma spineflower),
- *Cirsium fontinale* var. *fontinale* (fountain thistle),
- *Cirsium fontinale* var. *obispoense* (Chorro Creek bog thistle),
- *Cirsium hydrophilum* var. *hydrophilum* (Suisun thistle),
- *Cirsium loncholepis* (La Graciosa thistle),
- *Clarkia franciscana* (Presidio clarkia),
- *Clarkia imbricata* (Vine Hill clarkia),
- *Clarkia speciosa* subsp. *immaculata* (Pismo clarkia),
- *Chloropyron palmatum* (*Cordylanthus palmatus*) (palmate-bracted bird's-beak),
- *Cordylanthus tenuis* subsp. *capillaris* (Pennell's bird's-beak),
- *Deinandra conjugens* (*Hemizonia c.*) (Otay tarplant),
- *Deinandra increscens* subsp. *villosa* (Gaviota tarplant), *bakeri* (Baker's larkspur),
- *Delphinium luteum* (yellow larkspur),
- *Delphinium variegatum* subsp. *kinkiense* (San Clemente Island larkspur),
- *Dodecahema leptoceras* (slender-horned spineflower),
- *Dudleya setchellii* (Santa Clara Valley dudleya),
- *Eremalche kernensis* (Kern mallow),
- *Eriastrum densifolium* subsp. *sanctorum* (Santa Ana River woolly-star),
- *Eriodictyon altissimum* (Indian Knob mountain balm),
- *Eriodictyon capitatum* (Lompoc yerba santa),
- *Eriogonum apricum* (incl. vars. *apricum* and *prostratum*) (lone buckwheat and Irish Hill buckwheat),
- *Eriogonum ovalifolium* var. *vineum* (Cushenbury buckwheat),
- *Eriophyllum latilobum* (San Mateo woolly sunflower),
- *Eryngium aristulatum* var. *parishii* (San Diego button-celery),
- *Eryngium constancei* (Loch Lomond coyote thistle),
- *Erysimum capitatum* var. *angustatum* (Contra Costa wallflower),
- *Erysimum menziesii* (Menzies' wallflower),
- *Erysimum teretifolium* (Ben Lomond wallflower),
- *Fremontodendron decumbens* (*F. californicum* subsp. *d.*) (Pine Hill flannelbush),
- *Fremontodendron mexicanum* (Mexican flannelbush),
- *Galium buxifolium* (island bedstraw),
- *Galium californicum* subsp. *sierrae* (El Dorado bedstraw),
- *Gilia tenuiflora* subsp. *arenaria* (Monterey gilia),
- *Gilia tenuiflora* subsp. *hoffmanii* (Hoffmann's slender-flowered gilia),
- *Helianthemum greenei* (island rush-rose),
- *Hesperocyparis abramsiana* (*Cupressus a.*) (incl. vars. *abramsiana* and *butanoensis*) (Santa Cruz cypress and San Mateo cypress),
- *Holocarpha macradenia* (Santa Cruz tarplant),
- *Lasthenia burkei* (Burke's goldfields),
- *Lasthenia conjugens* (Contra Costa goldfields),
- *Layia carnosa* (beach layia),
- *Lessingia germanorum* (*L.g.* var. *germanorum*) (San Francisco lessingia),
- *Lilium occidentale* (western lily),
- *Lilium pardalinum* subsp. *pitkinense* (Pitkin Marsh lily),
- *Limnanthes floccosa* subsp. *californica* (Butte County meadowfoam),
- *Limnanthes vinculans* (Sebastopol meadowfoam),
- *Lithophragma maximum* (San Clemente Island woodland-star),
- *Lupinus nipomensis* (Nipomo Mesa lupine),
- *Lupinus tidestromii* (clover lupine),
- *Malacothamnus clementinus* (San Clemente Island bush-mallow),
- *Malacothamnus fasciculatus* var. *nesioticus* (Santa Cruz Island bush-mallow),
- *Malacothrix indecora* (Santa Cruz Island malacothrix),
- *Malacothrix squalida* (island malacothrix),
- *Monardella viminea* (*M. linoides* subsp. *v.*) (willowy monardella),
- *Monolopia congdonii* (*Lembertia c.*) (San Joaquin woolly-threads),
- *Nasturtium gambelii* (*Rorippa g.*) (Gambel's watercress),
- *Navarretia leucocephala* subsp. *pauciflora* (*N. pauciflora*) (few-flowered navarretia),
- *Navarretia leucocephala* subsp. *plieantha* (many-flowered navarretia),
- *Nitrophila mohavensis* (Amargosa niterwort),
- *Noccaea fendleri* subsp. *californica* (*Thlaspi californicum*) (Kneeland Prairie penny-cress),
- *Oenothera californica* subsp. *eurekensis* (*O. avita* subsp. *e.*) (Eureka Valley evening-primrose),
- *Oenothera deltoides* subsp. *howellii* (Antioch Dunes evening-primrose),
- *Opuntia basilaris* var. *treleasei* (*O. treleasei*) (Bakersfield cactus),
- *Orcuttia californica* (California orcutt grass),
- *Orcuttia pilosa* (hairy orcutt grass),
- *Orcuttia viscida* (Sacramento orcutt grass),
- *Pentachaeta bellidiflora* (white-rayed pentachaeta),
- *Pentachaeta lyonii* (Lyon's pentachaeta),
- *Phacelia insularis* subsp. *insularis* (island phacelia),
- *Phlox hirsuta* (Yreka phlox),
- *Physaria kingii* subsp. *bernardina* (*Lesquerella k.* subsp. *b.*) (San Bernardino Mountains bladderpod),
- *Piperia yadonii* (Yadon's piperia),
- *Plagiobothrys strictus* (Calistoga allocarya),
- *Poa atropurpurea* (San Bernardino bluegrass),
- *Poa napensis* (Napa bluegrass),
- *Pogogyne abramsii* (San Diego mesa-mint),
- *Pogogyne nudiuscula* (Otay mesa-mint),
- *Polygonum hickmanii* (Scotts Valley polygonum),
- *Potentilla hickmanii* (Hickman's potentilla),
- *Pseudobahia peirsonii* (San Joaquin adobe sunburst),
- *Sedella leiocarpa* (*Parvisedum l.*) (Lake County stonecrop),
- *Sibara filifolia* (Santa Cruz Island rockcress),
- *Sidalcea keckii* (Keck's checker-mallow),
- *Sidalcea oregana* subsp. *valida* (Kenwood Marsh checker-mallow),
- *Sidalcea pedata* (pedate checker-mallow),
- *Streptanthus albidus* subsp. *albidus* (Metcalf Canyon jewelflower),

- *Streptanthus niger* (Tiburon jewelflower),
- *Suaeda californica* (California seablite),
- *Swallenia alexandrae* (Eureka Dune grass),
- *Taraxacum californicum* (California taraxacum),
- *Thelypodium stenopetalum* (slender-petaled mustard),
- *Thysanocarpus conchuliferus* (Santa Cruz Island fringepod),
- *Trifolium amoenum* (showy Indian clover),
- *Trifolium trichocalyx* (Monterey clover),
- *Tuctoria greenei* (Greene's tuctoria), and
- *Tuctoria mucronata* (Solano grass)

Permit No. TE–53825B

Applicant: Zoological Society of San Diego, San Diego, California

The applicant requests a permit amendment to take (collect biological samples) the California least tern (*Sternula antillarum browni*) (*Sterna a. browni*) in conjunction with survey and population monitoring activities within Marine Corps Base Camp Pendleton and Naval Base San Diego, San Diego County, California, for the purpose of enhancing the species' survival.

Permit No. TE–027742

Applicant: Fish Conservation and Culture Lab, University of California, Davis, California

The applicant requests a permit renewal to take (capture, handle, and collect) the delta smelt (*Hypomesus transpacificus*) in conjunction with research activities throughout the range of the species in the San Francisco Bay Estuary and Sacramento–San Joaquin River Delta, California, for the purpose of enhancing the species' survival.

Permit No. TE–758175

Applicant: Griffith Wildlife Biology, Calumet, California

The applicant requests a permit renewal to take (harass by survey, locate and monitor nests, and remove brown-headed cowbird (*Molothrus ater*) eggs and chicks from parasitized nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with survey and population monitoring activities in Arizona, California, New Mexico, and Nevada; take (locate and monitor nests, remove brown-headed cowbird eggs and chicks from parasitized nests, capture, handle, band, and release) the least Bell's vireo (*Vireo bellii pusillus*); take (harass by survey) the light-footed Ridgway's rail (light-footed clapper r.) (*Rallus obsoletus levipes*) (*R. longirostris l.*) in conjunction with surveys and population monitoring throughout the range of the species in California; and take (harass by survey) the Yuma Ridgway's rail (Yuma clapper r.) (*Rallus obsoletus yumanensis*) (*R. longirostris* y.) in conjunction with surveys and population studies throughout the range of the species in Arizona, California, and Nevada for the purpose of enhancing the species' survival.

Permit No. TE–44855A

Applicant: Clint Scheuerman, San Luis Obispo, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, release, collect adult vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–144964

Applicant: Derek Jansen, Brentwood, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, and release) the California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segment (DPS)) (*Ambystoma californiense*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–17841A

Applicant: Tetra Tech, Inc., Santa Barbara, California

The applicant requests a permit amendment and renewal to take (harass by survey and locate and monitor nests) the California least tern (*Sternula antillarum browni*) (*Sterna a. browni*) in conjunction with surveys and population studies throughout the range of the species in San Diego, Orange, Los Angeles, Santa Barbara, San Luis Obispo, and Ventura Counties, California, for the purpose of enhancing the species' survival.

Permit No. TE–58862A

Applicant: Greg Mason, San Diego, California

The applicant requests a permit renewal and amendment to take (harass by survey, capture, handle, release, collect adult vouchers, collect branchiopod cysts, and culture and hatch cysts for species identification) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*); and take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–53771B

Applicant: Erin Bergman, La Mesa, California

The applicant requests a permit amendment to take (harass by survey, capture, handle, release, collect adult vouchers, collect branchiopod cysts, and culture and hatch cysts for species identification) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*); take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*), Palos Verdes blue butterfly (*Glaucopsyche lygdamus palosverdesensis*), and El Segundo blue butterfly (*Euphilotes battoides allyni*); and take (survey by pursuit, capture, handle, release) the Casey's June beetle (*Dinacoma caseyi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–85618B

Applicant: Biological Resources Services, LLC, Folsom, California

The applicant requests a new permit to take (harass by survey, capture, handle, and release) the California tiger salamander (Santa Barbara County and Sonoma County DPS) (*Ambystoma californiense*); blunt-nosed leopard lizard (*Gambelia silus*); San Joaquin kit fox (*Vulpes macrotis mutica*); and remove/reduce to possession the following species, on Federal lands in conjunction with survey activities

throughout the range of the species in California for the purpose of enhancing the species' survival:

- *Calystegia stebbinsii* (Stebbins' morning-glory)
- *Caulanthus californicus* (California jewelflower)
- *Ceanothus roderickii* (Pine Hill ceanothus)
- *Chloropyron palmatum* (*Cordylanthus palmatus*) (palmate-bracted bird's-beak)
- *Eremalche kernensis* (Kern mallow)
- *Fremontodendron decumbens* (*F. californicum* subsp. *d.*) (Pine Hill flannelbush)
- *Gilia tenuiflora* subsp. *arenaria* (Monterey gilia)
- *Lasthenia conjugens* (Contra Costa goldfields)
- *Monolopia congdonii* (*Lembertia c.*) (San Joaquin woolly-threads)
- *Orcuttia viscida* (Sacramento orcutt grass)
- *Trifolium amoenum* (showy Indian clover)
- *Tuctoria mucronata* (Solano grass)

Permit No. TE–85771B

Applicant: Karen Mullen, Laguna Niguel, California

The applicant requests a new permit to take (harass by survey, capture, handle, release, collect adult vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–158552

Applicant: Holly Burger, Berkeley, California

The applicant requests a permit renewal and amendment to take (harass by survey, capture, handle, and release) the California tiger salamander (Santa Barbara County and Sonoma County DPS) (*Ambystoma californiense*) and take (harass by survey, capture, handle, mark, and release) the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*) in conjunction with survey and population study activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–832946

Applicant: James Pike, Huntington Beach, California

The applicant requests a permit renewal to take (harass by survey, locate and monitor nests, and remove brown-headed cowbird (*Molothrus ater*) eggs and chicks from parasitized nests) the southwestern willow flycatcher (*Empidonax traillii extimus*), and take (locate and monitor nests and remove brown-headed cowbird eggs and chicks from parasitized nests) the least Bell's vireo (*Vireo bellii pusillus*) in conjunction with surveys and population monitoring throughout the range the species in California for the purpose of enhancing the species' survival.

Permit No. TE–086267

Applicant: Channel Islands National Park, Ventura, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, measure, insert passive integrated transponder (PIT) tags, radio-collar, vaccinate, collect biological samples, conduct veterinary care, transport, maintain in captivity, release to the wild, and euthanize for humane reasons) the Santa Cruz Island fox (*Urocyon littoralis santacruzae*), San Miguel Island fox (*Urocyon littoralis littoralis*), and Santa Rosa Island fox (*Urocyon littoralis santarosae*) in conjunction with survey and research activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–023496

Applicant: California State University, Turlock, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, release, collect adult vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities in Fresno, Kern, Kings, Madera, Merced, San Luis Obispo, San Joaquin, and Tulare Counties, California; take (survey, capture, handle, mark, insert passive integrated transponder (PIT) tag and release) the giant garter snake (*Thamnophis gigas*) in conjunction with survey activities in Contra Costa, Fresno, Kern, Madera, Merced, San Joaquin, and Stanislaus Counties, California; take (harass by survey, capture, handle, and release) the California tiger salamander (Santa Barbara County and Sonoma County DPS) (*Ambystoma californiense*); take (capture, handle, mark, PIT tag, attach/remove radio transmitters, take biological samples and release) the San Joaquin kit fox (*Vulpes macrotis mutica*); take (capture, handle, mark, PIT tag, attach/remove radio transmitters, take biological samples, hold in captivity, relocate and release) the blunt-nosed leopard lizard (*Gambelia silus*) and riparian brush rabbit (*Sylvilagus bachmani riparius*); take (capture, handle, mark, PIT tag, attach/remove radio transmitters, hold in captivity, relocate and release) the Fresno kangaroo rat (*Dipodomys nitratoides exilis*), giant kangaroo rat (*Dipodomys ingens*), Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), and riparian woodrat (*Neotoma fuscipes riparia*); and take (capture, handle, mark, take biological samples, and release) the Buena Vista Lake shrew (*Sorex ornatus relictus*) in conjunction with survey and research activities throughout the range of the species for the purpose of enhancing the species' survival.

Permit No. TE–86222B

Applicant: Ethan J. Ripperger

The applicant requests a permit to take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) in conjunction with survey activities throughout the range of the species for the purpose of enhancing the species' survival.

Permit No. TE–86213B

Applicant: Alan D. Roseto, Lompoc, California

The applicant requests a permit to take (harass by survey, capture, handle, and release) the California tiger salamander (Santa Barbara County and Sonoma County DPS) (*Ambystoma californiense*) in conjunction with survey activities throughout the range of the species for the purpose of enhancing the species' survival.

Permit No. TE–86278B

Applicant: Andrew J. Anderson

The applicant requests a permit to take (harass by survey, capture, handle, release, collect adult vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp

(*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species for the purpose of enhancing the species' survival.

Permit No. TE–785148

Applicant: Aaron P. Goldschmidt, Riverside, California

The applicant requests a permit renewal to take (harass by survey and locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*); take (harass by survey, capture, handle, mark, and release) the Stephens' kangaroo rat (*Dipodomys stephensi*) and Pacific pocket mouse (*Perognathus longimembris pacificus*); take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*); and take (harass by survey, capture, handle, release, collect adult vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), Riverside fairy shrimp (*Streptocephalus woottoni*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with surveys and population studies throughout the range of the species in California for the purpose of enhancing the species' survival.

Public Comments

We invite public review and comment on each of these recovery permit applications. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Angela Picco,

Acting Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2016–03037 Filed 2–12–16; 8:45 am]

BILLING CODE 4313–15–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 167S180110; S2D2S SS08011000 SX064A000 16XS501520]

Notice of Proposed Information Collection; Request for Comments for 1029–0087

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSMRE) is announcing its intention to request approval for the collection of information for the Abandoned Mine Land Problem Area Description form. This information collection activity was previously approved by the Office of Management and Budget (OMB), and assigned control number 1029–0087.

DATES: Comments on the proposed information collection must be received by April 18, 2016, to be assured of consideration.

ADDRESSES: Comments may be mailed to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Room 203–SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov*.

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request, contact John Trelease, at (202) 208–2783 or by email at *jtrelease@osmre.gov*.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8 (d)]. This notice identifies an information collection that OSMRE will be submitting to OMB for approval. This collection is contained in the Form OSM–76, Abandoned Mine Land Problem Area Description form. OSMRE will request a 3-year term of approval for each information collection activity. Responses are required to obtain a benefit.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSMRE's submissions of the information collection requests to OMB.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Title: OSM–76—Abandoned Mine Land Problem Area Description Form.

OMB Control Number: 1029–0087.

Summary: This form will be used to update the Office of Surface Mining Reclamation and Enforcement's electronic inventory of abandoned mine lands (e-AMLIS). From this inventory, the most serious problem areas are selected for reclamation through the apportionment of funds to States and Indian tribes.

Bureau Form Number: OSM–76.

Frequency of Collection: On occasion.

Description of Respondents: State governments and Indian tribes.

Total Annual Responses: 1,888.

Total Annual Burden Hours: 5,016.

Obligation to Respond: Required in order to obtain or retain benefits.

Dated: February 10, 2016.

John A. Trelease,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2016–03056 Filed 2–12–16; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 167S180110; S2D2S SS08011000 SX064A000 16XS501520]

Notice of Proposed Information Collection; Request for Comments for 1029–0089

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSMRE) is

announcing its intention to request renewed collection authority for the exemption of coal extraction incidental to the extraction of other minerals. This information collection activity was previously approved by the Office of Management and Budget (OMB), and assigned control number 1029–0089.

DATES: Comments on the proposed information collection must be received by April 18, 2016, to be assured of consideration.

ADDRESSES: Comments may be mailed to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave NW., Room 203–SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request and explanatory information contact John Trelease at (202) 208–2783 or email at *jtrelease@osmre.gov.*

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8 (d)]. This notice identifies an information collection that OSMRE will be submitting to OMB for approval. This collection is contained in 30 CFR part 702—Exemption for Coal Extraction Incidental to the Extraction of Other Minerals. The information submitted by respondents is required to obtain a benefit. OSMRE will request a 3-year term of approval for this information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSMRE's submission of the information collection request to OMB.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Title: 30 CFR part 702—Exemption for Coal Extraction Incidental to the Extraction of Other Minerals.

OMB Control Number: 1029–0089.

Summary: This Part implements the requirement in Section 701(28) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), which grants an exemption from the requirements of SMCRA to operators extracting not more than 16 2/3 percentage tonnage of coal incidental to the extraction of other minerals. This information will be used by the regulatory authorities to make that determination.

Bureau Form Number: None.

Frequency of Collection: Once and annually thereafter.

Description of Respondents: Producers of coal and other minerals and State regulatory authorities.

Total Annual Responses: 48.

Total Annual Burden Hours: 396.

Total Non-wage Costs: $600.

Obligation to Respond: Required in order to obtain or retain benefits.

Dated: February 10, 2016.

John A. Trelease,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2016–03109 Filed 2–12–16; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–985]

Certain Surgical Stapler Devices and Components Thereof Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 8, 2016, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Covidien LP of Mansfield, Massachusetts. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain surgical stapler devices and components thereof by reason of infringement of certain claims of U.S. Patent No. 6,669,073 (''the '073 patent''); U.S. Patent No. 8,342,377 (''the '377 patent''); and U.S. Patent No. 6,079,606 (''the '606 patent''). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2015).

Scope Of Investigation: Having considered the complaint, the U.S. International Trade Commission, on February 9, 2016, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain surgical stapler devices and components thereof by reason of infringement of one or more of claims 1–3 of the '073 patent; claims 1–11 of the '377 patent; and claims 1, 2, 5, and 9 of the '606 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Covidien LP, 15 Hampshire Street, Mansfield, MA 02048.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Chongqing QMI Surgical Co., Ltd., No. 2, Yangliu Road, Middle Segment of Huangshan Avenue, New North Zone, Chongqing, China 401123.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: February 10, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–03028 Filed 2–12–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Automated Teller Machines, ATM Modules, Components Thereof, and Products Containing the Same, DN 3119;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at EDIS,[1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at USITC.[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at EDIS.[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Nautilus Hyosung Inc. and Nautilus Hyosung America Inc. on February 9, 2016. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain automated teller machines, ATM modules, components thereof, and products containing the same. The complaint names as respondents Diebold, Incorporated of North Canton, OH; and Diebold Self-Service Systems of North Canton, OH. The complainant requests that the Commission issue an exclusion order and cease and desist orders.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov*.

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov*.

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov*.

the docket number (''Docket No. 3119'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures.[4]) Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Dated: February 10, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–03052 Filed 2–12–16; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Modification to Previously Entered Consent Decree Under the Clean Air Act

On February 10, 2016, the Department of Justice lodged a proposed modification to Consent Decree with the United States District Court for the District of Kansas in the lawsuit entitled *United States* v. *Coffeyville Resources Refining & Marketing, LLC,* 04–cv–01064.

On July 13, 2004, the District of Kansas entered a consent decree between the United States, the State of Kansas and Coffeyville Resources Refining & Marketing (''CRRM'') under EPA's Clean Air Act (''2004 CD''). The 2004 CD resolved claims against CRRM for CAA violations at the CRRM's petroleum refinery located in Coffeyville, KS. The 2004 CD was subsequently replaced by a Second Consent Decree entered by the Court on April 19, 2012 (''2012 CD''), which is currently in effect. On February 10, 2016, the United States lodged a proposed modification to the 2012 CD that extends the effective date for final emission limits on SO_2 emissions limits from the fluid catalytic cracking unit at the refinery and modifies the 2012 CD to allow CRRM to comply with final SO_2 emission limits without installing a wet gas scrubber.

The publication of this notice opens a period for public comment on the proposed modification to the Second Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Coffeyville Resources Refining & Marketing, LLC,* D.J. Ref. No. 90–5–2–1–07459. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $4.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2016–03065 Filed 2–12–16; 8:45 am]

BILLING CODE 4410–15–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Thursday, February 18, 2016.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. National Credit Union Share Insurance Fund Quarterly Report.

2. NCUA's Rules and Regulations, Member Business Loans.

FOR FURTHER INFORMATION CONTACT: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2016–03210 Filed 2–11–16; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of National Council on the Humanities

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given that the National Council on the Humanities will meet to advise the Chairman of the National Endowment for the Humanities (NEH) with respect to policies, programs and procedures for carrying out his functions; to review applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965 and make recommendations thereon to the Chairman; and to consider gifts offered to NEH and make recommendations thereon to the Chairman.

DATES: The meeting will be held on Thursday, March 3, 2016, from 10:30 a.m. until 12:30 p.m., and Friday, March 4, 2016, from 9:00 a.m. until adjourned.

ADDRESSES: The meeting will be held at Constitution Center, 400 7th Street SW., Washington, DC 20506. See **SUPPLEMENTARY INFORMATION** section for room numbers.

FOR FURTHER INFORMATION CONTACT: Lisette Voyatzis, Committee Management Officer, 400 7th Street SW., 4th Floor, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.* Hearing-impaired individuals who prefer to contact us by phone may use NEH's TDD terminal at (202) 606–8282.

SUPPLEMENTARY INFORMATION: The National Council on the Humanities is meeting pursuant to the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951–960, as amended). The Committee meetings of the National Council on the Humanities

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

will be held on March 3, 2016, as follows: The policy discussion session (open to the public) will convene at 10:30 a.m. until approximately 11:30 a.m., followed by the discussion of specific grant applications and programs before the Council (closed to the public) from 11:30 a.m. until 12:30 p.m.

Digital Humanities: Room 4089
Education Programs: Room P002
Preservation and Access: Room 2002
Public Programs/Federal/State Partnership: Room P003
Research Programs: Room 4002

In addition, the Humanities Medal Committee (closed to the public) will meet from 2:30 p.m. until 3:30 p.m. in Room 4002.

The plenary session of the National Council on the Humanities will convene on March 4, 2016, at 9:00 a.m. in the Conference Center at Constitution Center. The agenda for the morning session (open to the public) will be as follows:

A. Minutes of the Previous Meeting
B. Reports
1. Chairman's Remarks
2. Deputy Chairman's Remarks
3. Presentation by guest speaker Mannie Jackson
4. Congressional Affairs Report
5. Budget Report
6. Reports on Policy and General Matters
a. Digital Humanities
b. Education Programs
c. Preservation and Access
d. Public Programs
e. Federal/State Partnership
f. Research Programs

The remainder of the plenary session will be for consideration of specific applications and therefore will be closed to the public.

As identified above, portions of the meeting of the National Council on the Humanities will be closed to the public pursuant to sections 552b(c)(4), 552b(c)(6) and 552b(c)(9)(b) of Title 5 U.S.C., as amended. The closed sessions will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, and discussion of certain information, the premature disclosure of which could significantly frustrate implementation of proposed agency action. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated July 19, 1993.

Please note that individuals planning to attend the public sessions of the meeting are subject to security screening procedures. If you wish to attend any of the public sessions, please inform NEH as soon as possible by contacting Ms. Katherine Griffin at (202) 606–8322 or *kgriffin@neh.gov.* Please also provide advance notice of any special needs or accommodations, including for a sign language interpreter.

Dated: February 8, 2016.

Elizabeth Voyatzis,

Committee Management Officer.

[FR Doc. 2016–03063 Filed 2–12–16; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting; National Science Board

The National Science Board's Committee on Education and Human Resources (CEH), 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 scheduling of a teleconference for the transaction of National Science Board business, as follows:

DATE AND TIME: Wednesday, February 17, 2016 at 5:00–6:00 p.m. EST.

SUBJECT MATTER: Committee Chair's opening remarks; approval of minutes of November 19, 2015 meeting; update and discussion of recent CEH activities regarding the ''grand challenges in STEM'' activity; and Committee Chair's closing remarks.

STATUS: Open.

This meeting will be held by teleconference. A public listening line will be available. Members of the public must contact the Board Office (call 703–292–7000 or send an email message to *nationalsciencebrd@nsf.gov*) at least 24 hours prior to the teleconference for the public listening number. Please refer to the National Science Board Web site for additional information and schedule updates (time, place, subject matter or status of meeting) which may be found at *http://www.nsf.gov/nsb/notices/.* Point of contact for this meeting is Matt Wilson (*mbwilson@nsf.gov*).

Kyscha Slater-Williams,

Program Specialist to the National Science Board.

[FR Doc. 2016–03126 Filed 2–11–16; 11:15 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request renewal of the Generic Clearance of the National Center for Science & Engineering Statistics Survey Improvement Projects (3145–0174). In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for three years.

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

DATES: Written comments on this notice must be received by April 18, 2016 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

For Additional Information or Comments: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to *splimpto@nsf.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays). You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: Generic Clearance of the National Center for Science & Engineering Statistics Improvement Projects.

OMB Control Number: 3145–0174.

Expiration Date of Current Approval: May 31, 2016.

Type of Request: Intent to seek approval to extend an information collection for three years.

Abstract. Established within the National Science Foundation by the America COMPETES Reauthorization Act of 2010 § 505, codified in the National Science Foundation Act of 1950, as amended, the National Center for Science & Engineering Statistics (NCSES) serves as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, research and development for use by practitioners, researchers, policymakers, and the public. NCSES conducts about a dozen nationally representative surveys to obtain the data for these purposes. The Generic Clearance will be used to ensure that the highest quality data are obtained from these surveys. State of the art methodology will be used to develop, evaluate, and test questionnaires and survey concepts as well as to improve survey methodology. This may include field or pilot tests of questions for future large scale surveys, as needed. The Generic Clearance will also be used to test and evaluate data dissemination tools and methods, in an effort to improve access for data users.

Use of the Information. The purpose of these studies is to use the latest and most appropriate methodology to improve NCSES surveys, evaluate new data collection efforts, and evaluate data dissemination tools and mechanisms. Methodological findings may be presented externally in technical papers at conferences, published in the proceedings of conferences, or in journals. Improved NCSES surveys, data collections, and data dissemination will help policymakers in decisions on research and development funding, graduate education, and the scientific and technical workforce, as well as contributing to reduced survey costs.

Expected Respondents. The respondents will be from industry, academia, nonprofit organizations, members of the public, and State, local, and Federal governments. Respondents will be either individuals or institutions, depending on the topic under investigation. Qualitative procedures will generally be conducted in person, online (using Skype, Webex, or other conferencing tools), or over the phone. Quantitative procedures may be conducted using mail, Web, email, or phone modes, depending on the topic under investigation. Up to 8,680 respondents will be contacted across all projects. No respondent will be contacted more than twice in one year under this generic clearance. Every effort will be made to use technology to limit the burden on respondents from small entities.

Both qualitative and quantitative methods will be used to improve NCSES's current data collection instruments and processes and to reduce respondent burden, as well as to develop new surveys and new or improved data dissemination tools. Qualitative methods include, but are not limited to expert review; exploratory, cognitive, and usability interviews; focus groups; and respondent debriefings. Cognitive and usability interviews may include the use of scenarios, paraphrasing, card sorts, vignette classifications, and rating tasks. Quantitative methods include, but are not limited to, telephone surveys; behavior coding, split panel tests, and field tests.

Estimate of Burden. NCSES estimates that a total reporting and recordkeeping burden of 11,180 hours will result from activities to improve its surveys. The calculation is shown in Table 1.

TABLE 1—POTENTIAL SURVEYS FOR IMPROVEMENT PROJECTS, WITH THE NUMBER OF RESPONDENTS AND BURDEN HOURS

	Number of respondents	Number of hours
Graduate Student Survey	2000	2500
SESTAT Surveys (National Survey of College Graduates; Survey of Doctorate Recipients)	1000	500
Early Career Doctorate Survey	500	1000
Survey of Earned Doctorates	600	600
Higher Education Research & Development Survey	300	540
State Government Research & Development Survey	150	300
Survey of Nonprofit Research Activities	230	415
Business Research & Development and Innovation Survey	50	150
Microbusiness Survey	250	500
Survey of Scientific & Engineering Facilities	400	400
Innovation Survey	1500	3000
Public Understanding of Science & Engineering Survey	550	125
Data dissemination tools and mechanisms	150	150
Other surveys and projects not specified	1000	1000
Total	8,680	11,180

Dated: February 3, 2016.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2016–03029 Filed 2–12–16; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–38367–ML; ASLBP No. 16–945–01–MLA–BD01]

Rare Element Resources, Inc.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission, *see* 37 FR 28,710 (Dec. 29, 1972), and the Commission's regulations, *see, e.g.,* 10 CFR 2.104, 2.105, 2.300, 2.309, 2.313, 2.318, 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

RARE ELEMENT RESOURCES, INC.
(Bear Lodge Project)

This proceeding involves an application by Rare Element Resources, Inc. for a license to possess and use source material associated with its Bear

Lodge Project, which includes a mine for the purpose of extracting rare earth element ores in the Black Hills National Forest in Crook County, Wyoming and a rare earth element processing plant in Weston County, Wyoming. In response to a notice filed in the **Federal Register**, *see* 80 FR 70,846 (Nov. 16, 2015), the Defenders of the Black Hills filed a Request for a Hearing dated January 14, 2016, and received by Office of the Secretary on January 15, 2016.

The Board is comprised of the following Administrative Judges:

William J. Froehlich, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

G. Paul Bollwerk, III, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

Nicholas G. Trikouros, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302.

Rockville, Maryland.

Dated: February 9, 2016.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2016–03055 Filed 2–12–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–043–ESP; ASLBP No. 15–943–01–ESP–BD01]

Atomic Safety And Licensing Board; Before Administrative Judges: Paul S. Ryerson, Chairman, Dr. Gary S. Arnold, Dr. Craig M. White; In the Matter of PSEG Power, LLC and PSEG Nuclear, LLC (Early Site Permit Application); Notice of Hearing

February 8, 2016.

The Atomic Safety and Licensing Board gives notice that, pursuant to section 189a(1)(A) of the Atomic Energy Act, 42 U.S.C. 2239(a)(1)(A), and 10 CFR 52.21, it will convene an uncontested mandatory hearing on March 24, 2016 to receive testimony and exhibits regarding an application from PSEG Power, LLC and PSEG Nuclear, LLC (collectively PSEG) for a 10 CFR part 52, subpart A Early Site Permit (ESP).[1] In its ESP application, PSEG proposes a site for a potential nuclear power facility adjacent to two existing facilities in Salem County, New Jersey (the PSEG Site).[2] This mandatory hearing will concern safety and environmental matters relating to the proposed issuance of the requested ESP.[3]

I. Hearing Date, Time, and Location

The evidentiary hearing will commence on Thursday, March 24, 2016 at 9:00 a.m. EDT, and, if necessary, will continue day-to-day thereafter until concluded. The evidentiary hearing will take place in the Atomic Safety and Licensing Board Panel's hearing room, located within the Nuclear Regulatory Commission's headquarters at 11555 Rockville Pike, Rockville, Maryland 20852. Members of the public who wish to observe the mandatory hearing are advised to arrive early. Security measures will include searches of handcarried items such as briefcases or backpacks.

II. Limited Appearance Statements

No petition was received in response to the NRC's notice in the **Federal Register** of an opportunity to seek to intervene.[4] Participation in the evidentiary hearing will be limited to the designated witnesses and counsel for the parties.

Prior to the evidentiary hearing, any person (other than a party or the representative of a party to this proceeding) may nonetheless submit a written limited appearance statement pursuant to 10 CFR 2.315(a) that sets forth a position on matters related to this proceeding. Limited appearance statements should be emailed to *hearing.docket@nrc.gov.* As provided by NRC regulations, however, no limited appearance statement shall be considered as evidence.[5]

III. Document Availability

Documents relating to this proceeding (including any updated or revised scheduling information regarding the evidentiary hearing) are available for public inspection electronically on the NRC's Electronic Hearing Docket (EHD). EHD is accessible from the NRC Web site at *https://adams.nrc.gov/ehd.* For additional information regarding the EHD please see *http://www.nrc.gov/about-nrc/regulatory/adjudicatory.html#ehd.* Persons who do not have access to the internet or who encounter problems in accessing the documents located on the NRC's Web site may contact the NRC Public Document Room reference staff by email to *pdr@nrc.gov* or by telephone at (800) 397–4209 or (301) 415–4737. Reference staff are available Monday through Friday between 8:00 a.m. and 4:00 p.m. ET, except federal holidays. For additional information regarding the NRC Public Document Room please see *http://www.nrc.gov/reading-rm/pdr.html.*

It is so ordered.

For The Atomic Safety and Licensing Board. Rockville, Maryland.

Dated: February 8, 2016.

Paul S. Ryerson,

Chairman, Administrative Judge.

[FR Doc. 2016–03054 Filed 2–12–16; 8:45 am]

BILLING CODE 7590–01–P

[1] *See* 75 FR 68,624, 68,624 (Nov. 8, 2010).

[2] The existing nuclear power facilities are Salem Generating Station Units 1 and 2 and Hope Creek Generating Station Unit 1. Safety Evaluation of the Early Site Permit Application in the Matter of PSEG Power, LLC and PSEG Nuclear, LLC for the PSEG Early Site Permit Site (Sept. 29, 2015) at 1–1 (ADAMS Accession No. ML14302A447).

[3] *See* Licensing Board Order (Initial Scheduling Order) (Nov. 16, 2015) at Attach. A (unpublished).

[4] *See* 75 FR 68,625.

[5] 10 CFR 2.315(a).

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0026]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (AEA), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from January 16, 2016, to February 1, 2016. The last biweekly notice was published on February 2, 2016.

DATES: Comments must be filed by March 17, 2016. A request for a hearing must be filed by April 18, 2016.

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–2016–0026. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.*

• 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: Paula Blechman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2242, email: *Paula.Blechman@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0026 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–2016–0026.

• 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 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.

B. Submitting Comments

Please include Docket ID NRC–2016–0026, facility name, unit number(s), application date, and subject 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.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. 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, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), 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; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a 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 which 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 amendment 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.

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).

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

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 18, 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 § 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 18, 2016.

B. 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 (PDF) 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.

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).

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit 2 (ANO–2), Pope County, Arkansas

Date of amendment request: December 22, 2015. A publicly-available version is in ADAMS under Accession No. ML15356A657.

Description of amendment request: The amendment would revise the Technical Specifications (TSs) to add a short Allowed Outage Time (AOT) to restore an inoperable system for conditions under which the existing specifications require a plant shutdown. The proposed amendment is consistent with the NRC-approved Technical Specifications Task Force (TSTF) change traveler TSTF–426, Revision 5, ''Revise or Add Actions to Preclude Entry into LCO [Limiting Condition for Operation] 3.0.3—RITSTF [Risk-Informed TSTF] Initiatives 6b & 6c.'' The availability of TSTF–426, Revision 5, was published in the **Federal Register** on May 30, 2013 (78 FR 32476). The AOT would be added to specifications governing the pressurizer heaters, containment spray trains, and control room emergency air conditioning and ventilation systems. In addition to the scope of the TSTF–426 TSs revisions, the amendment would add a TS Action to address a single pressurizer proportional heater group having a capacity of less than 150 kilowatts.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, with NRC staff revisions provided in [brackets], which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change provides a short AOT to restore an inoperable system for conditions under which the existing TSs require a plant shutdown to begin within one hour in accordance with LCO 3.0.3. In addition, a new TS Action associated with Pressurizer proportional heater capacity for a single proportional heater group is proposed. Entering into TS Actions is not an initiator of any accident previously evaluated. As a result, the probability of an accident previously evaluated is not significantly increased. The consequences of any accident previously evaluated that may occur during the proposed AOTs are no different from the

consequences of the same accident during the existing one-hour allowance. As a result, the consequences of any accident previously evaluated are not significantly increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

No new or different accidents result from utilizing the proposed change. The proposed change does not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the proposed change does not impose any new or different requirements. The proposed change does not alter assumptions made in the safety analysis.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change increases the time the plant may operate without the ability to perform an assumed safety function. The analyses in WCAP–16125–NP–A, ''Justification for Risk-Informed Modifications to Selected Technical Specifications for Conditions Leading to Exigent plant Shutdown,'' Revision 2, August 2010, demonstrated that there is an acceptably small increase in risk due to a limited period of continued operation in these conditions and that this risk is balanced by avoiding the risks associated with a plant shutdown. As a result, the change to the margin of safety provided by requiring a plant shutdown within one hour is not significant.

The new Pressurizer proportional heater capacity Action permits 72 hours to restore the affect heater group to an operable status, consistent with the STS [Standard TSs] and consistent with TS requirements associated with single train inoperabilities. The proportional heaters are not credited in the ANO–2 accident analyses, but aid in Pressurizer pressure control during a loss of offsite power event that results in the need to perform a natural circulation cool down of the plant. The associated STS bases for the standard 72-hour AOT assumes [that] the likelihood of a loss of offsite power event during this time period that would require a demand on the proportional heaters is minimal and acknowledges the use of non-vital powered backup heater groups absent a loss of offsite power event. Note also that under emergency conditions, an Emergency Diesel Generator or the Alternate AC [alternating current] Diesel Generator (*i.e.,* Station Blackout diesel) can be aligned to power any of the non-vital Pressurizer backup heater groups. As a result, the change to the margin of safety provided by the new 72-hour AOT for a single proportional heater train is not significant.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Counsel—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, Louisiana 70113.

NRC Branch Chief: Meena K. Khanna.

Florida Power & Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: October 15, 2015. A publicly-available version is in ADAMS under Accession No. ML15301A765.

Description of amendment request: The amendments would revise the St. Lucie Plant, Unit Nos. 1 and 2, Renewed Facility Operating Licenses' licensing bases to allow the use of the commercially available code ''Generation of Thermal-Hydraulic Information for Containments (GOTHIC Version 7.2b(QA)),'' to model the containment response following the inadvertent actuation of the containment spray system during normal plant operation (referred to as the vacuum analysis). The amendments would also update the licensing bases to credit the design-basis ability of the containment vessel to withstand a higher external pressure differential of 1.04 pounds per square inch (psi) (1.05 psi for Unit No. 2), and will update Technical Specification 3.6.1.4 for both units to revise the allowable containment operating pressure range.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This proposed amendment is related to the analysis of the maximum external pressure that the reactor containment building will experience. A proposed change to the Technical Specifications will limit the allowable external pressure during operation to a value consistent with that considered in the analysis. The analysis is being revised to consider containment spray pump flow higher than previously considered. Containment spray pumps cool and depressurize the containment building; therefore, higher flow impacts the analysis of external pressure on the containment building. The proposed amendment is for the use of a different analysis methodology using the GOTHIC computer code instead of the A–TEMPT and WATEMPT codes that were originally used for the Unit 1 and Unit 2 analyses respectively. The original codes are not currently available. The GOTHIC code is an accepted code for similar analysis. The analysis performed demonstrates that in the postulated event of an inadvertent start of two containment spray pumps, the loading the reactor containment building will experience is within the design of the structure. With this load, the stresses experienced by the reactor containment building remain below the code allowable stresses.

The probability of occurrence of an event that would expose the containment building to external pressure is not increased by the change in the analysis methodology used. The probability of the initiating event, inadvertent start of both containment spray pumps, is unchanged.

The consequences of an event where the containment building is exposed to external pressure will not be increased as the resulting external pressure on the containment vessel remains within the design, which provides a large margin to the buckling pressure.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This proposed amendment changes the methodology for analyzing an event that results in exposing the reactor containment vessel to external pressure. A proposed change to the Technical Specifications will limit the external pressure during operation to a value consistent with the initial condition considered in the analysis. The potential for a new or different kind of accident is not created by the use of a different analysis methodology for a previously defined event.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

This proposed amendment changes the methodology for analyzing an event that results in exposing the reactor containment building to external pressure. A proposed change to the Technical Specifications will limit the allowable external pressure during operation to a value consistent with the starting point considered in the analysis. The technical evaluation demonstrates that the use of the GOTHIC computer code to determine maximum containment external pressure will result in realistic results similar

to the original analysis with the A–TEMPT and WATEMPT codes. The margin of safety in this analysis is maintained by assuring the resulting external pressure acting on the reactor containment vessel maintains significant margin to the buckling pressure in accordance with Section III of the ASME [American Society of Mechanical Engineers] code. For Unit 2, the original code of record limited the maximum external pressure to ⅓ of the expected buckling pressure. The analysis of the increased external pressure for Unit 2 has been performed in accordance with the original code of record. The original code of record for Unit 1 was under development at the time and made reference to ASME Section VIII for the analysis of external pressure. The rules of ASME Section VIII at that time limited the maximum external pressure to ¼ of the expected buckling pressure. In order to increase the allowable external pressure, the analysis of external pressure was performed using a later version of the ASME code which allows a maximum external pressure of ⅓ of the buckling pressure. The later version of the code used for Unit 1 uses a methodology for determining the maximum external pressure consistent with the code used for Unit 2.

Although the margin between the allowable external pressure and the expected buckling pressure for Unit 1 will be changed from a factor of 4 to a factor of 3, substantial margin is maintained in accordance with more current versions of ASME III.

The proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William S. Blair, Managing Attorney—Nuclear, Florida Power & Light Company, 700 Universe Boulevard, MS LAW/JB, Juno Beach, FL 33408–0420.

NRC Branch Chief: Benjamin G. Beasley.

South Carolina Electric and Gas Company Docket Nos. 52–027 and 52–028, Virgil C. Summer Nuclear Station (VCSNS), Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: December 17, 2015. A publicly-available version is in ADAMS under Accession No. ML15351A165.

Description of amendment request: The proposed change, if approved, would amend Combined License (COL) Nos. NPF–93 and NPF–94 for VCSNS. The requested amendment proposes to rename, relocate, and add radiation detectors to provide monitoring of the radiologically controlled area ventilation system (VAS) exhaust from the radiologically controlled areas of the auxiliary building and annex building. The changes in the proposed amendment are located primarily in the VCSNS Updated Final Safety Analysis Report (UFSAR) Tier 2 information, and involve require conforming changes to COL Appendix C, ''Inspections, Tests, Analyses, and Acceptance Criteria,'' and departing from certified AP1000 Design Control Document (DCD) Tier 1 information. Because, this proposed change requires a departure from Tier 1 information in the Westinghouse Advanced Passive 1000 DCD, the licensee also requested an exemption from the requirements of the Generic DCD Tier 1 in accordance with 52.63(b)(1).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The design functions of the VAS include prevention of the unmonitored release of airborne radioactivity to the atmosphere or adjacent plant areas by providing monitoring of the VAS exhaust from radiologically controlled areas of the auxiliary building and annex building, and to automatically isolate the selected building areas and start the containment air filtration system (VFS) upon detection of high radioactivity. The proposed changes to the VAS to relocate and add radiation detectors are acceptable as they maintain these design functions. These proposed changes to the VAS design as described in the current licensing basis do not have an adverse effect on any of the design functions of the systems. The proposed changes do not affect the support, design, or operation of mechanical and fluid systems required to mitigate the consequences of an accident. There is no change to plant systems or the response of systems to postulated accident conditions. There is no change to the predicted radioactive releases due to postulated accident conditions. The plant response to previously evaluated accidents or external events is not adversely affected, nor do the proposed changes described create any new accident precursors.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes revise the VAS design as described in the current licensing basis to enable the system to perform required design functions, and are consistent with other UFSAR information. The proposed changes do not change the design requirements for the system. The relocated and new VAS radiation detectors are designed to the same equipment specifications, including required sensitivity and range, as the existing radiation detectors. The relocated and new VAS radiation detectors monitor the same parameters, as well as perform the same design functions, as the existing radiation detectors. The proposed changes to the system do not result in a new failure mechanism or introduce any new accident precursors. No design function described in the UFSAR is adversely affected by the proposed changes. The proposed changes do not result in a new failure mode, malfunction or sequence of events that could affect safety or safety-related equipment. The proposed changes do not allow for a new fission product release path, result in a new fission product barrier failure mode, or create a new sequence of events that would result in significant fuel cladding failures.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not change the codes or standards for the radiation detectors, or functionality of the ductwork in the auxiliary building and annex building. The proposed changes have no adverse effect on the nonsafety-related system design functions of the VAS for the prevention of the unmonitored release of airborne radioactivity to the atmosphere or adjacent plant areas by providing monitoring of the VAS exhaust from radiologically controlled areas of the auxiliary building and annex building, and to automatically isolate the selected building areas and start the VFS upon detection of high radioactivity. The proposed changes do not affect safety-related equipment or equipment whose failure could initiate an accident. The proposed changes to relocate and add radiation detectors do not adversely interface with safety-related equipment or fission product barriers. Therefore, the proposed changes do not affect any safety-related equipment, design code, function, design analysis, safety analysis input or result, or design/safety margin. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the requested changes, thus, no margin of safety is reduced.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Kathryn M. Sutton, Morgan, Lewis & Bockius LLC, 1111 Pennsylvania Avenue NW., Washington, DC 20004–2514.

Acting NRC Branch Chief: John McKirgan.

Southern Nuclear Operating Company, Inc. Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP), Units 3 and 4, Burke County, Georgia

Date of amendment request: December 22, 2015. A publicly-available version is in ADAMS. under Accession No.ML15356A656.

Description of amendment request: The proposed change would amend Combined License Nos. NPF–91 and NPF–92 for VEGP, Units 3 and 4, respectively. The requested amendment proposes to depart from approved AP1000 Design Control Documents (DCD) Tier 2 information (text, tables, and figures) and involved Tier 2* information (as incorporated into the Updated Final Safety Analysis Report (UFSAR) as plant specific DCD information), and also involves a change to a license condition. Specifically, the requested amendment proposes changes to the design of auxiliary building Wall 11 and proposes other changes to the licensing basis for use of Seismic Category II structures.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes do not adversely affect the operation of any systems or equipment inside or outside the auxiliary building that could initiate or mitigate abnormal events, *e.g.,* accidents, anticipated operational occurrences, earthquakes, floods, tornado missiles, and turbine missiles, or their safety or design analyses, evaluated in the UFSAR. The changes do not adversely affect any design function of the auxiliary building or the systems and equipment contained therein. The ability of the affected auxiliary building [Main Steam Isolation Valve] MSIV compartments to withstand the pressurization effects from the design basis pipe rupture is not adversely affected by the removal of the Wall 11 upper vent openings, because vents at these locations are not credited in the subcompartment pressurization analysis. MSIV compartment temperatures following the limiting one square foot pipe rupture with the vent openings removed remain acceptably within the envelope for environmental qualification of equipment in the compartments. The credit of seismic Category II Wall 11.2 as a [high energy line break] HELB barrier and the seismic Category II turbine building first bay and associated missile barriers to protect Wall 11 openings from tornado missiles continues to provide adequate protection of structures, systems, and components (SSCs) required to safely shut down the plant, as these structures are designed to the same requirements as seismic Category I structures, and with the additional HELB loadings assumed, remain well within the applicable acceptance criteria.

Therefore, the proposed amendment does not involve an increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not change the design function of the auxiliary building or of any of the systems or equipment in the auxiliary building or elsewhere within the Nuclear Island structure. These proposed changes do not introduce any new equipment or components that would result in a new failure mode, malfunction or sequence of events that could affect safety-related or nonsafety-related equipment. This activity will not allow for a new fission product release path, result in a new fission product barrier failure mode, or create a new sequence of events that would result in significant fuel cladding failures.

Therefore, this activity does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The margin of safety for the design of the auxiliary building is maintained through continued use of the current codes and standards as stated in the UFSAR and adherence to the assumptions used in the analyses of this structure and the events associated with this structure. The auxiliary building will continue to maintain a seismic Category I rating which preserves the current structural safety margins. The 3-hour fire rating requirements for the impacted auxiliary building walls are maintained. The Wall 11 upper vents are not credited in the subcompartment pressurization analysis and the remaining vents and pressure relief devices provide sufficient venting to maintain the MSIV compartment pressures below the design limit and design basis. The credit of turbine building Wall 11.2 as a HELB barrier provides protection of Wall 11 from selected dynamic effects, which in turn provides that essential SSCs remain protected from the effects of postulated HELB events. The credit of the seismic Category II turbine building first bay and associated missile barriers to provide protection of Wall 11 openings from tornado missiles provides sufficient protection for the essential SSCs located in the auxiliary building in the vicinity of Wall 11 from the effects of external missiles. Thus, the requested changes will not adversely affect any safety-related equipment, design code, function, design analysis, safety analysis input or result, or design/safety margin. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the requested change, thus, no margin of safety is reduced.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

Acting NRC Branch Chief: John McKirgan.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2, Appling County, Georgia

Date of amendment request: December 15, 2015. A publicly-available version is in ADAMS under Accession No. ML15351A023.

Description of amendment request: The amendments would modify the Technical Specifications (TSs) to risk-inform the requirements regarding selected Required Action end states by incorporating TS Task Force (TSTF) traveler TSTF–423, Revision 1, ''Technical Specification End States, NEDC–32988–A.'' Additionally, it would modify the TS Required Actions with a Note prohibiting the use of limiting condition for operation 3.0.4.a when entering the preferred end state (Mode 3) on startup. The Notice of Availability for TSTF–423, Revision 1, was published in the **Federal Register** on February 18, 2011 (76 FR 9614).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change allows a change to certain required end states when the TS Completion Times for remaining in power operation will be exceeded. Most of the requested technical specification (TS) changes are to permit an end state of hot shutdown (Mode 3) rather than an end state of cold shutdown (Mode 4) contained in the current TS. The request was limited to: (1)

Those end states where entry into the shutdown mode is for a short interval, (2) entry is initiated by inoperability of a single train of equipment or a restriction on a plant operational parameter, unless otherwise stated in the applicable TS, and (3) the primary purpose is to correct the initiating condition and return to power operation as soon as is practical. Risk insights from both the qualitative and quantitative risk assessments were used in specific TS assessments.

Such assessments are documented in Section 6 of topical report NEDC–32988–A, Revision 2, ''Technical Justification to Support Risk Informed Modification to Selected Required Action End States for BWR Plants.'' They provide an integrated discussion of deterministic and probabilistic issues, focusing on specific TSs, which are used to support the proposed TS end state and associated restrictions. The NRC staff finds that the risk insights support the conclusions of the specific TS assessments. Therefore, the probability of an accident previously evaluated is not significantly increased, if at all. The consequences of an accident after adopting TSTF–423 are no different than the consequences of an accident prior to adopting TSTF–423. Therefore, the consequences of an accident previously evaluated are not significantly affected by this change. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). If risk is assessed and managed, allowing a change to certain required end states when the TS Completion Times for remaining in power operation are exceeded (*i.e.,* entry into hot shutdown rather than cold shutdown to repair equipment) will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated. The addition of a requirement to assess and manage the risk introduced by this change and the commitment by the licensee to adhere to the guidance in TSTF–IG–05–02, ''Implementation Guidance for TSTF–423, Revision 1, 'Technical Specifications End States, NEDC–32988–A,' '' will further minimize possible concerns.

Thus, based on the above, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change allows, for some systems, entry into hot shutdown rather than cold shutdown to repair equipment, if risk is assessed and managed. The Boiling Water Reactor Owners' Group's risk assessment approach is comprehensive and follows NRC staff guidance as documented in Regulatory Guides (RG) 1.174 and 1.177. In addition, the analyses show that the criteria of the three-tiered approach for allowing TS changes are met. The risk impact of the proposed TS changes was assessed following the three-tiered approach recommended in RG 1.177. A risk assessment was performed to justify the proposed TS changes. The net change to the margin of safety is insignificant.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above, SNC concludes that the requested change involves no significant hazards consideration, as set forth in 10 CFR 50.92(c), ''Issuance of Amendment.''

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jennifer M. Buettner, Associate General Counsel, Southern Nuclear Operating Company, 40 Iverness Center Parkway, Birmingham, AL 35242.

NRC Branch Chief: Michael T. Markley.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendment request: November 20, 2015, as supplemented by letter dated January 12, 2016. Publicly-available versions are in ADAMS under Accession Nos. ML15324A297 and ML16012A457, respectively.

Description of amendment request: The proposed change would revise the setpoint requirements in Technical Specification (TS) 3.3.5, ''Loss of Power Diesel Generator Start Instrumentation.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed license amendment request changes the TS 3.3.5 requirements for loss of power diesel generator start instrumentation to enable elimination of manual actions for protection of safety-related equipment from degraded voltage conditions during design basis events. Elimination of these manual actions is required to fulfill an existing License Condition on each unit.

The proposed change increases the Allowable Value (AV) for the 4.16 kV Emergency Bus Degraded Grid Voltage Actuation function. Installation of new, higher precision Degraded Voltage Relays (DVRs) makes possible an increase in the DVR actuation setpoint (encompassed by the AV) to a level which provides fully automatic protection of safety-related equipment while minimizing the chance of unwanted disconnection from the preferred offsite power source, which is itself an analyzed condition.

Based on the above, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed license change request changes the TS 3.3.5 requirements for loss of power diesel generator start instrumentation to enable elimination of manual actions for protection of safety-related equipment from degraded voltage conditions during design basis events. Elimination of these manual actions is required to fulfill an existing License Condition on each unit.

The proposed changes to TS 3.3.5 do not change the methods of normal plant operation nor the methods of response to transient conditions, save that the range of automatic action provided by the DVRs is expanded. This change will eliminate the need for manual action from the degraded voltage protection scheme, as required by a License Condition for each unit, to achieve compliance with 10 CFR 50.55a(h)(2) and 10 CFR part 50, Appendix A, General Design Criterion 17—Electric Power Systems.

Accordingly, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is provided by the performance capability of plant equipment in preventing or mitigating challenges to fission product barriers under postulated operational transient and accident conditions. Since the proposed license amendment request changes the TS 3.3.5 requirements for loss of power diesel generator start instrumentation to enable elimination of manual actions for protection of safety-related equipment from degraded voltage conditions during design basis events, it will tend to increase the margin of safety by better protecting the safety-related plant equipment.

Based on the above, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jennifer M. Buettner, Associate General Counsel, Southern Nuclear Operating Company, 40 Iverness Center Parkway, Birmingham, AL 35201.

NRC Branch Chief: Michael T. Markley.

STP Nuclear Operating Company (STPNOC), Docket Nos. 50–498 and 50–499, South Texas Project (STP), Units 1 and 2, Matagorda County, Texas

Date of amendment request: June 19, 2013, as supplemented by letters dated October 3, October 31, November 13, November 21, and December 23, 2013 (two letters); January 9, February 13, February 27, March 17, March 18, May 15, May 22, June 25, and July 15, 2014; and March 10, March 25, and August 20, 2015. For the convenience of the reader, the ADAMS accession numbers of the amendment request, supplements, and additional documents (if publicly available) are provided below in a table in the ''Availability of Documents'' section.

Description of amendment request: The amendments would revise the Technical Specifications (TSs) and licensing basis for Facility Operating License Nos. NPF–76 and NPF–80, for STP, Units 1 and 2, as documented in the Updated Final Safety Analysis Report (UFSAR). The changes incorporate use of both a deterministic and a risk-informed approach to address safety issues discussed in Generic Safety Issue (GSI)–191, ''Assessment of Debris Accumulation on PWR [Pressurized-Water Reactor] Sump Performance,'' and to close Generic Letter (GL) 2004–02, ''Potential Impact of Debris Blockage on Emergency Recirculation during Design Basis Accidents at Pressurized-Water Reactors,'' dated September 13, 2004 (ADAMS Accession No. ML042360586), for STP.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes are a methodology change for assessment of debris effects that adds the results of a risk-informed evaluation to the STP licensing basis, changes to the [emergency core cooling system (ECCS)] and [containment spray system (CSS)] TS to extend the required completion time for potential [loss-of-coolant accident (LOCA)] debris related effects and associated administrative TS changes. The methodology change concludes that the ECCS and CSS will have sufficient defense-in-depth and safety margin and will operate with high probability following a LOCA when considering the impacts and effects of debris accumulation on containment emergency sump strainers in recirculation mode, as well as core flow blockage due to in-vessel effects, following loss of coolant accidents. The methodology change also supports the changes to the TS.

There is no significant increase in the probability of an accident previously evaluated. The proposed changes address mitigation of loss of coolant accidents and have no effect on the probability of the occurrence of a loss of coolant accident. The proposed methodology and TS changes do not implement any physical changes to the facility or any [structures, systems, and components (SSCs)], and do not implement any changes in plant operation that could lead to a different kind of accident.

The proposed changes do not involve a significant increase in the consequences of an accident previously evaluated. The methodology change confirms that required SSCs supported by the containment sumps will perform their safety functions with a high probability, as required, and does not alter or prevent the ability of SSCs to perform their intended function to mitigate the consequences of an accident previously evaluated within the acceptance limits. The safety analysis acceptance criteria in the UFSAR continue to be met for the proposed methodology change. The evaluation of the changes determined that containment integrity will be maintained. The dose consequences were considered in the assessment and quantitative evaluation of the effects on dose using input from the risk-informed approach shows the increase in dose consequences is small.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of any the accident previously evaluated in the UFSAR.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes are a methodology change for assessment of debris effects from LOCAs that are already evaluated in the STP UFSAR, an extension of TS required completion time for potential LOCA debris related effects on ECCS and CSS, and associated administrative changes to the TS. No new or different kind accident is being evaluated. None of the changes install or remove any plant equipment, or alter the design, physical configuration, or mode of operation of any plant structure, system or component. The proposed changes do not introduce any new failure mechanisms or malfunctions that can initiate an accident. The proposed changes do not introduce failure modes, accident initiators, or equipment malfunctions that would cause a new or different kind of accident.

Therefore, the proposed changes do not create the possibility for a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes are a methodology change for assessment of debris effects from LOCAs that are already evaluated in the STP UFSAR, an extension of TS required completion time for potential LOCA debris related effects on ECCS and CSS, and associated administrative changes to the TS. The effects from a full spectrum of LOCAs, including double-ended guillotine breaks for all piping sizes up to and including the largest pipe in the reactor coolant system, are analyzed. Appropriate redundancy and consideration of loss of offsite power and worst case single failure are retained, such that defense-in-depth is maintained.

Application of the risk-informed methodology showed that the increase in risk from the contribution of debris effects is very small as defined by [NRC Regulatory Guide (RG) 1.174, ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis''] and that there is adequate defense in depth and safety margin. Consequently, STP determined that the risk-informed method demonstrates the containment sumps will continue to support the ability of safety related components to perform their design functions when the effects of debris are considered. The proposed change does not alter the manner in which safety limits are determined or acceptance criteria associated with a safety limit. The proposed change does not implement any changes to plant operation, and does not significantly affect SSCs that respond to safely shutdown the plant and to maintain the plant in a safe shutdown condition. The proposed change does not significantly affect the existing safety margins in the barriers for the release of radioactivity. There are no changes to any of the safety analyses in the UFSAR.

Defense in depth and safety margin was extensively evaluated for the methodology change and the associated TS changes. The evaluation determined that there is substantial defense in depth and safety margin that provide a high level of confidence that the calculated risk for the methodology and TS changes is conservative and that the actual risk is likely much lower.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Availability of Documents

For further details with respect to this action, see the application for license amendment dated June 19, 2013, listed below in the table, in addition to supplements, requests for additional information responses, and other relevant documents.

Title	Date	ADAMS Accession No.
SECY–12–0093, ''Closure Options for Generic Safety Issue–191, Assessment of Debris Accumulation on Pressurized-Water Reactor Sump Performance.''	07/09/2012	ML121320270
STP Pilot Submittal and Request for Exemption for a Risk-Informed Approach to Resolve Generic Safety Issue (GSI)–191.	01/31/2013	ML13043A013
NRC Letter to STPNOC, ''South Texas Project, Units 1 and 2—Supplemental Information Needed for Acceptance of Requested Licensing Action Re: Request for Exemption for a Risk-Informed Approach to Resolve Generic Safety Issue 191''.	04/01/2013	ML13066A519
Revised STP Pilot Submittal and Requests for Exemptions and License Amendment for a Risk-Informed approach to Resolving Generic Safety Issue (GSI)–191.	06/19/2013	ML131750250 (package)
NRC Letter to STPNOC, ''South Texas Project, Units 1 and 2—Acceptance of Requests for Exemptions and License Amendment Request for Approval of a Risk-Informed Approach to Resolve Generic Safety Issue GSI–191''.	08/13/2013	ML13214A031
Corrections to Information Provided in Revised STP Pilot Submittal and Requests for Exemptions and License Amendment for a Risk-Informed Approach to Resolving Generic Safety Issue (GSI)–191.	10/03/2013	ML13295A222
Submittal of GSI–191 Chemical Effects Test Reports	10/31/2013	ML13323A673 (package)
Supplement 1 to Revised STP Pilot Submittal and Requests for Exemptions and License Amendment for a Risk-Informed Approach to Resolving Generic Safety Issue (GSI)–191.	11/13/2013	ML13323A128 (package)
Supplement 1 to Revised STP Pilot Submittal for a Risk-Informed Approach to Resolving Generic Safety Issue (GSI)–191 to Supersede and Replace the Revised Pilot Submittal.	11/21/2013	ML13338A165
Response to STP–GSI–191–EMCB–RAI–1	12/23/2013	ML14015A312
Response to NRC Request for Reference Document for STP Risk-Informed GSI–191 Application	12/23/2013	ML14015A311
Response to Request for Additional Information re Use of RELAP5 in Analyses for Risk-Informed GSI–191 Licensing Application.	01/09/2014	ML14029A533
Submittal of CASA Grande Code and Analyses for STP's Risk-Informed GSI–191 Licensing Application.	02/13/2014	ML14052A110 (package, portions redacted)
Submittal of GSI–191 Chemical Effects Test Reports	02/27/2014	ML14072A075 (package)
Response to NRC Accident Dose Branch Request for Additional Information Regarding STP Risk-Informed GSI–191 Application.	03/17/2014	ML14086A383 (package)
Submittal of CASA Grande Source Code for STP's Risk-Informed GSI–191 Licensing Application	03/18/2014	(proprietary, non-public)
Second Submittal of CASA Grande Source Code for STP's Risk-Informed GSI–191 Licensing Application.	05/15/2014	ML14149A354
First Set of Responses to April, 2014, Requests for Additional Information Regarding STP Risk-Informed GSI–191 Licensing Application—Revised.	05/22/2014	ML14149A439 (package)
Second Set of Responses to April, 2014, Requests for Additional Information Regarding STP Risk-Informed GSI–191 Licensing Application.	06/25/2014	ML14178A467 (package)
Third Set of Responses to April, 2014, Requests for Additional Information Regarding STP Risk-Informed GSI–191 Licensing Application.	07/15/2014	ML14202A045
Submittal of Updated CASA Grande Input for STP's Risk-Informed GSI–191 Licensing Application	03/10/2015	ML15072A092
Description of Revised Risk-Informed Methodology and Responses to Round 2 Requests for Additional Information Regarding STP Risk-Informed GSI–191 Licensing Application.	03/25/2015	ML15091A440
Supplement 2 to STP Pilot Submittal and Requests for Exemptions and License Amendment for a Risk-Informed Approach to Address Generic Safety Issue (GSI)–191 and Respond to Generic Letter (GL) 2004-02.	08/20/2015	ML15246A125

Attorney for licensee: Steve Frantz, Esq., Morgan, Lewis & Bockius, 1111 Pennsylvania Avenue NW., Washington, DC 20004.

NRC Branch Chief: Robert J. Pascarelli.

Tennessee Valley Authority, Docket No. 50–391, Watts Bar Nuclear Plant (WBN), Unit 2, Rhea County, Tennessee

Date of amendment request: December 15, 2015. A publicly-available version is in ADAMS under Accession No. ML15362A023.

Description of amendment request: The amendment would revise Technical Specifications (TSs) 3.4.17, ''Steam Generator (SG) Tube Integrity''; 5.7.2.12, ''Steam Generator (SG) Program''; and 5.9.9, ''Steam Generator Tube Inspection Report,'' to exclude portions of the SG tubes below the top of the tube sheet from needing to be plugged.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequence of an accident previously evaluated?

Response: No.

Allowing the use of an alternate repair criteria as proposed in this amendment request does not involve a significant increase in the probability or consequence of an accident previously evaluated.

The presence of the tubesheet enhances the tube integrity in the region of the hardroll by precluding tube deformation beyond its initial expanded outside diameter. The resistance to both tube rupture and tube collapse is strengthened by the presence of the tubesheet in that region. Hardrolling of the tube into the tubesheet results in an interference fit between the tube and the tubesheet. Tube rupture cannot occur because the contact between the tube and tubesheet does not permit sufficient movement of tube material. In a similar manner, the tubesheet does not permit sufficient movement of tube material to permit buckling collapse of the tube during postulated loss-of-coolant-accident (LOCA) loadings.

The type of degradation for which the F* [the length of mechanical expansion required to prevent pullout for all normal operating and postulated accident conditions] has been developed (cracking with a circumferential orientation) can theoretically lead to a postulated tube rupture event, provided that the postulated through-wall circumferential crack exists near the top of the tubesheet. An evaluation including analysis and testing has

been performed to determine the resistive strength of roll expanded tubes within the tubesheet. That evaluation provides the basis for the acceptance criteria for tube degradation subject to the F* criterion.

The F* length of roll expansion is sufficient to preclude tube pullout from tube degradation located below the F* distance, regardless of the extent of the tube degradation. The existing technical specification leakage rate requirements and accident analysis assumptions remain unchanged in the unlikely event that significant leakage from this region does occur. As noted above, tube rupture and pullout are not expected for tubes using the ARC [alternative repair criterion]. Any leakage out of the tube from within the tubesheet at any elevation in the tubesheet is fully bounded by the existing Main Steam Line Break (MSLB) analysis included in the WBN Unit 2 Final Safety Analysis Report (FSAR).

Therefore, the proposed ARC does not adversely impact any other previously evaluated design basis accident.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Implementation of the proposed ARC does not introduce any significant changes to the plant design basis. Use of the criterion does not provide a mechanism to result in an accident initiated outside of the region of the tubesheet expansion. A hypothetical accident as a result of any tube degradation in the expanded portion of the tube would be bounded by the existing tube rupture accident analysis. Tube bundle structural integrity and leak tightness are expected to be maintained.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The use of the ARC has been demonstrated to maintain the integrity of the tube bundle commensurate with the requirements of Regulatory Guide 1.121, ''Bases for Plugging Degraded PWR [Pressurized-Water Reactor] Steam Generator Tubes,'' for indications in the free span of tubes and the primary to secondary pressure boundary under normal and postulated accident conditions. Acceptable tube degradation for the F* criterion is any degradation indication in the tubesheet region, more than the F* distance below either the bottom of the transition between the roll expansion and the unexpanded tube, or the top of the tubesheet, whichever is lower. The safety factors used in the verification of the strength of the degraded tube are consistent with the safety factors in the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code used in SG design. The F* distance has been verified by testing to be greater than the length of roll expansion required to preclude both tube pullout and significant leakage during normal and postulated accident conditions. Resistance to tube pullout is based upon the primary to secondary pressure differential as it acts on the surface area of the tube, which includes the tube wall cross-section, in addition to the inside diameter-based area of the tube. The leak testing acceptance criteria are based on the primary to secondary leakage limit in the technical specifications and the leakage assumptions used in the UFSAR [Updated FSAR] accident analyses. Implementation of the ARC will decrease the number of tubes which must be taken out of service with tube plugs. Plugs reduce the RCS flow margin; thus, implementation of the ARC will maintain the margin of flow that would otherwise be reduced in the event of increased plugging.

Based on the above, it is concluded that the proposed change does not result in a significant reduction in or a loss of margin with respect to plant safety as defined in the FSAR or the bases of the WBN Unit 2 technical specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ralph E. Rodgers, General Counsel, Tennessee Valley Authority, 400 West Summit Hill Dr., 6A West Tower, Knoxville, TN 37902.

NRC Branch Chief: Benjamin G. Beasley.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (AEA), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

Dominion Nuclear Connecticut, Inc., Docket Nos. 50–336 and 50–423, Millstone Power Station, Unit No. 2 (MPS2) and Unit No. 3 (MPS3), New London County, Connecticut

Date of amendment request: January 15, 2015, as supplemented by letters dated April 15, July 16, July 30, November 2, and December 1, 2015.

Brief description of amendment: The amendments revised the MPS2 and MPS3 Technical Specifications (TSs) to adopt NRC-approved Technical Specifications Task Force (TSTF) Standard Technical Specifications (STS) Change Traveler TSTF–523, Revision 2, ''Generic Letter 2008–01, Managing Gas Accumulation.''

Date of issuance: January 29, 2016.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: 325 and 267. A publicly-available version is in ADAMS under Accession No. ML16011A400; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–65 and NPF–49: Amendments revised the Renewed Operating License and TSs.

Date of initial notice in ***Federal Register***: July 21, 2015 (80 FR 43126). The supplemental letter dated April 15, 2015, was published with the January 15, 2015, application, in the initial FR notice. The supplemental letters dated July 16, July 30, November 2, and December 1, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a

Safety Evaluation dated January 29, 2016.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: February 2, 2015, as supplemented by letters dated August 11, 2015, and October 20, 2015.

Brief description of amendments: The amendments modified the technical specifications (TSs) to allow for brief, inadvertent, simultaneous opening of redundant secondary containment personnel access doors during normal entry and exit conditions.

Date of issuance: January 28, 2016.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 220 and 182. A publicly-available version is in ADAMS under Accession No. ML15356A140; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF–39 and NPF–85: Amendments revised the Renewed Facility Operating Licenses and TSs.

Date of initial notice in ***Federal Register***: April 14, 2015 (80 FR 20022). The supplemental letters dated August 11, 2015, and October 20, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 28, 2016.

No significant hazards consideration comments received: Yes.

Exelon Generation Company, LLC and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

Date of amendment request: February 23, 2015, as supplemented by letters dated August 12, 2015, and October 20, 2015.

Brief description of amendments: The amendments modified the technical specifications (TSs) to allow for brief, inadvertent, simultaneous opening of redundant secondary containment personnel access doors during normal entry and exit conditions.

Date of issuance: February 1, 2016.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendments Nos.: 303 and 307. A publicly-available version is in ADAMS under Accession No. ML15350A179; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–44 and DPR–56: The amendments revised the Renewed Facility Operating Licenses and the TSs.

Date of initial notice in ***Federal Register***: April 14, 2015 (80 FR 20023). The supplemental letters dated August 12, 2015, and October 20, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 1, 2016.

No significant hazards consideration comments received: Yes.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: January 15, 2015, as supplemented by letters dated May 4, 2015, June 9, 2015, and January 12, 2016.

Brief description of amendment: The amendment revised the technical specifications (TSs) to add a limiting condition for operation, applicability, required actions, completion times, and surveillance requirements for the residual heat removal containment spray and associated interlock permissive instrumentation. A new TS Section 3.6.1.9, ''Residual Heat Removal (RHR) Containment Spray,'' has been added to reflect the reliance on containment spray to maintain the drywell within design temperature limits during a small steam line break. In addition, the ''Drywell Pressure—High'' function that serves as an interlock permissive to allow RHR containment spray mode alignment has been relocated from the Technical Requirements Manual to TS 3.3.5.1, ''Emergency Core Cooling System (ECCS) Instrumentation.''

Date of issuance: January 22, 2016.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No.: 253. A publicly-available version is in ADAMS under Accession No. ML15343A301; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–46: The amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register***: March 17, 2015 (80 FR 13910). The supplemental letters dated May 4, 2015, June 9, 2015, and January 12, 2016, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 22, 2016.

No significant hazards consideration comments received: No.

South Carolina Electric and Gas Company, Docket Nos. 52–027 and 52–028, Virgil C. Summer Nuclear Station (VCSNS), Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: November 26, 2013, as supplemented by letter dated June 3, 2015.

Brief description of amendment: The amendments are to Combined License Nos. NPF–93 and NPF–94 for VCSNS, Units 2 and 3. The amendments authorized changes to the VCSNS, Units 2 and 3, Updated Final Safety Analysis Report to revise the details of the effective thermal conductivity resulting from the oxidation of the inorganic zinc component of the containment vessel coating system.

Date of issuance: October 9, 2015.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment No.: 34. A publicly-available version is in ADAMS under Accession No.

ML15272A417; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Combined Licenses No. NPF–93 and NPF–94: Amendments revised the Facility Combined Licenses.

Date of initial notice in ***Federal Register***: February 19, 2014 (79 FR 9490). The supplemental letter dated June 3, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 9, 2015.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–321, Edwin I. Hatch Nuclear Plant (HNP), Unit No. 1, Appling County, Georgia

Date of application for amendment: September 1, 2015.

Brief description of amendments: The amendment revised the Technical Specification value of the Safety Limit Minimum Critical Power Ratio to support operation in the next fuel cycle.

Date of issuance: January 29, 2016.

Effective date: As of the date of issuance and shall be implemented prior to reactor startup following the HNP, Unit 1, spring 2016, refueling outage.

Amendment No.: 275. A publicly-available version is in ADAMS under Accession No. ML15342A398; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–57: Amendment revised the license and the Technical Specifications.

Date of initial notice in ***Federal Register***: November 3, 2015 (80 FR 67802).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 29, 2016.

No significant hazards consideration comments received: No.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: April 29, 2015.

Brief description of amendment: The amendment revised the Cyber Security Plan Implementation Milestone 8 completion date and the physical protection license condition.

Date of issuance: January 28, 2016.

Effective date: As of its date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: 214. A publicly-available version is in ADAMS under Accession No. ML15328A059; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–30: The amendment revised the Operating License.

Date of initial notice in ***Federal Register***: July 7, 2015 (80 FR 38778).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 28, 2016.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 8th day of February 2016.

For the Nuclear Regulatory Commission.

Anne T. Boland,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2016–02916 Filed 2–12–16; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Meeting; March 9, 2016 Public Hearing

TIME AND DATE: 2:00 p.m., Wednesday, March 9, 2016

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue NW., Washington, DC.

STATUS: Hearing OPEN to the Public at 2:00 p.m.

PURPOSE: Public Hearing in conjunction with each meeting of OPIC's Board of Directors, to afford an opportunity for any person to present views regarding the activities of the Corporation.

PROCEDURES: Individuals wishing to address the hearing orally must provide advance notice to OPIC's Corporate Secretary no later than 5 p.m. Wednesday, March 2, 2016. The notice must include the individual's name, title, organization, address, and telephone number, and a concise summary of the subject matter to be presented.

Oral presentations may not exceed ten (10) minutes. The time for individual presentations may be reduced proportionately, if necessary, to afford all participants who have submitted a timely request an opportunity to be heard.

Participants wishing to submit a written statement for the record must submit a copy of such statement to OPIC's Corporate Secretary no later than 5 p.m. Wednesday, March 2, 2016. Such statement must be typewritten, double spaced, and may not exceed twenty-five (25) pages.

Upon receipt of the required notice, OPIC will prepare an agenda, which will be available at the hearing, that identifies speakers, the subject on which each participant will speak, and the time allotted for each presentation.

A written summary of the hearing will be compiled, and such summary will be made available, upon written request to OPIC's Corporate Secretary, at the cost of reproduction.

Written summaries of the projects to be presented at the March 17, 2016 Board meeting will be posted on OPIC's Web site.

CONTACT PERSON FOR INFORMATION: Information on the hearing may be obtained from Catherine F.I. Andrade at (202) 336–8768, via facsimile at (202) 408–0297, or via email at *Catherine.Andrade@opic.gov.*

Dated: February 11, 2016.

Catherine F.I. Andrade,

OPIC Corporate Secretary.

[FR Doc. 2016–03184 Filed 2–11–16; 4:15 pm]

BILLING CODE 3210–01–P

OFFICE OF PERSONNEL MANAGEMENT

Notice of Submission for Approval: Information Collection 3206–0266; Privacy Act Request for Completed Standard Form SF85/SF85P/SF86, INV 100A

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Federal Investigative Services (FIS), U.S. Office of Personnel Management (OPM) is notifying the general public and other Federal agencies that OPM is seeking Office of Management and Budget (OMB) approval for renewal of information collection control number 3206–0266, Privacy Act Request for Completed Standard Form SF85/SF85P/SF86, INV 100A. OPM is soliciting comments for this collection as required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35), as amended by the Clinger-Cohen Act (Pub. L. 104–106). The Office of Management and Budget is particularly interested in comments that:

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 submissions of responses.

DATES: Comments are encouraged and will be accepted until April 18, 2016. This process is conducted in accordance with 5 CFR 1320.8(d).

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Federal Investigative Services, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, Attention: Donna McLeod or by electronic mail at *FISFormsComments@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this information collection, with applicable supporting documentation, may be obtained by contacting Federal Investigative Services, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, Attention: Donna McLeod or by electronic mail at *FISFormsComments@opm.gov.*

SUPPLEMENTARY INFORMATION: The Privacy Act Request for Completed Standard Form SF85/SF85P/SF86, INV 100A, is an information collection completed by individuals seeking access their most recently completed SF85, SF85P, or SF86 that was used to initiate a background investigation performed by the Office of Personnel Management (OPM), Federal Investigative Services (FIS). OPM FIS's Freedom of Information and Privacy Act (FOI/PA) office utilizes the optional form INV 100A to standardize the collection of data elements specific to Privacy Act record requests for previously completed standard forms only. Current Privacy Act record requests are submitted to FIS–FOI/PA in a format chosen by the requester. Often the requests are missing data elements which require contact with the requester, thereby adding processing time. Standardization of the data elements collected can assist with providing timely responses and FIS–FOI/PA being able to verify the identity of the requester thereby ensuring Privacy Act Protected records are not inappropriately released to third parties.

OPM proposes no changes to the form.

Analysis

Agency: Federal Investigative Services, U.S. Office of Personnel Management.

Title: Privacy Act Request for Completed Standard Form SF85/SF85P/SF86, INV 100A.

OMB Number: 3206–0266.

Affected Public: Individuals submitting Privacy Act record requests for completed Standard Form SF85/SF85P/SF86 to FIS–FOI/PA.

Number of Respondents: 15,682.

Estimated Time per Respondent: 5 minutes.

Total Burden Hours: 1,307.

U.S. Office of Personnel Management.

Beth F. Cobert,

Acting Director.

[FR Doc. 2016–03125 Filed 2–12–16; 8:45 am]

BILLING CODE 6325–53–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77091; File No. SR–EDGX–2016–02]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 21.16, Risk Monitor Mechanism, Relating to the EDGX Equity Options Trading Platform

February 9, 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 27, 2016, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 21.16, entitled ''Risk Monitor Mechanism'', in order to modify the risk monitoring functionality offered to all Users[5] of the EDGX equity options trading platform (''EDGX Options'').

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Exchange Rule 21.16 to modify the method by which the BZX Options Risk Monitor Mechanism measures risk and to modify the ability of a User to reset the Risk Monitor Mechanism when risk has been triggered in the Firm Category, as described below.

Background

Currently, the Exchange's Risk Monitor Mechanism operates by maintaining a counting program for each User. A User may configure a single counting program or multiple counting programs to govern its trading activity (*i.e.,* on a port by port basis). The System engages the Risk Monitor Mechanism in a particular option when the counting program has determined that a User's trading has reached one of several specified triggers (''Specified Engagement Trigger'') established by such User during a specified time period or on an absolute basis.

Elimination of Option Categories

The current counting program counts executions in the following ''Option Categories'': Front-month puts, front-month calls, back-month puts, and back-month calls (each an ''Option Category'').[6] The counting program also

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] As defined in Exchange Rule 16.1(a)(63), a User is any Exchange member or sponsored participant authorized to obtain access to the Exchange.

[6] For the purposes of Rule 21.16, a front-month put or call is an option that expires within the next two calendar months, including weeklies and other non-standard expirations, and a back-month put or call is an option that expires in any month more

counts a User's executions, contract volume and notional value across all options which a User trades (''Firm Category''). The Exchange proposes to eliminate the concept of the Option Category, such that the counting program will instead operate per option across all Option Categories (*i.e.,* all front-month puts, front-month calls, back-month puts, and back-month calls). The Exchange does not propose to amend the Firm Category of the Risk Monitor Mechanism.

The Exchange believes that the change will result in a Risk Monitor Mechanism that is more consistent with that offered by other options exchanges. Although the Exchange implemented its Risk Monitor Mechanism with the concept of Option Categories for technical reasons, the Exchange is not aware of any other options exchange that uses the concept of Option Categories in the context of its risk mechanism.

Calculation of Percentage-Based Engagement Trigger

The Exchange currently offers a Specified Engagement Trigger to the Risk Monitor Mechanism based on percentage under Exchange Rule 21.16(b)(ii) (the ''percentage trigger''). The percentage trigger is triggered whenever a trade counter has calculated that the User has traded a set percentage within a set time period against the User's orders in a specified class. The set percentage is specified by the User (the ''Specified Percentage'') and is proposed to be calculated as follows (and as shown in the examples below): (1) A counting program would first calculate, for each series of an option class, the percentage of each User's orders or Market Maker's quotes that are executed on each side of the market; and (2) the counting program would then sum the overall series percentages for the entire option class to calculate the percentage trigger. The Exchange proposes to specify this methodology in Rule 21.16. As proposed, the Exchange would no longer aggregate all bids and offers in each series for purposes of counting the percentage trigger, as it currently does, but would instead count bids and offers in each series separately.

For example, assume a User enters 100 contract orders at both the National Best Bid (''NBB'') and National Best Offer (''NBO'') in two series of a class, its Specified Percentage is 100%, and the four executions in the example below occur within the time period specified by the User. The counting program would calculate the percentage of quote risk mechanism as follows:

Event/Series	Bid size	Number of contracts executed—bids	Offer size	Number of contracts executed—offers	Percentage of quote of execution	Aggregate percentage of quote following execution
Quotes Entered: Series 1	100	0	100	0	0	0
Quotes Entered: Series 2	100	0	100	0	0	0
Sell order for 40 contracts: Series 1	100	40	100	0	40	40
Buy order for 50 contracts: Series 1	60	0	100	50	50	90
Sell order for 5 contracts: Series 2	100	5	100	0	5	95
Buy order for 10 contracts: Series 2	95	0	100	10	10	105

In this example, the aggregate percentages of the User's quotes on each side in all series during the time period is 105%,[7] thus exceeding the specified percentage of 100%, at which point the percentage trigger would be triggered and the User's remaining orders in the appointed class would be cancelled.

Re-Setting of Risk Monitor Mechanism

Under current Rule 21.16, when a Specified Engagement Trigger is reached in the Firm Category, the Risk Monitor Mechanism will automatically remove such User's orders in all series of all options and reject any additional orders from a User until the counting program has been reset in accordance with paragraph (d) of the rule. The Risk Monitor Mechanism will also attempt to cancel any orders that have been routed away to other options exchanges on behalf of the User. The Exchange proposes to further amend Rule 21.16 so that unless otherwise instructed by a User, in the event a Specified Engagement Trigger is reached in the Firm Category, the Exchange will not allow a User to automatically reset the counting program and Users will instead need to contact the Exchange to request a reset. Because reaching a Specified Engagement Trigger in the Firm Category should be a rare event, the Exchange believes that most Users will prefer to pause in the event of a trigger, review the circumstances, and then slowly re-enter the market. The Exchange is proposing to maintain the ability to automatically reset the counting program, however, because that is how the Risk Monitor Mechanism operates today and because it is possible that a User's risk management program is established in a way where the User would take the trigger into account but prefers the ability to automatically reset to control their re-entry to the market rather than needing to contact the Exchange.

2. Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[8] Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[9] because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The Exchange believes that the proposal is appropriate and reasonable

than two calendar months away from the current month.

[7] As set forth in the table and consistent with the methodology as proposed to be defined in Rule 21.16, the percentage trigger is calculated by individually calculating the percentage of each execution in each series on each of the bid and the offer and then summing each of these percentages together. The percentage, thus, does not calculate the actual percentage as a whole in the options class over the time period—in the example, 105 contracts out of 400 contracts were executed over the time period yet this does not result in a percentage calculation of 26.25%. Instead, 40% of the quoted bid in Series 1 is executed, then 50% of the quoted offer in Series 1 is executed, then 5% of the quoted bid in Series 2 is executed, and finally 10% of the quoted offer in Series 2 is executed. By summing these percentages, the percentage trigger equals 105%. As set forth elsewhere in the proposal, the Exchange believes that this counting methodology is similar to that offered by other options exchanges.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

because it offers additional functionality for Users to manage their risk.

Modifying the Risk Monitor Mechanism to eliminate the Option Category concept will allow Users to manage their risk in each option class in a way that is more consistent with the way they manage risk on other option exchanges. As noted above, although the Exchange implemented its Risk Monitor Mechanism with the concept of Option Categories for technical reasons, the Exchange is not aware of any other options exchange that uses the concept of Option Categories in the context of its risk mechanism.

Offering the percentage trigger without aggregation across the bid and the offer as part of the Risk Monitor Mechanism will provide Market Makers and other Users with greater control and flexibility with respect to managing risk and the manner in which they enter orders and quotes, which removes impediments to a free and open market and benefits all Users of BZX Options. The Exchange notes that similar functionality is offered by NYSE Arca, Inc. (''NYSE Arca Options'') and NYSE Amex Options, Inc. (''NYSE Amex Options'').[10]

Finally, creating a default that prevents the automatic reset of the counting program in the event a Specified Engagement Trigger is reached in the Firm Category will provide additional controls to Users that are trying to manage their risk. At the same time, allowing Users to maintain the ability to automatically reset the counting program will maintain the status quo with respect to the current Risk Monitor Mechanism and will allow Users to tailor their risk management programs as appropriate to their operations. The Exchange believes that this change is a modest extension of the current rule, that it is consistent with the overall purpose of the rule (*i.e.,* to mitigate risk), and that it does not raise any policy issues particularly because a User can still optionally use the same functionality offered today by informing the Exchange that it still wishes to utilize the feature to automatically reset the counting program even if a Specified Engagement Trigger has been reached in the Firm Category.

(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. To the contrary, the proposed changes to the Exchange's Risk Monitor Mechanism will generally make the Exchange's offering more consistent with that offered by other exchanges. Thus, the proposed rule change will promote competition because it will allow the Exchange to offer its Users similar features as are available at other exchanges and thus further compete with other exchanges for order flow.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and paragraph (f)(6) of Rule 19b–4 thereunder,[12] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b–4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the noted operative delay so that the Exchange may implement the proposal on or about February 8, 2016, when the Exchange anticipates that the features will be available. The Exchange has stated that such a waiver would, without undue delay, provide its Users with a risk mechanism that is more similar to that offered by other options exchanges and that may assist its Users in providing liquidity on the Exchange consistent with their risk profile. The Commission believes that waiving the thirty day delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the thirty-day operative delay.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1)Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–EDGX–2016–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–EDGX–2016–02. 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

[10] *See* NYSE Arca Options Rule 6.40(d); *see also* NYSE Amex Options Rule 928NY(d).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4.

[13] For purposes of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–EDGX–2016–02 and should be submitted on or before March 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Brent J. Fields,

Secretary.

[FR Doc. 2016–02984 Filed 2–12–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77090; File No. SR–BATS–2016–06]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 21.16, Risk Monitor Mechanism, Relating to the BATS Equity Options Trading Platform

February 9, 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 27, 2016, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 21.16, entitled ''Risk Monitor Mechanism'', in order to modify the risk monitoring functionality offered to all Users[5] of the BATS equity options trading platform (''BZX Options'').

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Exchange Rule 21.16 to modify the method by which the BZX Options Risk Monitor Mechanism measures risk and to modify the ability of a User to reset the Risk Monitor Mechanism when risk has been triggered in the Firm Category, as described below.

Background

Currently, the Exchange's Risk Monitor Mechanism operates by maintaining a counting program for each User. A User may configure a single counting program or multiple counting programs to govern its trading activity (*i.e.,* on a port by port basis). The System engages the Risk Monitor Mechanism in a particular option when the counting program has determined that a User's trading has reached one of several specified triggers (''Specified Engagement Trigger'') established by such User during a specified time period or on an absolute basis.

Elimination of Option Categories

The current counting program counts executions in the following ''Option Categories'': front-month puts, front-month calls, back-month puts, and back-month calls (each an ''Option Category'').[6] The counting program also counts a User's executions, contract volume and notional value across all options which a User trades (''Firm Category''). The Exchange proposes to eliminate the concept of the Option Category, such that the counting program will instead operate per option across all Option Categories (*i.e.,* all front-month puts, front-month calls, back-month puts, and back-month calls). The Exchange does not propose to amend the Firm Category of the Risk Monitor Mechanism.

The Exchange believes that the change will result in a Risk Monitor Mechanism that is more consistent with that offered by other options exchanges. Although the Exchange implemented its Risk Monitor Mechanism with the concept of Option Categories for technical reasons, the Exchange is not aware of any other options exchange that uses the concept of Option Categories in the context of its risk mechanism.

Calculation of Percentage-Based Engagement Trigger

The Exchange currently offers a Specified Engagement Trigger to the Risk Monitor Mechanism based on percentage under Exchange Rule 21.16(b)(ii) (the ''percentage trigger''). The percentage trigger is triggered whenever a trade counter has calculated that the User has traded a set percentage within a set time period against the User's orders in a specified class. The set percentage is specified by the User (the ''Specified Percentage'') and is proposed to be calculated as follows (and as shown in the examples below): (1) A counting program would first calculate, for each series of an option class, the percentage of each User's orders or Market Maker's quotes that are executed on each side of the market, including both displayed and non-displayed size; and (2) the counting program would then sum the overall series percentages for the entire option

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] As defined in Exchange Rule 16.1(a)(63), a User is any Exchange member or sponsored participant authorized to obtain access to the Exchange.

[6] For the purposes of Rule 21.16, a front-month put or call is an option that expires within the next two calendar months, including weeklies and other non-standard expirations, and a back-month put or call is an option that expires in any month more than two calendar months away from the current month.

class to calculate the percentage trigger. The Exchange proposes to specify this methodology in Rule 21.16. As proposed, the Exchange would no longer aggregate all bids and offers in each series for purposes of counting the percentage trigger, as it currently does, but would instead count bids and offers in each series separately.

For example, assume a User enters 100 contract orders at both the National Best Bid (''NBB'') and National Best Offer (''NBO'') in two series of a class, its Specified Percentage is 100%, and the four executions in the example below occur within the time period specified by the User. The counting program would calculate the percentage of quote risk mechanism as follows:

Event/series	Bid size	Number of contracts executed—bids	Offer size	Number of contracts executed—offers	Percentage of quote of execution	Aggregate percentage of quote following execution
Quotes Entered: Series 1	100	0	100	0	0	0
Quotes Entered: Series 2	100	0	100	0	0	0
Sell order for 40 contracts: Series 1	100	40	100	0	40	40
Buy order for 50 contracts: Series 1	60	0	100	50	50	90
Sell order for 5 contracts: Series 2	100	5	100	0	5	95
Buy order for 10 contracts: Series 2	95	0	100	10	10	105

In this example, the aggregate percentages of the User's quotes on each side in all series during the time period is 105%,[7] thus exceeding the specified percentage of 100%, at which point the percentage trigger would be triggered and the User's remaining orders in the appointed class would be cancelled.

Re-Setting of Risk Monitor Mechanism

Under current Rule 21.16, when a Specified Engagement Trigger is reached in the Firm Category, the Risk Monitor Mechanism will automatically remove such User's orders in all series of all options and reject any additional orders from a User until the counting program has been reset in accordance with paragraph (d) of the rule. The Risk Monitor Mechanism will also attempt to cancel any orders that have been routed away to other options exchanges on behalf of the User. The Exchange proposes to further amend Rule 21.16 so that unless otherwise instructed by a User, in the event a Specified Engagement Trigger is reached in the Firm Category, the Exchange will not allow a User to automatically reset the counting program and Users will instead need to contact the Exchange to request a reset. Because reaching a Specified Engagement Trigger in the Firm Category should be a rare event, the Exchange believes that most Users will prefer to pause in the event of a trigger, review the circumstances, and then slowly re-enter the market. The Exchange is proposing to maintain the ability to automatically reset the counting program, however, because that is how the Risk Monitor Mechanism operates today and because it is possible that a User's risk management program is established in a way where the User would take the trigger into account but prefers the ability to automatically reset to control their re-entry to the market rather than needing to contact the Exchange.

2. Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[8] Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[9] because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The Exchange believes that the proposal is appropriate and reasonable because it offers additional functionality for Users to manage their risk.

Modifying the Risk Monitor Mechanism to eliminate the Option Category concept will allow Users to manage their risk in each option class in a way that is more consistent with the way they manage risk on other option exchanges. As noted above, although the Exchange implemented its Risk Monitor Mechanism with the concept of Option Categories for technical reasons, the Exchange is not aware of any other options exchange that uses the concept of Option Categories in the context of its risk mechanism.

Offering the percentage trigger without aggregation across the bid and the offer as part of the Risk Monitor Mechanism will provide Market Makers and other Users with greater control and flexibility with respect to managing risk and the manner in which they enter orders and quotes, which removes impediments to a free and open market and benefits all Users of BZX Options. The Exchange notes that similar functionality is offered by NYSE Arca, Inc. (''NYSE Arca Options'') and NYSE Amex Options, Inc. (''NYSE Amex Options'').[10]

Finally, creating a default that prevents the automatic reset of the counting program in the event a Specified Engagement Trigger is reached in the Firm Category will provide additional controls to Users that are trying to manage their risk. At the same time, allowing Users to maintain the ability to automatically reset the counting program will maintain the status quo with respect to the current Risk Monitor Mechanism and will allow Users to tailor their risk management programs as appropriate to their operations. The Exchange believes that this change is a modest extension of the current rule, that it is consistent with the overall purpose of the rule (*i.e.,* to mitigate risk), and that it does not raise any policy issues particularly because a

[7] As set forth in the table and consistent with the methodology as proposed to be defined in Rule 21.16, the percentage trigger is calculated by individually calculating the percentage of each execution in each series on each of the bid and the offer and then summing each of these percentages together. The percentage, thus, does not calculate the actual percentage as a whole in the options class over the time period—in the example, 105 contracts out of 400 contracts were executed over the time period yet this does not result in a percentage calculation of 26.25%. Instead, 40% of the quoted bid in Series 1 is executed, then 50% of the quoted offer in Series 1 is executed, then 5% of the quoted bid in Series 2 is executed, and finally 10% of the quoted offer in Series 2 is executed. By summing these percentages, the percentage trigger equals 105%. As set forth elsewhere in the proposal, the Exchange believes that this counting methodology is similar to that offered by other options exchanges.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *See* NYSE Arca Options Rule 6.40(d); *see also* NYSE Amex Options Rule 928NY(d).

User can still optionally use the same functionality offered today by informing the Exchange that it still wishes to utilize the feature to automatically reset the counting program even if a Specified Engagement Trigger has been reached in the Firm Category.

(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. To the contrary, the proposed changes to the Exchange's Risk Monitor Mechanism will generally make the Exchange's offering more consistent with that offered by other exchanges. Thus, the proposed rule change will promote competition because it will allow the Exchange to offer its Users similar features as are available at other exchanges and thus further compete with other exchanges for order flow.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (A) significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and paragraph (f)(6) of Rule 19b–4 thereunder,[12] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b–4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the noted operative delay so that the Exchange may implement the proposal on or about February 8, 2016, when the Exchange anticipates that the features will be available. The Exchange has stated that such a waiver would, without undue delay, provide its Users with a risk mechanism that is more similar to that offered by other options exchanges and that may assist its Users in providing liquidity on the Exchange consistent with their risk profile. The Commission believes that waiving the thirty day delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the thirty-day operative delay.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1) necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BATS–2016–06 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BATS–2016–06. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BATS–2016–06 and should be submitted on or before March 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Brent J. Fields,

Secretary.

[FR Doc. 2016–02983 Filed 2–12–16; 8:45 am]

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[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4.

[13] For purposes of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77095; File No. SR–BOX–2016–04]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 7070 (Opening the Market) To Implement a New Price Protection Feature for the Opening

February 9, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 27, 2016, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7070 (Opening the Market) to implement a new price protection feature for the opening. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 7070 (Opening the Market) to enhance the price protections available during the opening by providing a process that helps mitigate the potential risk associated with orders and quotes trading at prices substantially away from the best available prices on other exchanges.

Background

The Exchange currently employs certain protections during opening. Specifically, from the time that the Trading Host [3] commences accepting orders and quotes at the start of the Pre-Opening Phase,[4] the Trading Host will calculate and provide the Theoretical Opening Price (''TOP'') for the current resting orders and quotes on the BOX Book [5] during the Pre-Opening Phase. The TOP is that price at which the Opening Match [6] would occur at the current time, if that time were the opening, according to the Opening Match procedures described in Rule 7070(e). The quantity that would trade at this price is also calculated. The TOP is re-calculated and disseminated every time a new order or quote is received, modified or cancelled and where such event causes the TOP price or quantity to change. A TOP can only be calculated if an opening trade is possible. An opening trade is possible if: i) the BOX Book is crossed (highest bid is higher than the lowest offer) or locked (highest bid equals lowest offer), or ii) there are Market or Market-on-Opening Orders in the BOX Book and at least one order or quote on the opposite side of the market.

Complex Orders and contingency orders do not participate in the Opening Match or in the determination of the opening price. The Trading Host establishes the opening price at the time of the Opening Match. The opening price is the TOP at the moment of the Opening Match. The Trading Host will process the series of a class in a random order, starting promptly after the opening for trading of the underlying security in the primary market. The TOP/opening price of a series is the ''market clearing'' price which will leave bids and offers which cannot trade with each other. In determining the priority of orders to be filled, the Trading Host gives priority to Market Orders first, then to Market-on-Opening orders, then to Limit Orders whose price is better than the opening price, and then to resting orders on the BOX Book at the opening price.

The Exchange currently applies a protection mechanism that delays the opening of trading in the event of unusual quoting activity in a particular series or class of options. The BOX Trading Host will not open a series if one of the following conditions is met: (i) A Market Maker's quote crosses the TOP by more than ''P'' percent plus ''x'' amount [7] of the theoretical opening price, or (ii) if the sum of the volume for all of the series within a class exceeds ''y'' series or ''z'' contracts.[8]

Proposal

The Exchange is now proposing to enhance the opening protections on the Exchange. Specifically, BOX is proposing to implement a new price protection feature designed to prevent orders and quotes on the opening from trading at prices that are away from the best available prices on other exchanges. The Exchange believes that the below-described protection feature will enhance the existing functionality and assist with the maintenance of fair and orderly markets by providing an automated process that helps mitigate the potential risks associated with orders and quotes trading at prices that are substantially away from the best available prices on other exchanges (thereby resulting in executions at prices that are extreme and potentially erroneous).

As mentioned above, the Exchange calculates a TOP which is the price that the Opening Match would occur at the current time, if that time were the opening. The Exchange is now proposing to enhance the opening procedures to add a price protection which will validate the TOP against the best available prices on other exchanges, or if no TOP can be calculated because an opening trading is not possible, validate the highest Bid (lowest Ask) Limit Order or quote price against the best available prices on other exchanges. Specifically, the Exchange will not open trading if the TOP, or when there is no TOP, the highest Bid (lowest Ask) Limit Order or quote, is not at a valid price. For purposes of this rule filing, a valid price is a price that is equal to or within the High Limit and Low Limit; these Limits give a range of the acceptable prices that the opening can occur (''Acceptable Price Range'').[9] The High Limit is the Away Best Offer (''ABO'') [10] plus the Price Collar and the Low Limit

[3] The term ''Trading Host'' means the automated trading system used by BOX for the trading of options contracts. *See* Rule 100(a)(66).

[4] For some period of time of not less than one hour before the opening in the underlying security, the Trading Host will accept orders and quotes. During this period, known as the Pre-Opening Phase, orders and quotes are placed on the BOX Book but do not generate trade executions. Complex Orders and contingency orders (except ''Market-on-Opening'' orders) do not participate in the opening and are not accepted by the BOX Trading Host during this Pre-Opening Phase. Price Improvement Period orders and Complex Order Price Improvement Period orders are not accepted during the Pre-Opening Phase.

[5] The term ''BOX Book'' means the electronic book of orders on each single option series maintained by the Trading Host. *See* Rule 100(a)(10).

[6] The Opening Match is the process employed by the Exchange to open a series for trading. *See* Rule 7070(e).

[7] The Market Regulation Center (''MRC'') shall distribute what the appropriate ''P'' percent and ''x'' amount is for each series via Regulatory Circular.

[8] The MRC shall distribute what the appropriate ''y'' series and ''z'' contracts are for each class via Regulatory Circular.

[9] For Limit Orders and quotes when there is no TOP, if the Bid (Ask) price is equal to or lower than (higher than) the High (Low) Limit, then the Bid (Ask) price is valid and the series can open. *See* Proposed Rule 7070(m)(2).

[10] The ''ABO'' is the NBO not including the Exchange's Best Offer.

is the Away Best Bid (''ABB'') [11] minus the Price Collar. If there is no ABB, the Low Limit is calculated by subtracting the Price Collar from the ABO. The proposed price protection feature will only apply to options that are multiply listed; it will not cover options that are exclusive to the Exchange. This is because the proposed price protection requires there to be prices available on other exchanges that can be used to calculate the Acceptable Price Range.

Price Collar

The Price Collar is calculated by taking the acceptable number of ticks [12] that the order or quote can trade away from the ABBO.[13] The acceptable number of ticks is then multiplied by the minimum trading increment [14] applicable to that series. The acceptable number of ticks will be determined by the Exchange on an underlying security basis.[15] Unless determined otherwise by the Exchange and announced to Participants via Informational Circular, the acceptable number of ticks for all option series shall be three (3) ticks. The Price Collar is designed to give an acceptable range for orders or quotes to execute based on the best available market prices on other exchanges.

For example, if the Exchange determines that the acceptable number of ticks for a series that has a minimum trading increment of a penny ($0.01) is three (3), the Price Collar applicable to that series will be $0.03 (3 * $0.01). If the series has an ABO of $1.25 and ABB of $1.20, then the High Limit would be $1.28 and the Low Limit would be $1.17 giving an Acceptable Price Range of $1.28 to $1.17. If the TOP is within or equal to the outside limits of the Acceptable Price Range, the TOP is at a valid price and the Exchange can open the series. If, however, no TOP is available but there is a Limit Order or quote present, it will be evaluated. Specifically, if the Bid (Ask) price of the highest Bid (lowest Ask) Limit Order or quote price is equal to or lower than (higher than) the High (Low) Limit, then the Bid (Ask) price is valid and the series can open.[16]

Dynamic Opening Process

If the proposed price protection prevents a series from opening, the Exchange will initiate a dynamic opening iteration process.[17] Specifically, if the TOP, or if a TOP is not present, the highest Bid (lowest Ask) Limit Order or quote price, is not at a valid price the Exchange will initiate the dynamic opening iteration process outlined below. The Exchange will also initiate the dynamic opening process when the ABO and ABB prices are crossed or no ABO for the series exists.[18] This proposed process will reevaluate whether a series can open for trading whenever there is an update to the TOP, ABO, ABB, or the highest Bid (lowest Ask) Limit Order or quote price, when applicable. When an update is received by the Exchange, the Exchange will reevaluate whether the TOP (or the highest Bid (lowest Ask) Limit Order/quote price) is now within or equal to the limits of the Acceptable Price Range. If the ABO and/or the ABB are updated, the system will recalculate the High Limit and Low Limit and therefore an updated Acceptable Price Range will be calculated by the system. If the TOP (or the highest Bid (lowest Ask) Limit Order/quote price) is now within or equal to the limits of the new Acceptable Price Range, the system will allow the series to open at the price of the TOP (or the highest Bid (lowest Ask) Limit Order/quote price). If, instead, the system receives an update to the TOP or, the highest Bid (lowest Ask) Limit Order or quote price, when applicable, the system will evaluate the updated price to determine if it is within or equal to the limits of the Acceptable Price Range. If the updated price is now within or equal to the limits of the Acceptable Price Range, the system will allow the series to open at the updated price. This proposed process will continue until the TOP (or the highest Bid (lowest Ask) Limit Order/quote price) is within or equal to the limits of the Acceptable Price Range, or the Exchange intervenes and manually opens the series.

For example, assume again that a series has an ABO of $1.25 and ABB of $1.20 and a Price Collar of $0.03, thereby giving it an Acceptable Price Range of $1.28 to $1.17. Assume the TOP is at $1.33 so the system will not allow the series to open because it is outside of the Acceptable Price Range. If the system receives an updated ABO of $1.30, the new High Limit will be $1.33 and the Acceptable Price Range will be $1.33 to $1.17. The TOP will now be within or equal to the limits of the Acceptable Price Range so the series can open. If instead of receiving an update to the ABO, assume the system receives an updated TOP of $1.25. The new TOP is within the Acceptable Price Range of $1.28 to $1.17 so the series will be allowed to open.

The Exchange notes that the current protections at the opening will continue to apply; the proposed opening protections are designed to enhance the Exchange's current offerings, not replace them.[19] Additionally, the Exchange may deviate from the proposed price protections at the open. Specifically, the Exchange can deviate from the standard manner of the opening procedure when it believes it is necessary in the interest of a fair and orderly market.[20]

The Exchange will provide Participants with notice, via Information Circular, about the implementation date of the proposed enhancements to the price protections.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[21] in general, and Section 6(b)(5) of the Act,[22] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by enhancing the risk protections available to Participants. In particular, the propose [sic] rule change is consistent with these requirements in that it will reduce the negative impacts of sudden, unanticipated volatility in individual options, and serve to preserve an orderly market in a transparent and uniform manner, increase overall market confidence, and promote fair and orderly markets and the protection of investors. Specifically, BOX believes that the ABBO is a fair representation of then-available prices at the opening and accordingly the proposal helps to avoid executions at prices that are significantly worse than the ABBO. Additionally, the Exchange believes the proposal promotes policy goals of the Commission which has encouraged execution venues, exchange

[11] The ''ABB'' is the NBB not including the Exchange's Best Bid.

[12] The term ''tick'' refers to one minimum trading increment for that option series.

[13] The ''ABBO'' is the NBBO not including the Exchange's Best Bid/Offer.

[14] *See* Rule 7050.

[16] For example, if there is a Limit Order to buy at $1.25 it would be less than or equal to the High Limit of $1.30, therefore it would be at a valid price and the Exchange could open the series.

[17] *See* proposed Rule 7070(m)(3).

[18] *See* proposed Rule 7070(m)(1)(C).

[19] The current protection in Rule 7070(g), that prevents a series from opening when a Market Maker's quote crosses the TOP by a certain amount, will occur after the TOP is validated by the proposed price protection.

[20] *See* Rule 7070(k).

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(5).

and non-exchange alike, to enhance risk protection tools and other mechanisms to decrease risk and increase stability.

BOX believes the proposed price protection functionality will remove impediments to and perfect the mechanism of a free and open market by providing greater control over the prices at which the opening occurs. Additionally, the Exchange believes that the proposed protection feature for the opening will enhance the existing functionality and assist with the maintenance of fair and orderly markets by providing an automated process that helps mitigate the potential risks associated with orders and quotes trading at prices that are substantially away from the best available prices on other exchanges (thereby resulting in executions at prices that are extreme and potentially erroneous).

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. BOX believes the proposal will provide market participants with additional price protection while submitting orders and quotes to the Exchange. The Exchange does not believe the proposal will impose a burden on competition among the options exchanges, because of vigorous competition for order flow among the options exchanges. The Exchange competes with many other options exchanges. In this highly competitive market, market participants can easily and readily direct order flow to competition venues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [23] and Rule 19b–4(f)(6) thereunder.[24] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [25] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[26] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange may implement the proposed price protections as soon as possible, which will benefit all market participants. In support of its request, the Exchange states the proposed rule change is designed to prevent executions on the opening at prices substantially away from the best prices available on other exchanges. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[27]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2016–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2016–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2016–04 and should be submitted on or before March 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Brent J. Fields,

Secretary.

[FR Doc. 2016–02987 Filed 2–12–16; 8:45 am]

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[23] 15 U.S.C. 78s(b)(3)(A)(iii).

[24] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[25] 17 CFR 240.19b–4(f)(6).

[26] 17 CFR 240.19b–4(f)(6)(iii).

[27] For purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77086; File No. SR–BATS–2016–03]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To List and Trade the Shares of the Elkhorn Dow Jones RAFI Commodity ETF of Elkhorn ETF Trust

February 9, 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 February 1, 2016, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On February 3, 2016, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1 thereto, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing a rule change to list and trade the shares of the Elkhorn Dow Jones RAFI Commodity ETF (the ''Fund'') of Elkhorn ETF Trust (the ''Trust'') under BATS Rule 14.11(i) (''Managed Fund Shares''). The shares of the Fund are collectively referred to herein as the ''Shares.''

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

[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 list and trade the Shares under BATS Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange.[3] The Fund will be an actively managed fund. The Shares will be offered by the Trust, which was established as a Massachusetts business trust on December 12, 2013.[4] The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Fund on Form N–1A (''Registration Statement'') with the Commission.[5] The Fund will be a series of the Trust. The Fund will invest in, among other things, exchange-traded commodity futures contracts and exchange-traded commodity-linked instruments held indirectly through a wholly-owned subsidiary controlled by the Fund and organized under the laws of the Cayman Islands (referred to herein as the ''Subsidiary'').

Description of the Shares and the Fund

Elkhorn Investments, LLC will be the investment adviser (the ''Adviser'') to the Fund and will monitor the Fund's investment portfolio. It is currently anticipated that day-to-day portfolio management for the Fund will be provided by the Adviser. However, the Fund and the Adviser may contract with an investment sub-adviser (a ''Sub-Adviser'') to provide day-to-day portfolio management for the Fund. ALPS Distributors, Inc. (the ''Distributor'') will be the principal underwriter and distributor of the Fund's Shares. The Fund will contract with unaffiliated third parties to provide administrative, custodial and transfer agency services to the Fund.

Rule 14.11(i)(7) provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[6] In addition, Rule 14.11(i)(7) further requires that personnel who make decisions on the investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the applicable investment company portfolio. Rule 14.11(i)(7) is similar to BATS Rule 14.11(b)(5)(A)(i), however, Rule 14.11(i)(7) in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not a broker-dealer, although it is affiliated with a broker-dealer. The Adviser has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund's portfolio. In addition, personnel who make decisions regarding the Fund's portfolio composition will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio. In the event that (a) the Adviser or a Sub-

[3] The Commission approved BATS Rule 14.11(i) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[4] The Trust has obtained from the Commission an order granting certain exemptive relief to the Trust under the 1940 Act (File No. 812–14262). In compliance with BATS Rule 14.11(i)(2)(E), which applies to Managed Fund Shares based on an international or global portfolio, the Trust's application for exemptive relief under the 1940 Act states that the Fund will comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933 (15 U.S.C. 77a).

[5] *See* Registration Statement on Form N–1A for the Trust, dated November 10, 2015 (File Nos. 333–201473 and 811–22926). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement.

[6] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and any Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act.

In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

Adviser becomes, or becomes newly affiliated with, a broker-dealer or registers as a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Elkhorn Dow Jones RAFI Commodity ETF

According to the Registration Statement, the Fund's investment objective will be to provide total return which exceeds that of the Dow Jones RAFI Commodity Index (the ''Benchmark'')[7] consistent with prudent investment management. The Fund will seek excess return above the Benchmark through the active management of a short duration portfolio of highly liquid, high quality bonds.

The Fund will be an actively managed fund that seeks to achieve its investment objective by, under normal market conditions,[8] investing in exchange-traded commodity futures contracts, centrally cleared and non-centrally cleared swaps,[9] exchange-traded options on futures contracts and exchange-traded commodity-linked instruments[10] (collectively, ''Commodities'') through the Subsidiary, thereby obtaining exposure to the commodities markets.

The Fund's Commodities investments, in part, will be comprised of exchange-traded futures contracts on commodities that comprise the Benchmark. Although the Fund, through the Subsidiary, will generally hold many of the futures contracts included in the Benchmark, the Fund and the Subsidiary will be actively managed and will not be obligated to invest in all of (or to limit investments solely to) such futures contracts. In addition, with respect to investments in exchange-traded futures contracts, the Fund and the Subsidiary will not be obligated to invest in the same amount or proportion as the Benchmark, or be obligated to track the performance of the Benchmark. There can be no assurance that the Fund's performance will exceed the performance of the Benchmark at any time. In addition to exchange-traded futures contracts, the Fund's Commodities investments will also be comprised of the following: centrally cleared and non-centrally cleared swaps on commodities, exchange-traded options on futures contracts that provide exposure to the investment returns of the commodities markets, and exchange-traded commodity-linked instruments, without investing directly in physical commodities.

The Fund will invest in Commodities through investments in the Subsidiary and will not invest directly in physical commodities. The Fund's investment in the Subsidiary may not exceed 25% of the Fund's total assets. In addition to Commodities, the Fund's assets will be invested in: (1) Short-term investment grade fixed income securities including only the following instruments: U.S. government and agency securities,[11] corporate debt obligations[12] and repurchase agreements;[13] (2) money market instruments;[14] (3) investment companies (other than those that are commodity-linked instruments),[15] including both exchange traded and non-exchange-traded investment companies, that provide exposure to commodities, equity securities and fixed income securities to the extent permitted under the 1940 Act and any applicable exemptive relief;[16] (4) certain bank instruments[17]; and (5) cash and other cash equivalents (collectively, ''Other Investments''). The Fund will use the Other Investments as

[7] The Benchmark is developed, maintained and sponsored by S&P Dow Jones Indices LLC (''S&P Indices'').

[8] The term ''under normal market conditions'' includes, but is not limited to, the absence of extreme volatility or trading halts in the fixed income markets, futures markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[9] Investments in non-centrally cleared swaps (through the Subsidiary) will not represent more than 20% of the Fund's net assets. When investing in non-centrally cleared swaps, the Subsidiary will seek, where possible, to use counterparties, as applicable, whose financial status is such that the risk of default is reduced; however, the risk of losses resulting from default is still possible. The Adviser and/or a Sub-Adviser will evaluate the creditworthiness of counterparties on an ongoing basis. In addition to information provided by credit agencies, the Adviser's and/or a Sub-Adviser's analysis will evaluate each approved counterparty using various methods of analysis and may consider such factors as the counterparty's liquidity, its reputation, the Adviser's and/or a Sub-Adviser's past experience with the counterparty, its known disciplinary history and its share of market participation.

[10] Exchange-traded commodity-linked instruments include only the following: (1) funds that provide exposure to commodities as would be listed under Rules 14.11(b), (c), and (i); and (2) pooled investment vehicles that invest primarily in commodities and commodity-linked instruments as would be listed under Rules 14.11(d) and 14.11(e)(2), (4), (6), (7), (8), (9) and (10). Such pooled investment vehicles are commonly referred to as ''exchange-traded funds'' but they are not registered as investment companies because of the nature of their underlying investments.

[11] Such securities are securities that are issued or guaranteed by the U.S. Treasury, by various agencies of the U.S. government, or by various instrumentalities, which have been established or sponsored by the U.S. government. U.S. Treasury obligations are backed by the ''full faith and credit'' of the U.S. government. Securities issued or guaranteed by federal agencies and U.S. government-sponsored instrumentalities may or may not be backed by the full faith and credit of the U.S. government.

[12] At least 75% of corporate debt obligations will have a minimum principal amount outstanding of $100 million or more.

[13] The Fund intends to enter into repurchase agreements only with financial institutions and dealers believed by the Adviser and/or a Sub-Adviser to present minimal credit risks in accordance with criteria approved by the Trust's Board of Trustees (the ''Board''). The Adviser and/or a Sub-Adviser will review and monitor the creditworthiness of such institutions. The Adviser and/or a Sub-Adviser will monitor the value of the collateral at the time the transaction is entered into and at all times during the term of the repurchase agreement.

[14] For the Fund's purposes, money market instruments will include only the following instruments: short-term, high-quality securities issued or guaranteed by non-U.S. governments, agencies and instrumentalities; non-convertible corporate debt securities with remaining maturities of not more than 397 days that satisfy ratings requirements under Rule 2a-7 under the 1940 Act; money market mutual funds; and deposits and other obligations of U.S. and non-U.S. banks and financial institutions. In addition, the Fund may invest in commercial paper, which are short-term unsecured promissory notes. The Fund may additionally invest in commercial paper only if it has received the highest rating from at least one nationally recognized statistical rating organization or, if unrated, has been judged by the Adviser and/or a Sub-Adviser to be of comparable quality.

[15] The Fund may invest in the securities of certain other investment companies in excess of the limits imposed under the 1940 Act pursuant to an exemptive order obtained by the Trust and the Adviser from the Commission. *See* Investment Company Act Release No. 31401 (December 29, 2014) (File No. 812–14264). The exchange-traded investment companies in which the Fund may invest include Index Fund Shares (as described in Rule 14.11(c)), Portfolio Depository Receipts (as described in Rule 14.11(b)), and Managed Fund Shares (as described in Rule 14.11(i)). The non-exchange-traded investment companies in which the Fund may invest include all non-exchange-traded investment companies that are not money market mutual funds, as described above. While the Fund and the Subsidiary may invest in inverse commodity-linked instruments and securities of investment companies, the Fund and the Subsidiary will not invest in leveraged or inverse leveraged (*e.g.,* 2X or -3X) commodity-linked instruments or securities of investment companies.

[16] The exchange-traded investment companies and commodity-linked instruments in which the Fund invests will be listed and traded in the U.S. on registered exchanges.

[17] The term ''certain bank instruments'' includes only the following instruments: certificates of deposit issued against funds deposited in a bank or savings and loan association; bankers' acceptances, which are short-term credit instruments used to finance commercial transactions; and bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest.

investments, to provide liquidity and to collateralize the Subsidiary's commodity exposure on a day-to-day basis.

The Fund's investment in the Subsidiary will be designed to help the Fund achieve exposure to commodity returns in a manner consistent with the federal tax requirements applicable to the Fund and other regulated investment companies.

The Fund intends to qualify for and to elect to be treated as a separate regulated investment company under Subchapter M of the Internal Revenue Code.[18]

Subsidiary's Investments

The Subsidiary will generally seek to make investments in Commodities and its portfolio will be managed by the Adviser or a Sub-Adviser.[19] The Adviser or a Sub-Adviser will use its discretion to determine the percentage of the Fund's assets allocated to the Commodities held by the Subsidiary that will be invested in exchange-traded commodity futures contracts, centrally cleared and non-centrally cleared swaps, exchange-traded options on futures contracts and exchange-traded commodity-linked instruments. In this regard, under normal market conditions, the Subsidiary is expected, as a general matter, to invest in futures contracts in proportional weights and allocations that are similar to the Benchmark, as well as in the other Commodities. Additionally, the Subsidiary, like the Fund, may invest in Other Investments (*e.g.,* as investments or to serve as margin or collateral or otherwise support the Subsidiary's positions in Commodities).

The Fund's investment in the Subsidiary is intended to provide the Fund with exposure to commodity markets within the limits of current federal income tax laws applicable to investment companies such as the Fund, which limit the ability of investment companies to invest directly in the derivative instruments. The Subsidiary will have the same investment objective as the Fund, but unlike the Fund, it may invest without limitation in Commodities. The Subsidiary's investments will provide the Fund with exposure to domestic and international markets.

The Benchmark is designed to offer an alternative beta using signals to generate alpha, but with typical indexing merits such as liquidity, transparency and a low fee structure. The Benchmark uses momentum and roll yield to over or underweight the liquidity weighted commodities within the equally weighted sectors of the Dow Jones Commodity Index. Furthermore, the Benchmark utilizes a modified dynamic roll methodology based on liquidity and implied roll yield, includes only contracts expiring out to 24 months and requires that each eligible contract must have open interest of at least 5% of the total open interest in the nearby most liquid contracts. The roll occurs on the first through fifth (1st–5th) business days with the monthly rebalancing. The Benchmark includes only those commodities that are included in the Dow Jones Commodity Index. Currently, the Benchmark contains 24 commodities across three major sectors including energy, agriculture and livestock, and metals. The following table describes each of the commodities underlying the futures contracts included in the Benchmark as of October 31, 2015. The table also provides each instrument's trading hours, exchange and ticker symbol. The table is subject to change (and the Subsidiary will not in all cases invest in the futures contracts included in the Benchmark).

Commodity	Exchange code	Exchange name[20]	Trading hours electronic (E.T.)	Contract symbol(s)
WTI Crude Oil	NYM	New York Mercantile Exchange	18:00–17:15	CL.
NY Harbor ULSD	NYM	New York Mercantile Exchange	18:00–17:15	HO.
Brent Crude Oil	ICE	ICE Futures Europe	20:00–18:00	B.
RBOB Gasoline	NYM	New York Mercantile Exchange	18:00–17:15	RB.
Gasoil	ICE	ICE Futures Europe	20:00–18:00	G.
Natural Gas	NYM	New York Mercantile Exchange	18:00–17:15	NG.
SRW Wheat	CBT	Chicago Board of Trade	Sun-F 20:00–08:45; M–F 09:30–14:15.	W; ZW.
HRW Wheat	CBT	Chicago Board of Trade	Sun-F 20:00–08:45; M–F 9:30–14:15.	KW; KE.
Corn	CBT	Chicago Board of Trade	Sun-F 20:00–08:45; M–F 09:30–14:15.	C; ZC.
Soybeans	CBT	Chicago Board of Trade	Sun-F 20:00–08:45; M–F 09:30–14:15.	S; ZS.
Coffee "C" Arabica	NYB	ICE Futures US	04:15–13:30	KC.
Sugar #11	NYB	ICE Futures US	03:30–13:00	SB.
Cocoa	NYB	ICE Futures US	04:45–13:30	CC.
Cotton	NYB	ICE Futures US	21:00–14:20	CT.
Live Cattle	CME	Chicago Mercantile Exchange	M 10:05–F 14:55; (Halts 17:00–18:00).	LC; LE.
Feeder Cattle	CME	Chicago Mercantile Exchange	M 10:05–F 14:55; (Halts 17:00–18:00).	FC; GF.
Lean Hogs	CME	Chicago Mercantile Exchange	M 10:05–F 14:55; (Halts 17:00–18:00).	LH; HE.
Aluminium primary	LME	London Metal Exchange	20:00–14:00	AH.
Copper grade A	LME	London Metal Exchange	20:00–14:00	CA.
Lead standard	LME	London Metal Exchange	20:00–14:00	PB.
Nickel primary	LME	London Metal Exchange	20:00–14:00	NI.

[18] 26 U.S.C. 851.

[19] The Subsidiary will not be registered under the 1940 Act and will not be directly subject to its investor protections, except as noted in the Registration Statement. However, the Subsidiary will be wholly-owned and controlled by the Fund. Therefore, the Fund's ownership and control of the Subsidiary will prevent the Subsidiary from taking action contrary to the interests of the Fund or its shareholders. The Board will have oversight responsibility for the investment activities of the Fund, including its expected investment in the Subsidiary, and the Fund's role as the sole shareholder of the Subsidiary. The Subsidiary will also enter into separate contracts for the provision of custody, transfer agency, and accounting agent services with the same or with affiliates of the same service providers that provide those services to the Fund.

Commodity	Exchange code	Exchange name [20]	Trading hours electronic (E.T.)	Contract symbol(s)
Zinc high grade	LME	London Metal Exchange	20:00–14:00	ZS.
Silver	CMX	COMEX	18:00–17:15	SI.
Gold	CMX	COMEX	18:00–17:15	GC.

[20] All of the exchanges are Intermarket Surveillance Group (''ISG'') members except for the London Metal Exchange (''LME''), ICE Futures Europe, and Commodity Exchange (''COMEX''). The LME falls under the jurisdiction of the Financial Conduct Authority (''FCA''). The FCA is responsible for ensuring the financial stability of the exchange members' businesses, whereas the LME is largely responsible for the oversight of day-to-day exchange activity, including conducting the arbitration proceedings under the LME arbitration regulations. With respect to the futures contracts and exchange-traded options on futures contracts in which the Subsidiary invests, not more than 10% of the weight (to be calculated as the value of the contract divided by the total absolute notional value of the Subsidiary's futures and options contracts) of the futures and options contracts held by the Subsidiary in the aggregate shall consist of instruments whose principal trading market is a market from which the Exchange may not obtain information regarding trading in the futures contracts and exchange-traded options on futures contracts by virtue of: (a) Its membership in ISG; or (b) a comprehensive surveillance sharing agreement..

As the U.S. and foreign exchanges noted above list additional contracts, as currently listed contracts on those exchanges gain sufficient liquidity, or as other exchanges list sufficiently liquid contracts, the Adviser and/or any Sub-Adviser will include those contracts in the list of possible investments of the Subsidiary. The list of commodities futures and commodities markets considered for investment can and will change over time.

Commodities Regulation

The Commodity Futures Trading Commission (''CFTC'') has adopted substantial amendments to CFTC Rule 4.5 relating to the permissible exemptions and conditions for reliance on exemptions from registration as a commodity pool operator. As a result of the instruments that will be indirectly held by the Fund, the Adviser will register as a commodity pool operator [21] and will also be a member of the National Futures Association (''NFA''). Any Sub-Adviser will register as a commodity pool operator or commodity trading adviser, as required by CFTC regulations. The Fund and the Subsidiary will be subject to regulation by the CFTC and NFA and additional disclosure, reporting and recordkeeping rules imposed upon commodity pools.

Investment Restrictions

While the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.,* 2X and –3X) of the Benchmark.

The Fund may not invest more than 25% of the value of its total assets in securities of issuers in any one industry or group of industries. This restriction will not apply to obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities, or securities of other investment companies.[22]

The Subsidiary's shares will be offered only to the Fund and the Fund will not sell shares of the Subsidiary to other investors. The Fund and the Subsidiary will not invest in any non-U.S. equity securities (other than shares of the Subsidiary). The Fund will not purchase securities of open-end or closed-end investment companies except in compliance with the 1940 Act or any applicable exemptive relief.[23]

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including securities deemed illiquid by the Adviser.[24] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[25]

Net Asset Value

The Fund's net asset value (''NAV'') will be determined as of the close of trading (normally 4:00 p.m., Eastern Time (''E.T.'')) on each day the New York Stock Exchange (''NYSE'') is open for business. The NAV of the Fund will be calculated by dividing the value of the net assets of such Fund (*i.e.,* the value of its total assets, less total liabilities) by the total number of outstanding Shares, generally rounded to the nearest cent.

The Fund's and the Subsidiary's investments will be generally valued using market valuations. A market valuation generally means a valuation (i) obtained from an exchange, a pricing service, or a major market maker (or dealer), (ii) based on a price quotation or other equivalent indication of value supplied by an exchange, a pricing service, or a major market maker (or dealer), or (iii) based on amortized cost. The Fund and the Subsidiary may use various pricing services or discontinue the use of any pricing service. A price obtained from a pricing service based on such pricing service's valuation matrix may be considered a market valuation.

If available, debt securities and money market instruments with maturities of more than 60 days will typically be priced based on valuations provided by independent, third-party pricing agents. Such values will generally reflect the last reported sales price if the security is actively traded. The third-party pricing agents may also value debt

[21] As defined in Section 1a(11) of the Commodity Exchange Act.

[22] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

[23] *See* supra note 15.

[24] In reaching liquidity decisions, the Adviser may consider the following factors: the frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[25] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

securities at an evaluated bid price by employing methodologies that utilize actual market transactions, broker-supplied valuations, or other methodologies designed to identify the market value for such securities. Debt obligations with remaining maturities of 60 days or less may be valued on the basis of amortized cost, which approximates market value. If such prices are not available, the security will be valued based on values supplied by independent brokers or by fair value pricing, as described below.

Futures contracts will be valued at the settlement price established each day by the board or exchange on which they are traded.

Exchange-traded options will be valued at the closing price in the market where such contracts are principally traded.

Swaps will be valued based on valuations provided by independent, third-party pricing agents.

Securities of non-exchange-traded investment companies will be valued at NAV. Equity securities listed on a securities exchange (including exchange-traded commodity-linked instruments and exchange-traded investment companies), market or automated quotation system for which quotations are readily available (except for securities traded on The NASDAQ Stock Market LLC (''NASDAQ'') and the London Stock Exchange Alternative Investment Market (''LSE AIM'')) will be valued at the last reported sale price on the primary exchange or market on which they are traded on the valuation date (or at approximately 4:00 p.m., E.T. if a security's primary exchange is normally open at that time). For a security that trades on multiple exchanges, the primary exchange will generally be considered to be the exchange on which the security generally has the highest volume of trading activity. If it is not possible to determine the last reported sale price on the relevant exchange or market on the valuation date, the value of the security will be taken to be the most recent mean between the bid and asked prices on such exchange or market on the valuation date. Absent both bid and asked prices on such exchange, the bid price may be used. For securities traded on NASDAQ or LSE AIM, the official closing price will be used. If such prices are not available, the security will be valued based on values supplied by independent brokers or by fair value pricing, as described below.

The prices for foreign instruments will be reported in local currency and converted to U.S. dollars using currency exchange rates. Exchange rates will be provided daily by recognized independent pricing agents.

In the event that current market valuations are not readily available or such valuations do not reflect current market values, the affected investments will be valued using fair value pricing pursuant to the pricing policy and procedures approved by the Board in accordance with the 1940 Act. Fair value pricing may require subjective determinations about the value of an asset and may result in prices that differ from the value that would be realized if the asset was sold.

Creation and Redemption of Shares

The Fund will issue and redeem Shares on a continuous basis at NAV [26] only in large blocks of Shares (''Creation Units'') in transactions with authorized participants, generally including broker-dealers and large institutional investors (''Authorized Participants''). Creation Units are not expected to consist of less than 25,000 Shares. The Fund will issue and redeem Creation Units in exchange for an in-kind portfolio of instruments and/or cash in lieu of such instruments (the ''Creation Basket'').[27] In addition, if there is a difference between the NAV attributable to a Creation Unit and the market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will pay to the other an amount in cash equal to the difference (referred to as the ''Cash Component'').

Creations and redemptions must be made by or through an Authorized Participant that has executed an agreement that has been agreed to by the Distributor with respect to creations and redemptions of Creation Units. All standard orders to create Creation Units must be received by the Distributor no later than the closing time of the regular trading session on the NYSE (ordinarily 4:00 p.m., E.T.) (the ''Closing Time'') in each case on the date such order is placed in order for the creation of Creation Units to be effected based on the NAV of Shares as next determined on such date after receipt of the order in proper form. Shares may be redeemed only in Creation Units at their NAV next determined after receipt not later than the Closing Time of a redemption request in proper form by the Fund through the Distributor and only on a business day.

On each business day, prior to the opening of business of the Exchange, the Fund will cause to be published through the National Securities Clearing Corporation the list of the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Component (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following business day.

Availability of Information

The Fund's Web site (*www.elkhorn.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Web site will include the Shares' ticker, CUSIP and exchange information along with additional quantitative information updated on a daily basis, including, for the Fund: (1) daily trading volume, the prior business day's reported NAV and closing price, mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price'') [28] and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Daily trading volume information for the Fund will also be available in the financial section of newspapers, through subscription services such as Bloomberg, Thomson Reuters, and International Data Corporation, which can be accessed by Authorized Participants and other investors, as well as through other electronic services, including major public Web sites. On each business day, before commencement of trading in Shares during Regular Trading Hours [29] on the Exchange, the Fund will disclose on its Web site the identities and quantities of the portfolio of securities, Commodities and other assets (the ''Disclosed Portfolio'' as defined in Rule 14.11(i)(3)(B)) held by the Fund and the Subsidiary that will form the basis for the Fund's calculation of NAV at the

[26] The NAV of the Fund's Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the NYSE, generally 4:00 p.m., E.T. (the ''NAV Calculation Time''). NAV per Share will be calculated by dividing the Fund's net assets by the number of Fund Shares outstanding.

[27] The Adviser represents that, to the extent that the Trust permits or requires a ''cash in lieu'' amount, such transactions will be effected in the same or equitable manner for all Authorized Participants.

[28] The Bid/Ask Price of the Fund will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[29] Regular Trading Hours are 9:30 a.m. to 4:00 p.m. Eastern Time.

end of the business day.[30] The Fund's disclosure of derivative positions in the Disclosed Portfolio will include information that market participants can use to value these positions intraday. On a daily basis, the Disclosed Portfolio displayed on the Fund's Web site the following information regarding each portfolio holding, as applicable to the type of holding: ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding such as the type of swap), the identity of the security, commodity or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and percentage weighting of the holding in the Fund's portfolio. The Web site and information will be publicly available at no charge.

In addition, for the Fund, an estimated value, defined in BATS Rule 14.11(i)(3)(C) as the ''Intraday Indicative Value,'' that reflects an estimated intraday value of the Fund's portfolio (including the Subsidiary's portfolio), will be disseminated. Moreover, the Intraday Indicative Value will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Exchange's Regular Trading Hours.[31]

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

Intra-day executable price quotations on the securities and other assets held by the Fund and the Subsidiary will be available from major broker-dealer firms or on the exchange on which they are traded, as applicable. Intra-day price information on the securities and other assets held by the Fund and the Subsidiary will also be available through subscription services, such as Bloomberg and Thomson Reuters, which can be accessed by Authorized Participants and other investors. More specifically, pricing information for exchange-traded commodity futures contracts, exchange-traded options on futures contracts, exchange-traded commodity-linked instruments, exchange-traded investment companies other than exchange-traded commodity-linked instruments will be available on the exchanges on which they are traded and through subscription services. Pricing information for securities of non-exchange-traded investment companies will be available through the applicable fund's Web site or major market data vendors. Pricing information for swaps, fixed income securities and money market instruments will be available through subscription services and/or broker-dealer firms and/or pricing services. Additionally, the Trade Reporting and Compliance Engine (''TRACE'') of the Financial Industry Regulatory Authority (''FINRA'') will be a source of price information for certain fixed income securities held by the Fund.

Investors will also be able to obtain the Fund's Statement of Additional Information (''SAI''), the Fund's annual and semi-annual reports (together, ''Shareholder Reports''), and its Form N–CSR and Form N–SAR, filed twice a year. The Fund's SAI and Shareholder Reports will be available free upon request from the Fund, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available on the facilities of the CTA.

Information relating to the Benchmark, including its constituents, weightings and changes to its constituents, will be available on the Web site of S&P Indices.

Initial and Continued Listing

The Shares will be subject to BATS Rule 14.11(i), which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Fund and the Subsidiary must be in compliance with Rule 10A–3 under the Act.[32] A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. The Exchange will halt trading in the Shares under the conditions specified in BATS Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities, Commodities and other assets constituting the Disclosed Portfolio of the Fund and the Subsidiary; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. BATS will allow trading in the Shares from 8:00 a.m. until 5:00 p.m. Eastern Time. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in BATS Rule 11.11(a), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01, with the exception of securities that are priced less than $1.00, for which the minimum price variation for order entry is $0.0001.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the

[30] Under accounting procedures to be followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[31] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available Intraday Indicative Values published via the Consolidated Tape Association (''CTA'') or other data feeds.

[32] *See* 17 CFR 240.10A–3.

Exchange's surveillance procedures for derivative products, including Managed Fund Shares. The Exchange may obtain information regarding trading in the Shares and the underlying shares in exchange-traded investment companies, commodity-linked instruments, futures, and options on futures via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to TRACE. With respect to the futures contracts and exchange-traded options on futures contracts in which the Subsidiary invests, not more than 10% of the weight (to be calculated as the value of the contract divided by the total absolute notional value of the Subsidiary's futures and options contracts) of the futures and options contracts held by the Subsidiary in the aggregate shall consist of instruments whose principal trading market is a market from which the Exchange may not obtain information regarding trading in the futures contracts and exchange-traded options on futures contracts by virtue of: (a) Its membership in ISG; or (b) a comprehensive surveillance sharing agreement. Investments in non-centrally cleared swaps (through the Subsidiary) will not represent more than 20% of the Fund's net assets.

In addition, the Exchange prohibits the distribution of material, non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) BATS Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value and the Disclosed Portfolio is disseminated; (4) the risks involved in trading the Shares during the Pre-Opening [33] and After Hours Trading Sessions [34] when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

Additionally, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV Calculation Time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's Web site. In addition, the Information Circular will reference that the Trust is subject to various fees and expenses described in the Fund's Registration Statement.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act [35] in general and Section 6(b)(5) of the Act [36] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in BATS Rule 14.11(i). The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. If the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser to the investment company shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. The Adviser is not registered as a broker-dealer, although it is affiliated with a broker-dealer, and is therefore required to implement a ''fire wall'' with respect to such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund's portfolio. In addition, Rule 14.11(i)(7) further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio. The Exchange may obtain information regarding trading in the Shares and the underlying shares in investment companies, futures, and options on futures via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement. The Exchange represents that trading in the Shares will be subject to the existing trading surveillances which are designed to detect violations of Exchange rules and applicable federal securities laws.

The Exchange will communicate as needed regarding trading in the Shares and in the exchange-traded Commodities and exchange-traded investment companies not included within the definition of Commodities (together, ''Exchange-Traded Instruments'') held by the Fund and the Subsidiary with other markets and other entities that are members of the ISG and may obtain trading information regarding trading in the Shares and in the Exchange-Traded Instruments held by the Fund and the Subsidiary from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and in the Exchange-Traded Instruments held by the Fund and the Subsidiary from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange will be able to access, as needed, trade information for certain

[33] The Pre-Opening Session is from 8:00 a.m. to 9:30 a.m. Eastern Time.

[34] The After Hours Trading Session is from 4:00 p.m. to 5:00 p.m. Eastern Time.

[35] 15 U.S.C. 78f.

[36] 15 U.S.C. 78f(b)(5).

fixed income securities held by the Fund reported to FINRA's TRACE.

With respect to the futures contracts and exchange-traded options on futures contracts in which the Subsidiary invests, not more than 10% of the weight (to be calculated as the value of the contract divided by the total absolute notional value of the Subsidiary's futures and options contracts) of the futures and options contracts held by the Subsidiary in the aggregate shall consist of instruments whose principal trading market is a market from which the Exchange may not obtain information regarding trading in the futures contracts and exchange-traded options on futures contracts by virtue of: (a) Its membership in ISG; or (b) a comprehensive surveillance sharing agreement. Investments in non-centrally cleared swaps (through the Subsidiary) will not represent more than 20% of the Fund's net assets.

The Fund's investment objective will be to provide total return which exceeds that of the Benchmark, consistent with prudent investment management. The Fund will invest in Commodities through investments in the Subsidiary and will not invest directly in physical commodities. The Fund's investment in the Subsidiary may not exceed 25% of the Fund's total assets. While the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.,* 2X and −3X) of the Benchmark. The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including securities deemed illiquid by the Adviser. The Fund and the Subsidiary will not invest in any non-U.S. equity securities (other than shares of the Subsidiary).

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value will be widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during Regular Trading Hours. On each business day, before commencement of trading in Shares during Regular Trading Hours, the Fund will disclose on its Web site the Disclosed Portfolio of the Fund and the Subsidiary that will form the basis for the Fund's calculation of NAV at the end of the business day. Pricing information will be available on the Fund's Web site including: (1) The prior business day's reported NAV, the Bid/Ask Price of the Fund, and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Additionally, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information for the Shares will be available on the facilities of the CTA.

Intra-day executable price quotations on the securities and other assets held by the Fund and the Subsidiary will be available from major broker-dealer firms or on the exchange on which they are traded, as applicable. Intra-day price information on the securities and other assets held by the Fund and the Subsidiary will also be available through subscription services, such as Bloomberg and Thomson Reuters, which can be accessed by Authorized Participants and other investors. More specifically, pricing information for exchange-traded commodity futures contracts, exchange-traded options on futures contracts, exchange-traded commodity-linked instruments, and exchange-traded investment companies other than exchange-traded commodity-linked instruments will be available on the exchanges on which they are traded and through subscription services. Pricing information for non-exchange-traded investment companies will be available through the applicable fund's Web site or major market data vendors. Pricing information for swaps, fixed income securities and money market instruments will be available through subscription services and/or broker-dealer firms and/or pricing services. Additionally, FINRA's TRACE will be a source of price information for certain fixed income securities held by the Fund.

The Fund's Web site will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted under the conditions specified in BATS Rule 11.18. Trading may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Finally, trading in the Shares will be subject to BATS Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted. In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA's TRACE. As noted above, investors will also have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and in the Exchange-Traded Instruments held by the Fund and the Subsidiary with other markets and other entities that are members of the ISG and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1 thereto, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2016–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2016–03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2016–03, and should be submitted on or before March 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Brent J. Fields,

Secretary.

[FR Doc. 2016–02981 Filed 2–12–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77098; File No. SR–FINRA–2015–059]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change To Amend the Derivatives and Other Off-Balance Sheet Items Schedule Pursuant to FINRA Rule 4524 (Supplemental FOCUS Information)

February 9, 2016.

I. Introduction

On December 23, 2015, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the instructions to the Derivatives and Other Off-Balance Sheet Items Schedule (''OBS'') pursuant to FINRA Rule 4524 (Supplemental FOCUS Information) to expand the application of the OBS to certain non-carrying/non-clearing firms that have a certain amount of off-balance sheet obligations. The proposed rule change was published for comment in the **Federal Register** on January 7, 2016.[3] The Commission did not receive written comments in response to the proposed rule change. This order approves the proposed rule change.

II. Description of Proposed Rule Change

FINRA Rule 4524 requires each firm, as FINRA shall designate, to file such additional financial or operational schedules or reports as FINRA may deem necessary or appropriate for the protection of investors or in the public interest as a supplement to the FOCUS Report.[4] In February 2013, the SEC approved FINRA's adoption, pursuant to FINRA Rule 4524, of the OBS as a supplement to the FOCUS report.[5] The OBS captures important information that is not otherwise reported on firms' balance sheets and requires all firms that carry customer accounts or self-clear or clear transactions for others (referred to, collectively, as ''carrying or clearing firms'') to file with FINRA the OBS within 22 business days of the end of each calendar quarter, unless a carrying or clearing firm meets the de minimis exception set forth in the instructions to the OBS.[6]

Pursuant to FINRA Rule 4524, FINRA proposed to amend the instructions to the OBS to expand its application beyond carrying or clearing firms to include firms that neither carry customer accounts nor clear transactions (referred to, collectively, as ''non-clearing firms'') that have,

[37] 17 CFR 200.30–3(a)(12).

[1] *See* 15 U.S.C. 78s(b)(1).

[2] *See* 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 76813 (Dec. 31, 2015), 81 FR 844 (Jan. 7, 2016).

[4] *See* Securities Exchange Act Release No. 66364 (Feb. 9, 2012), 77 FR 8938 (Feb. 15, 2012) (Order Approving File No. SR–FINRA–2011–064). FINRA Rule 4524 also provides that FINRA will specify the content of additional schedules or reports, their format, and the timing and the frequency of such supplemental filings in a *Regulatory Notice* (or similar communication), the content of which FINRA will file with the Commission pursuant to Section 19(b) of the Exchange Act.

[5] *See* Securities Exchange Act Release No. 68832 (Feb. 5, 2013), 78 FR 9754 (Feb. 11, 2013) (Order Approving File No. SR–FINRA–2012–050). Carrying or clearing firms were required to file with FINRA their initial OBS on or before July 31, 2013, to disclose off-balance sheet information as of June 30, 2013. *See Regulatory Notice* 13–10 (March 2013) (Supplemental FOCUS Information).

[6] The de minimis exception relieves a carrying or clearing firm from filing the OBS for the reporting period if the aggregate of all gross amounts of off-balance sheet items is less than 10 percent of the firm's excess net capital on the last day of the reporting period. For purposes of the OBS, as well as the proposed amendments to the OBS, the term ''excess net capital'' means net capital reduced by the greater of the minimum dollar net capital requirement or two percent of combined aggregate debit items as shown in the Formula for Reserve Requirements pursuant to Exchange Act Rule 15c3–3. *See* Securities Exchange Act Release No. 68832 (Feb. 5, 2013), 78 FR 9754, 9755 (Feb. 11, 2013) (Order Approving File No. SR–FINRA–2012–050).

pursuant to Exchange Act Rule 15c3–1,[7] a minimum dollar net capital requirement equal to or greater than $100,000, and at least $10 million in reportable items pursuant to the OBS. The proposed rule change does not otherwise change the OBS or its instructions, including the de minimis exception. Accordingly, consistent with the current OBS, any firm (*i.e.,* either a carrying or clearing firm or a non-clearing firm) that meets the de minimis exception need not file the OBS for the reporting period.[8] Further, under the proposed rule change, as well as under the current OBS, any firm that is required to file the OBS must do so as of the last day of a reporting period within 22 business days of the end of each calendar quarter.

When FINRA proposed the OBS, FINRA noted the need, in the aftermath of the financial crisis, to obtain more comprehensive and consistent information regarding carrying or clearing firms' off-balance sheet assets, liabilities and other commitments.[9] By requiring carrying or clearing firms to report their gross exposures in financing transactions (*e.g.,* reverse repos, repos and other transactions that are otherwise netted under generally accepted accounting principles, reverse repos and repos to maturity and collateral swap transactions), interests in and exposure to variable interest entities, non-regular way settlement transactions (including to-be-announced or TBA [10] securities and delayed delivery/settlement transactions), underwriting and other financing commitments, and gross notional amounts in centrally cleared and non-centrally cleared derivative transactions on the OBS, FINRA states that it has been able to more effectively monitor on an ongoing basis the potential impact that such off-balance sheet activities may have on carrying or clearing firms' net capital, leverage and liquidity, and their ability to fulfill their customer protection obligations.

Since the OBS became effective, however, FINRA has observed considerable principal trading activities of some non-clearing firms. In particular, through its efforts to establish margin requirements for the TBA market [11] and subsequent examinations of firms' margining practices related to all securities transactions with extended settlement dates, FINRA has become aware of non-clearing firms with both material TBA transactions as well as other types of securities transactions with extended settlement dates. In the case of TBA transactions, non-clearing firms may have entered into a Master Securities Forward Transaction Agreement (''MSFTA'') [12] with their clients and are principal to the TBA transactions. In the case of other transactions with extended settlement dates cleared through a clearing firm, non-clearing firms are principal to the trades and financially responsible to the clearing firms for any losses that may result from clients' failures to complete the transactions on the date of settlement. Therefore, these transactions may present significant financial exposure for non-clearing firms, and FINRA is concerned about firms appropriately monitoring their financial exposure and applying capital charges for these transactions as required for compliance with Exchange Act Rule 15c3–1.[13] Further, such transactions are not reported on non-clearing firms' balance sheets, making it difficult to monitor their compliance with capital requirements.

As a result of these concerns, and to ensure that all firms with significant derivative and off-balance sheet positions report these positions to FINRA on a consistent and regular basis, FINRA proposed to expand the reporting requirements of the OBS to non-clearing firms that have a minimum dollar net capital requirement equal to or greater than $100,000, and at least $10 million in reportable items pursuant to the OBS. The current de minimis exception would remain available to any firm that conducts limited off-balance sheet activity.[14]

FINRA stated that it will announce the proposed rule change's implementation date (*i.e.,* the first quarterly reporting period for newly affected firms [15]) in a *Regulatory Notice* to be published no later than 60 days following Commission approval of the rule change, and that the implementation date will be no later than 210 days following Commission approval of the rule change.

III. Discussion and Commission Findings

After careful consideration of the proposed rule change, the Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act, and the rules and regulations thereunder that are applicable to a national securities association.[16] In particular, the Commission finds that the proposal is consistent with the provisions of Section 15A(b)(6) of the Exchange Act,[17] which requires, among other things, that rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change is consistent with the Exchange Act because expanding the reporting requirements of the OBS to the proposed non-clearing firms should permit FINRA to assess effectively on an ongoing basis the potential impact off-balance sheet activities may have on these firms' net capital, leverage and liquidity, and ability to fulfill obligations to other members and counterparties. In addition, impacted non-clearing firms, as well as their correspondent clearing firms, may benefit from increased awareness of their open trade exposures, which may

[7] *See* 17 CFR 240.15c3–1 (Net Capital Requirements for Brokers or Dealers). Exchange Act Rule 15c3–1(a)(2)(iii) requires a ''dealer'' (as defined in Exchange Act Rule 15c3–1(a)(2)(iii)) to maintain net capital of not less than $100,000.

[8] However, a firm that claims the de minimis exception must affirmatively indicate through the eFOCUS system that no filing is required for the reporting period. *See Regulatory Notice* 13–10 (March 2013) (Supplemental FOCUS Information).

[9] *See* Securities Exchange Act Release No. 68270 (Nov. 20, 2012), 77 FR 70860 (Nov. 27, 2012) (Notice of Filing File No. SR–FINRA–2012–050).

[10] FINRA Rule 6710(u) defines ''TBA'' to mean a transaction in an Agency Pass-Through Mortgage-Backed Security (''MBS'') or a Small Business Administration (''SBA'')-Backed Asset-Backed Security (''ABS'') where the parties agree that the seller will deliver to the buyer a pool or pools of a specified face amount and meeting certain other criteria but the specific pool or pools to be delivered at settlement is not specified at the Time of Execution, and includes TBA transactions for good delivery and TBA transactions not for good delivery. Agency Pass-Through MBS and SBA-Backed ABS are defined under FINRA Rule 6710(v) and FINRA Rule 6710(bb), respectively. The term ''Time of Execution'' is defined under FINRA Rule 6710(d).

[11] *See* Securities Exchange Act Release No. 76148 (Oct. 14, 2015), 80 FR 63603 (Oct. 20, 2015) (Notice of Filing File No. SR–FINRA–2015–036).

[12] The Securities Industry and Financial Markets Association (''SIFMA'') developed, and subsequently updated, in coordination with the Treasury Market Practices Group (''TMPG''), the MSFTA as a standard industry template for forward and other delayed delivery transactions involving mortgage-backed and asset-backed securities. *See, e.g., SIFMA Guidance Notes to the Master Securities Forward Transaction Agreement* (December 2012), available at: *http://www.sifma.org/services/standard-forms-and-documentation/mra,-gmra,-msla-and-msftas/.*

[13] *See* 17 CFR 240.15c3–1.

[14] *See supra* note 5.

[15] Carrying or clearing firms that are currently subject to the OBS's reporting requirements would not be impacted by the proposed rule change and shall continue to file on a quarterly basis, as required, without interruption.

[16] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] *See* 15 U.S.C. 78*o*–3(b)(6).

reduce their potential for losses, encourage better counterparty risk management and promote firms' financial stability.

The Commission does not believe that the proposed rule change will result in burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Commission believes FINRA has carefully crafted the proposed rule change to achieve its intended and necessary regulatory purpose while minimizing the burden on firms. Although the proposed rule change expands the number of firms required to file the OBS, the expansion is limited to non-clearing firms that have a minimum dollar net capital requirement equal to or greater than $100,000, and at least $10 million in reportable items pursuant to the OBS. In addition, the current de minimis exception continues to remain available to any firm that conducts off-balance sheet activity that is limited relative to its excess net capital.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[18] that the proposed rule change (SR–FINRA–2015–059) be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Brent J. Fields,

Secretary.

[FR Doc. 2016–02990 Filed 2–12–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77093; File No. SR–CBOE–2016–008]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule To Amend the Fees Schedule

February 9, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 4, 2016, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule.[3]

CBOE Proprietary Products Sliding Scale

The CBOE Proprietary Products Sliding Scale table provides that Clearing Trading Permit Holder Proprietary transaction fees and transaction fees for Non-Clearing Trading Permit Holder Affiliates in Underlying Symbol List A[4] are reduced provided a Clearing Trading Permit Holder (''Clearing TPH'') (including its Non-Trading Permit Holder affiliates) reaches certain average daily volume (''ADV'') thresholds in all underlying symbols excluding Underlying Symbol List A and mini-options on the Exchange in a month. The Exchange proposes to implement changes to the CBOE Proprietary Products Sliding Scale (''Proprietary Sliding Scale''). First, the Exchange proposes to amend the current qualifying ADV thresholds. Specifically, the threshold 20,000 ADV to 79,999 ADV would be changed to 25,000 ADV to 69,999 ADV, and the threshold 80,000 ADV and above would be changed to 70,000 ADV and above. The Exchange also proposes to increase the rates set forth in Tiers B1 through B3, as well as in Tiers A1 and A2. Specifically, the Exchange proposes to increase the rate in Tier B3 to $0.22 from $0.20, in Tier B2 to $0.12 from $0.10, in Tier B1 to $0.05 from $0.02, in Tier A2 to $0.18 from $0.16 and in Tier A1 to $0.02 from $0.01. The proposed changes are further detailed below.

Current			Proposed		
Tier	Proprietary product volume thresholds	Transaction fee per contract	Tier	Proprietary product volume thresholds	Transaction fee per contract
≥20,000 ADV ≤79,999 ADV in multi list products			≥25,000 ADV ≤69,999 ADV in multi list products		
B3	0.00%–6.50%	$0.20	B3	0.00%–6.50%	$0.22
B2	6.51%–8.50%	0.10	B2	6.51%–8.50%	0.12
B1	Above 8.50%	0.02	B1	Above 8.50%	$0.05

[18] *See* 15 U.S.C. 78s(b)(2).

[19] *See* 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed fee changes on January 4, 2016 (SR–CBOE–2016–001). On January 27, 2016, the Exchange withdrew that filing and replaced it with SR–CBOE–2016–006. On February 4, 2016, the Exchange withdrew that filing and submitted this filing.

[4] As of December 31, 2015, Underlying Symbol List A includes the following products: OEX, XEO, RUT, RLV, RLG, RUI, SPX (including SPXw), SPXpm, SRO, VIX, VXST, VOLATILITY INDEXES and binary options.

Current			Proposed		
Tier	Proprietary product volume thresholds	Transaction fee per contract	Tier	Proprietary product volume thresholds	Transaction fee per contract
≥80,000 ADV in multi list roducts			≥70,000 ADV in multi list products		
A2	0.00%–6.50%	0.16	A2	0.00%–6.50%	0.18
A1	Above 6.50%	0.01	A1	Above 6.50%	0.02

The purpose of amending the tier volume thresholds is to adjust for current volume trends and demographics across the Clearing TPH proprietary population and to rationalize fees across that population. The purpose of increasing the transaction Fee Per Contract rates (and thereby reducing the amount of the discount Clearing TPHs may receive on proprietary products) is to moderate the discount levels for these products in view of their growth and performance. Particularly, the Exchange does not believe it's necessary to maintain the existing discounted rates for these tiers, but still seeks to maintain an incremental incentive for Clearing TPHs to strive for the highest tier level.

VIX Sliding Scale

The Exchange proposes to adopt a new Clearing Trading Permit Holder Proprietary VIX Sliding Scale (the ''VIX Sliding Scale''). The VIX Sliding Scale allows VIX volatility index options (''VIX options'') transaction fees for Clearing TPH (including its Non-Trading Permit Holder affiliates) proprietary orders to be reduced provided a Clearing TPH (including its Non-Trading Permit Holder affiliates) reaches certain proprietary VIX options volume thresholds during a month. The proposed applicable transaction fees for the different volume tiers on the VIX Sliding Scale are as follows:

Tier	Percentage thresholds of total VIX volume	Transaction fee per contract
1	0.00%–1.00%	$0.25
2	1.01%–5.50%	0.17
3	5.51%–8.00%	0.05
4	Above 8.00% ..	0.01

The VIX Sliding Scale applies to orders bearing the origin codes ''F'' and ''L''. The purpose of the VIX Sliding Scale is to encourage greater Clearing TPH proprietary trading of VIX options.

In conjunction with the adoption of the VIX Sliding Scale, the Exchange proposes to amend Footnote 11 of its Fees Schedule. Footnote 11 provides the details regarding the Clearing Trading Permit Holder Fee Cap (''Fee Cap'') in all products except Underlying Symbol List A (excluding binary options) and the CBOE Proprietary Products Sliding Scale for Clearing Trading Permit Holder Proprietary Orders, both of which apply to Clearing TPH proprietary orders. Because the VIX Sliding Scale also applies to Clearing TPH proprietary orders, and because many of the details regarding the Fee Cap and the Proprietary Products Sliding Scale will also apply to the VIX Sliding Scale, the Exchange proposes to reference the VIX Sliding Scale in Footnote 11 as well.

First, Footnote 11 defines the CBOE Proprietary Products Sliding Scale for Clearing Trading Permit Holder Proprietary Orders as the ''Sliding Scale''. In order to avoid confusion that could arise due to the addition of the VIX Sliding Scale, the Exchange proposes to define CBOE Proprietary Products Sliding Scale for Clearing Trading Permit Holder Proprietary Orders as the ''Proprietary Products Sliding Scale''. As such, any references within Footnote 11 to the ''Sliding Scale'' will now be referred to as the ''Proprietary Products Sliding Scale''. Any references to the Clearing Trading Permit Holder Proprietary VIX Sliding Scale within Footnote 11 will be referred to as the ''VIX Sliding Scale.''

Like the Fee Cap and the Proprietary Sliding Scale, the VIX Sliding Scale will apply to (i) Clearing TPH proprietary orders (''F'' origin code), and (ii) orders of Non-Trading Permit Holder Affiliates of a Clearing TPH.[5] A ''Non-Trading Permit Holder Affiliate'' would be defined for the purposes of the VIX Sliding Scale the same way it is defined for the Fee Cap and Proprietary Sliding Scale: A 100% wholly-owned affiliate or subsidiary of a Clearing TPH that is registered as a United States or foreign broker-dealer and that is not a CBOE Trading Permit Holder (''TPH''). As with the Fee Cap and the Proprietary Sliding Scale, only proprietary orders of the Non-Trading Permit Holder Affiliate (''L'' origin code) effected for purposes of hedging the proprietary over-the-counter trading of the Clearing TPH or its affiliates will be included in calculating the VIX Sliding Scale, and such orders must be marked with a code approved by the Exchange identifying the orders as eligible for the VIX Sliding Scale. As with the Fee Cap and the Proprietary Sliding Scale, each Clearing TPH is responsible for notifying the TPH Department of all of its affiliations so that fees and contracts of the Clearing TPH and its affiliates may be aggregated for purposes of the VIX Sliding Scale and is required to certify the affiliate status of any Non-Trading Permit Holder Affiliate whose trading activity it seeks to aggregate. In addition, each Clearing TPH is required to inform the Exchange immediately of any event that causes an entity to cease to be an affiliate.

As with the Fee Cap and the Proprietary Sliding Scale, the Exchange will aggregate the fees and trading activity of separate Clearing TPHs for the purposes of the VIX Sliding Scale if there is at least 75% common ownership between the Clearing TPHs as reflected on each Clearing TPH's Form BD, Schedule A. As with the Fee Cap and the Proprietary Sliding Scale, a Clearing TPH's fees and contracts executed pursuant to a CMTA agreement (*i.e.,* executed by another clearing firm and then transferred to the Clearing TPH's account at the OCC) are aggregated with the Clearing TPH's non-CMTA fees and contracts for purposes of the VIX Sliding Scale.

For calculating a Clearing TPH's total proprietary product transaction fees, CBOE will use the following methodology: If using the VIX Sliding Scale plus the Proprietary Sliding Scale (minus VIX options volume) results in lower total Clearing TPH proprietary transaction fees than just using the Proprietary Sliding Scale, CBOE will apply the new VIX Sliding Scale plus the Proprietary Sliding Scale (deducting the VIX options volume from the Proprietary Sliding Scale). If using the VIX Sliding Scale plus the Proprietary Sliding Scale (minus VIX options volume) results in higher total Clearing TPH proprietary transaction fees than just using the Proprietary Sliding Scale, CBOE will apply only the Proprietary Sliding Scale. The purpose of this methodology is to provide a Clearing TPH with the most beneficial fee

[5] *See* CBOE Fees Schedule, Footnote 11.

arrangement (the lowest fees) without double-counting VIX options volume.

For example, consider a situation in which, in a month, a Clearing TPH has a combined total for both the Regular Trading Hours (''RTH'') session and Extended Trading Hours (''ETH'') session (i) qualifying ADV of 66,000 in all underlying symbols excluding Underlying Symbol List A and mini-options, (ii) qualifying proprietary VIX options volume of 500,000 contracts, and (iii) qualifying volume of other proprietary products of 350,000 contracts (totaling 850,000 contracts of proprietary products).[6] Total firm proprietary options contracts executed in the month was 15,298,000, including total VIX volume of 6,433,000. The Clearing TPH's total 850,000 proprietary contracts represent 5.56% of the total monthly firm proprietary option contracts volume (*i.e.,* 850,000/15,298,000). As such, the Clearing TPH's transaction fees for its proprietary volume under the Proprietary Sliding Scale (including the proposed rate change) would be $0.22 per contract, or a total of $187,000 (*i.e.,* 850,000 × $0.22).

Continuing with the example, the Clearing TPH's fees using the VIX Sliding Scale plus the Proprietary Sliding Scale (minus VIX options volume) would be calculated. Under the VIX Sliding Scale, the Clearing TPH total 500,000 VIX contracts represent 7.77% of the total monthly firm VIX option contracts volume (*i.e.,* 500,000/6,433,000). As such, the Clearing TPH would be assessed a $0.25-per-contract fee for contracts 1–64,330 (totaling $16,082.50), a $0.17-per-contract fee for contracts 64,331–353,815 (totaling $49,212.45), and a $0.05-per-contract fee for contracts 353,816–500,000 (totaling $7,309.25). Therefore, under the VIX Sliding Scale, the Clearing TPH's proprietary transaction fees are $72,604.20 ($16,082.50 + $49,212.45 + $7,309.25). To this the Clearing TPH's proprietary fees under the Proprietary Sliding Scale (subtracting out the VIX options volume) would be added. Under the Proprietary Sliding Scale, the Clearing TPH's total non-VIX proprietary contracts represent 3.85% of the total monthly firm non-VIX proprietary option contracts volume (*i.e.,* 350,000 non-VIX proprietary volume/8,865,000 total non-VIX proprietary volume (15,298,000 total proprietary volume − 6,433,000 VIX volume)). The Clearing TPH's transaction fees for its non-VIX proprietary volume under the Proprietary Sliding Scale (including the proposed rate change) would be $0.22 per contract, or a total of $77,000 (*i.e.,* 350,000 × $0.22). The Clearing TPH's fees under the VIX Sliding Scale ($72,604.20) added to the fees using the Proprietary Sliding Scale (minus VIX volume) ($77,000), totals $149,604.20. Because this amount is less than the Clearing TPH's fees using just the Proprietary Sliding Scale (including the VIX options volume) of $187,000, the Exchange would apply the VIX Sliding Scale plus the Proprietary Sliding Scale to determine the Clearing TPH's proprietary fees, and assess the lower fee of $149,604.20.

In conjunction with the proposed changes, the Exchange proposes to make a number of related non-substantive clarifying and reorganizational changes to its Fees Schedule. First, the Exchange proposes to rename the CBOE Proprietary Products Sliding Scale rate table to the ''Clearing Trading Permit Holder Proprietary Products Sliding Scales.'' The Exchange also proposes to specify that Table A represents the Proprietary Products Sliding Scale and Table B represents the VIX Sliding Scale. Additionally, in light of renaming the table and adding the VIX Sliding Scale, the Exchange proposes to update the corresponding reference to the ''CBOE Proprietary Products Sliding Scale'' in the Specified Proprietary Index Options Rate Table to ''CBOE Clearing Trading Permit Holder Proprietary Products Sliding Scales''. The Exchange also proposes to eliminate Footnote 23 (which footnote relates to the CBOE Proprietary Sliding Scale) and consolidate the notes currently located within Footnote 23 with the notes currently located within the Notes section of the CBOE Proprietary Products Sliding Scale table, as well as update the Notes section with a description of how the sliding scales will work. The Exchange believes maintaining both a Notes section and a footnote is unnecessary and that the proposed change will alleviate potential confusion and make the Fees Schedule easier to read. Lastly, in light of the additional language that is being added regarding the VIX Sliding Scale, the Exchange proposes a few non-substantive and clarifying changes to the language contained within the Notes section of the CBOE Proprietary Products Sliding Scales table, which the Exchange believes will enhance the section's readability. For example, the Exchange has eliminated the sentence ''Mini-options and SROs are excluded from the CBOE Proprietary Products Sliding Scale'' and instead clarified where and when those products are excluded (*i.e.,* SROs are not eligible for the reduce [sic] transaction fee discounts and Mini-Options are not counted towards the ADV volume thresholds). Additionally, the Exchange is amending the last sentence of the Notes section relating to ETH and RTH volume, which the Exchange believes will make the sentence easier to read and avoid potential confusion. For example, the Exchange proposes to eliminate the reference to ''VIX and SPX/SPXW'' volume and ''Underlying Symbol List A''. The Exchange notes that these changes are not substantive and do not change the applicability of the sliding scales to ETH or make any other changes as to how the sliding scales apply.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[9] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes the proposal to change the qualifying volume thresholds for the reduced fees in the Proprietary Sliding Scale is reasonable because it adjusts for current volume trends and demographics across the Clearing TPH proprietary population and rationalizes fees across that population. The Exchange notes that the rebalance of tiers also still allows the Exchange to maintain an incremental

[6] For this example, all volumes listed exclude volume in SROs, Mini-Options and contracts for which a strategy cap has been applied.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f(b)(4).

incentive for Clearing TPHs to strive for the highest tier level. The Exchange believes it is equitable and not unfairly discriminatory because the proposed changes to the qualifying volume thresholds apply to all Clearing TPHs.

The Exchange believes increasing the rates in each of the tiers of the Proprietary Sliding Scale (and thereby reducing the overall discount) is reasonable because it still provides Clearing TPHs an opportunity to receive notable discounted rates on classes in Underlying Symbol list A for reaching certain qualifying volume thresholds that they would not otherwise receive (now just a smaller discount). Additionally, the Exchange notes that lower fees for executing more contracts is equitable and not unfairly discriminatory because it provides market participants with an incentive to execute more contracts on the Exchange. This brings greater liquidity and trading opportunity, which benefits all market participants. The Exchange believes that the proposed change is not unfairly discriminatory because it will apply to all Clearing TPHs that meet the qualifying volume thresholds. The Exchange also believes offering lower fees under the Proprietary Sliding Scale to Clearing TPHs and not other CBOE market participants is equitable and not unfairly discriminatory because Clearing TPHs must take on certain obligations and responsibilities, such as clearing and membership with the Options Clearing Corporation, as well as significant regulatory burdens and financial obligations, that other market participants are not required to undertake.

The adoption of the VIX Sliding Scale is reasonable because it will allow Clearing TPHs who engage in VIX options trading the opportunity to pay lower fees for such transactions. Similarly, aggregating the fees and trading activity of separate Clearing TPHs for the purposes of the VIX Sliding Scale if there is at least 75% common ownership between the Clearing TPHs and aggregating a Clearing TPH's fees and contracts executed pursuant to a CMTA agreement with the Clearing TPH's non-CMTA fees and contracts for the purpose of the VIX Sliding Scale is reasonable because this will allow more Clearing TPHs to qualify for the lowered fees at the higher volume tiers in the VIX Sliding Scale.

The proposed methodology to be used in calculating a Clearing TPH's total proprietary product transaction fees is reasonable because it provides Clearing TPHs who engage in VIX options trading with a second way to maximize their ability to reduce their proprietary products transaction fees. Subtracting VIX options volume from the Proprietary Sliding Scale when taking into account the VIX Sliding Scale to calculate proprietary product transaction fees is reasonable because it would be illogical (and not financially viable) to count VIX options volume twice (once in the VIX Sliding Scale and once in the Proprietary Sliding Scale) to allow a Clearing TPH to qualify for a lowered fee rate when the VIX options transactions (and volume such transactions created) only occurred once and fees were therefore only assessed on such transactions once.

Applying the VIX Sliding Scale to Clearing TPH (and their affiliates, in the manner described above) proprietary orders only is equitable and not unfairly discriminatory because, as noted above, Clearing TPHs take on a number of obligations and responsibilities (such as membership with the Options Clearing Corporation), significant regulatory burdens, and financial obligations that other market participants are not required to undertake. Further, the VIX Sliding Scale is designed to encourage increased Clearing TPH proprietary VIX options volume, which provides increased VIX options volume and greater trading opportunities for all market participants. Similarly, applying lower fee rates for Clearing TPHs who hit the higher VIX options contract volume tiers on the VIX Sliding Scale is equitable and not unfairly discriminatory because this is designed to encourage increased TPH proprietary VIX options volume, which provides increased VIX options volume and greater trading opportunities for all Clearing TPHs, including those who are not able to reach the higher-volume tiers. Moreover, the Exchange already offers other fee-lowering programs (such as the Fee Cap and Proprietary Sliding Scale) which entail lower fees for Clearing TPHs (and their affiliates, in the manner described above) and are limited to Clearing TPHs (and their affiliates, in the manner described above).

Applying the VIX Sliding Scale to VIX options and not to other products is equitable and not unfairly discriminatory because the Exchange has expended considerable time and resources in developing VIX options.

The Exchange believes (i) redefining the Proprietary Sliding Scale and adding references to the VIX Sliding Scale in Footnote 11 of the Fees Schedule and (ii) updating the reference to the ''CBOE Proprietary Products Sliding Scale'' to ''CBOE Clearing Trading Permit Holder Proprietary Products Sliding Scales'' in the Specified Proprietary Index Options Rate Table alleviates potential confusion by investors reading the Fees Schedule in light of the proposed change. Additionally, the Exchange believes its proposal to make non-substantive clarifying language changes to the Notes section, as well as its proposal to eliminate Footnote 23 and consolidate the description set forth in Footnote 23 within the Notes section of the current CBOE Proprietary Products Sliding Scale table will alleviate potential confusion and make the Fees Schedule easier to read and more streamlined. This avoidance of confusion removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because, while it applies only to Clearing TPH proprietary orders, Clearing TPHs take on a number of obligations and responsibilities (such as membership with the Options Clearing Corporation), significant regulatory burdens, and financial obligations that other market participants are not required to undertake. Further, the VIX Sliding Scale is designed to encourage increased Clearing TPH proprietary VIX options volume, which provides increased VIX options volume and greater trading opportunities for all market participants. Therefore, the Exchange believes that any potential effects on intramarket competition that the proposed changes to the Proprietary Sliding Scale and adoption of the VIX Sliding Scale may cause are therefore justifiable. The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change applies only to CBOE. To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and paragraph (f) of Rule 19b–4 [11] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2016–008 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–CBOE–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–CBOE–2016–008 and should be submitted on or before March 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Brent J. Fields,

Secretary.

[FR Doc. 2016–02986 Filed 2–12–16; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77089; File No. 4–694]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Order Approving and Declaring Effective a Proposed Plan for the Allocation of Regulatory Responsibilities Between the Financial Industry Regulatory Authority, Inc. and the National Stock Exchange, Inc.

February 9, 2016.

On December 23, 2015, the National Stock Exchange, Inc. (''NSX'') and the Financial Industry Regulatory Authority, Inc. (''FINRA'') (together with NSX, the ''Parties'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a plan for the allocation of regulatory responsibilities, dated December 22, 2015 (''17d–2 Plan'' or the ''Plan''). The Plan was published for comment on January 14, 2016.[1] The Commission received no comments on the Plan. This order approves and declares effective the Plan.

I. Introduction

Section 19(g)(1) of the Securities Exchange Act of 1934 (''Act''),[2] among other things, requires every self-regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or Section 19(g)(2) of the Act.[3] Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act [4] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[5] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[6] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[7] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its

[1] *See* Securities Exchange Act Release No. 76856 (January 8, 2016), 81 FR 1971.

[2] 15 U.S.C. 78s(g)(1).

[3] 15 U.S.C. 78q(d) and 15 U.S.C. 78s(g)(2), respectively.

[4] 15 U.S.C. 78q(d)(1).

[5] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[6] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[7] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[8] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for appropriate notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors; to foster cooperation and coordination among the SROs; to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system; and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. Proposed Plan

The proposed 17d–2 Plan is intended to reduce regulatory duplication for firms that are common members of both NSX and FINRA.[9] Pursuant to the proposed 17d–2 Plan, FINRA would assume certain examination and enforcement responsibilities for common members with respect to certain applicable laws, rules, and regulations.

The text of the Plan delineates the proposed regulatory responsibilities with respect to the Parties. Included in the proposed Plan is an exhibit (the ''National Stock Exchange (''NSX'') Rules Certification for 17d–2 Agreement with FINRA,'' referred to herein as the ''Certification'') that lists every NSX rule, and select federal securities laws, rules, and regulations, for which FINRA would bear responsibility under the Plan for overseeing and enforcing with respect to NSX members that are also members of FINRA and the associated persons therewith (''Dual Members'').

Specifically, under the 17d–2 Plan, FINRA would assume examination and enforcement responsibility relating to compliance by Dual Members with the rules of NSX that are substantially similar to the applicable rules of FINRA,[10] as well as any provisions of the federal securities laws and the rules and regulations thereunder delineated in the Certification (''Common Rules''). In the event that a Dual Member is the subject of an investigation relating to a transaction on NSX, the plan acknowledges that NSX may, in its discretion, exercise concurrent jurisdiction and responsibility for such matter.[11]

Under the Plan, NSX would retain full responsibility for surveillance and enforcement with respect to trading activities or practices involving NSX's own marketplace, including, without limitation, registration pursuant to its applicable rules of associated persons (*i.e.,* registration rules that are not Common Rules); its duties as a DEA pursuant to Rule 17d–1 under the Act; and any NSX rules that are not Common Rules.[12]

III. Discussion

The Commission finds that the proposed Plan is consistent with the factors set forth in Section 17(d) of the Act[13] and Rule 17d–2(c) thereunder[14] in that the proposed Plan is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among SROs, and removes impediments to and fosters the development of the national market system. In particular, the Commission believes that the proposed Plan should reduce unnecessary regulatory duplication by allocating to FINRA certain examination and enforcement responsibilities for common members that would otherwise be performed by NSX and FINRA. Accordingly, the proposed Plan promotes efficiency by reducing costs to common members. Furthermore, because NSX and FINRA will coordinate their regulatory functions in accordance with the Plan, the Plan should promote investor protection.

The Commission notes that, under the Plan, NSX and FINRA have allocated regulatory responsibility for those NSX rules, set forth in the Certification, that are substantially similar to the applicable FINRA rules in that examination for compliance with such provisions and rules would not require FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of the rule, or a common member's activity, conduct, or output in relation to such rule. In addition, under the Plan, FINRA would assume regulatory responsibility for certain provisions of the federal securities laws and the rules and regulations thereunder that are set forth in the Certification. The Common Rules covered by the Plan are specifically listed in the Certification, as may be amended by the Parties from time to time.

According to the Plan, NSX will review the Certification, at least annually, or more frequently if required by changes in either the rules of NSX or FINRA, and, if necessary, submit to FINRA an updated list of Common Rules to add NSX rules not included on the then-current list of Common Rules that are substantially similar to FINRA rules; delete NSX rules included in the then-current list of Common Rules that are no longer substantially similar to FINRA rules; and confirm that the remaining rules on the list of Common Rules continue to be NSX rules that are substantially similar to FINRA rules.[15] FINRA will then confirm in writing whether the rules listed in any updated list are Common Rules as defined in the Plan. Under the Plan, NSX will also provide FINRA with a current list of common members and shall update the list no less frequently than once each quarter.[16] The Commission believes that these provisions are designed to provide for continuing communication between the Parties to ensure the continued accuracy of the scope of the proposed allocation of regulatory responsibility.

The Commission is hereby declaring effective a Plan that, among other things, allocates regulatory responsibility to FINRA for the oversight and enforcement of all NSX rules that are substantially similar to the rules of FINRA for common members of NSX and FINRA. Therefore, modifications to the Certification need not be filed with the Commission as an

[8] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

[9] The proposed 17d–2 Plan refers to these common members as ''Dual Members.'' *See* Paragraph 1(c) of the proposed 17d–2 Plan. On December 14, 2015, the Commission approved a proposal from NSX to resume its status as a fully operational securities exchange and to re-commence trading operations. *See* Securities Exchange Act Release No. 76640 (December 14, 2015), 80 FR 79122 (December 18, 2015) (SR–NSX–2015–05) (approval order).

[10] *See* paragraph 1(b) of the proposed 17d–2 Plan (defining Common Rules). *See also* paragraph 1(f) of the proposed 17d–2 Plan (defining Regulatory Responsibilities). Paragraph 2 of the Plan provides that annually, or more frequently as required by changes in either NSX rules or FINRA rules, the parties shall review and update, if necessary, the list of Common Rules. Further, paragraph 3 of the Plan provides that NSX shall furnish FINRA with a list of Dual Members, and shall update the list no less frequently than once each calendar quarter.

[11] *See* paragraph 6 of the proposed 17d–2 Plan.

[12] *See* paragraph 2 of the proposed 17d–2 Plan.

[13] 15 U.S.C. 78q(d).

[14] 17 CFR 240.17d–2(c).

[15] *See* paragraph 2 of the Plan.

[16] *See* paragraph 3 of the Plan.

amendment to the Plan, provided that the Parties are only adding to, deleting from, or confirming changes to NSX rules in the Certification in conformance with the definition of Common Rules provided in the Plan. However, should the Parties decide to add a NSX rule to the Certification that is not substantially similar to a FINRA rule; delete a NSX rule from the Certification that is substantially similar to a FINRA rule; or leave on the Certification a NSX rule that is no longer substantially similar to a FINRA rule, then such a change would constitute an amendment to the Plan, which must be filed with the Commission pursuant to Rule 17d–2 under the Act.[17]

IV. Conclusion

This Order gives effect to the Plan filed with the Commission in File No. 4–694. The Parties shall notify all members affected by the Plan of their rights and obligations under the Plan.

It is therefore ordered, pursuant to Section 17(d) of the Act, that the Plan in File No. 4–694, between FINRA and NSX, filed pursuant to Rule 17d–2 under the Act, is approved and declared effective.

It is further ordered that NSX is relieved of those responsibilities allocated to FINRA under the Plan in File No. 4–694.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Brent J. Fields,

Secretary.

[FR Doc. 2016–02982 Filed 2–12–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77092; File No. SR–BOX–2016–03]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Add Rule 7310 (Drill-Through Protection) To Implement a New Price Protection Feature

February 9, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 27, 2016, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add Rule 7310 (Drill-through Protection) to implement a new price protection feature. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to adopt a mechanism that will prevent BOX from experiencing dramatic price swings. Specifically, the Exchange proposes to add Rule 7310 (Drill-through Protection) to implement a new price protection feature on BOX. The new price protection feature is designed to prevent orders and quotes from drilling through and executing at multiple price points. This circumstance can exist if, for example, a Market Order,[3] or aggressively priced Limit Order [4] or quote is entered that is larger than the total volume of contracts quoted at the top-of-book across all U.S. options exchanges.[5] Currently, without any protections in place, this could result in options executing at prices that have little or no relation to the theoretical price of the option.

For example, in a thinly traded option:

AWAY EXCHANGES

Exchange	Bid size	Bid price	Offer price	Offer size
Away Exchange #1	5	$2.00	$2.05	5
Away Exchange #2	5	2.00	2.10	5
Away Exchange #3	5	2.00	2.10	5
Away Exchange #4	5	2.00	2.15	5

[17] The Commission also notes that the addition to or deletion from the Certification of any federal securities laws, rules, and regulations for which FINRA would bear responsibility under the Plan for examining, and enforcing compliance by, common members, also would constitute an amendment to the Plan.

[18] 17 CFR 200.30–3(a)(34).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Market Orders submitted to BOX are executed at the best price obtainable for the total quantity available when the order reaches the BOX market. Any remaining quantity is executed at the next best price available for the total quantity available. This process continues until the Market Order is fully executed. Prior to execution at each price level, Market Orders are filtered pursuant to the procedures set forth in Rule 7130(b) to avoid trading through the NBBO. *See* Rule 7110(c)(3).

[4] Limit Orders entered into the BOX Book are executed at the price stated or better. Any residual volume left after part of a Limit Order has traded is retained in the BOX Book until it is withdrawn or traded (unless a designation described in Rule7110(d) is added which prevents the untraded part of a limit order from being retained). All Limit Orders (with the exception of those with a Good 'Til Cancelled (''GTC'') designation as described in Rule 7110(d)(1)) are automatically withdrawn by the Trading Host at market close.

[5] There are currently 12 options exchanges.

BOX PRICE LEVELS

Exchange	Bid size	Bid price	Offer price	Offer size
BOX order	5	$2.00	$2.05	5
BOX order	.....	.....	2.10	5
BOX order	.....	.....	3.20	5
BOX order	.....	.....	6.00	5

If the Exchange receives a routable Market Order to buy 50 contracts, the system will respond as described below:

5 Contracts will be executed at $2.05 against BOX.

5 contracts will be executed at $2.05 against Away Exchange #1.[6]

5 contracts will be executed at $2.10 against BOX.

5 contracts will be executed at $2.10 against Away Exchange #2.

5 contracts will be executed at $2.10 against Away Exchange #3.

5 contracts will be executed at $2.15 against Away Exchange #4.

After these executions, there are no other known valid away exchange quotes. The National Best Bid/Offer (''NBBO'') is therefore comprised of the remaining interest on the BOX Book,[7] specifically five (5) contracts at $3.20 and five (5) contracts at $6.00. In the absence of a price protection mechanism, the order would execute against the remaining interest at $3.20 and $6.00, resulting in a potential unexpected fill price.

To bolster the normal resilience and market behavior that persistently produces robust reference prices, BOX is proposing to create a level of protection that prevents the market from moving beyond set thresholds. The thresholds consist of a High Limit and Low Limit[8] which give an acceptable range for the order or quote to execute. When an order or quote is initially received by the Trading Host,[9] the Exchange will calculate the High Limit and Low Limit. These Limits present the applicable trading range within which the order or quote may execute (''Acceptable Trade Range''); an order or quote to buy (sell) will be allowed to execute up (down) to and including the maximum (minimum) price within the Acceptable Trade Range. The High Limit is calculated by adding the Price Collar,[10] as defined in further detail below, to the National Best Offer (''NBO'') and the Low Limit is calculated by subtracting the Price Collar from the National Best Bid (''NBB'').[11] If the NBBO on the opposite side of the order or quote is not available, the NBBO on the same side will be used for calculating the Limits.[12] For Complex Orders, the cNBBO[13] will be used when calculating the Limits. The High Limit and Low Limit are established upon initial entry of the order or quote; therefore, the Acceptable Trade Range remains the same for the complete processing of the order or quote.

The Price Collar is calculated by first determining the acceptable number of ticks[14] that an order or quote can trade away from the NBBO at the time the order or quote was received. The acceptable number of ticks is then multiplied by the minimum trading increment[15] applicable to that option series. Under the proposed price protection, Participants will be allowed to submit values for the acceptable number of ticks that their orders or quotes can trade away from the NBBO at the time the order or quote was received.[16] The Exchange will also supply default values on an underlying security basis. Unless determined otherwise by the Exchange and announced to Participants via Information Circular, the Exchange default value shall be three (3) ticks. The Exchange determined the default values based on Participant feedback and its own analysis. When calculating the Price Collar, and therefore the High Limit and Low Limit, the Exchange will use the most restrictive value for the acceptable number of ticks between the Participant-provided and the Exchange default.[17] This is designed to give Participants flexibility in the level of protection that they want while allowing the Exchange to provide a minimum level of protection for orders and quotes on BOX. Participants will be able to set the value for the acceptable number of ticks on an underlying security basis and may update the values on a daily basis with such changes taking effect on the following trading day. Any changes to the Exchange default values would take effect no earlier than the following trading day.

The proposed price protection mechanism will prevent eligible orders and quotes that are marketable from trading outside of the Acceptable Trade Range.[18] Specifically, the Exchange will not automatically execute, expose, or route eligible orders or quotes that are marketable if the price that the execution, exposure or route would occur at is outside of the Acceptable Trade Range. If, after an initial execution within the Acceptable Trade Range, an order or quote reaches outside the Acceptable Trade Range, then the remaining quantity of the incoming order or quote will be cancelled.

For the following examples, assume that a Participant provides that the acceptable number of ticks an order or quote can trade is two (2) and the Exchange default is three (3) ticks. The price protection will use the acceptable number of ticks provided by the Participant because it is more restrictive than the Exchange default. Assume also that the series is quoted in $0.01 increments so the Price Collar would be $0.02 (2*$0.01). If the series has a NBO of $1.25 and NBB of $1.20, then the High Limit would be $1.27 and the Low Limit would be $1.18 giving an Acceptable Trade Range of $1.27–$1.18.

[6] Prior to routing an order to an Away Exchange, the order is first exposed on the BOX Book at the NBBO. *See* Rule 7130(b)(3).

[7] The term ''BOX Book'' means the electronic book of orders on each single option series maintained by the BOX Trading Host. *See* Rule 100(a)(10).

[8] *See* Proposed Rule 7310(b).

[9] The term ''Trading Host'' means the automated trading system used by BOX for the trading of options contracts. *See* Rule 100(a)(66).

[10] *See* Proposed Rule 7310(b)(1).

[11] *See* propose Rule 7310(b).

[12] *See* proposed Rule 7310(b)(4).

[13] The term ''cNBBO'' means the best net bid and offer price for a Complex Order Strategy based on the NBBO for the individual options components of such Strategy.

[14] The term ''tick'' refers to one minimum trading increment for that options series.

[15] *See* Rule 7050.

[16] For non-complex orders, Participants will be permitted to provide values for this price protection mechanism based on the underlying security. For example, a Participant can provide different values for all series of Google and Apple options. For Complex Orders, Participants will be able to provide a value that will be applicable to all Complex Orders submitted by that Participant.

[17] The Participant must enter a value greater than zero (0).

[18] If an inbound order or quote trades against a Legging or an Implied Order, the proposed price protection mechanism will only apply to the incoming order or quote and not to any other order or quote of the other leg components or of the Complex Order Book involved in completing the trade. *See* proposed IM–7300–2 to Rule 7300.

Example #1

Assume the following interest is available in the applicable series:

Exchange	Offer price	Size
BOX order	$1.25	10
BOX order	1.26	30
Away Exchange	1.35	60

If the Exchange receives a Market Order to buy 100 contracts, the Exchange will respond as described below:

- 10 Contracts will be executed at $1.25 against the order on BOX.
- 30 contracts will be executed at $1.26 against the order on BOX.
- The remaining 60 contracts will be canceled because there is no available interest within the Acceptable Trade Range. The order on the Away Exchange to sell 60 contracts at $1.35 is above the High Limit of $1.27 and therefore the order cannot trade at that level and the Exchange will not route the order to the Away Exchange.

Example #2

Assume the following interest is available in the applicable series:

Exchange	Offer price	Size
BOX order	$1.25	50
BOX order	1.26	100
Away Exchange	1.27	50
BOX order	1.32	50

If the Exchange receives a Market Order to buy 200 contracts, the Exchange will respond as described below:

- 50 contracts will execute at $1.25 against the order on BOX.
- 100 contracts will execute at $1.26 against the order on BOX.
- 50 contracts will be routed to the Away Exchange to execute at $1.27.

Example #3

For this example, assume the same book interest exists as in example #2 above. However, assume that when the order is routed to the Away Exchange only 25 out of the 50 contracts are available to execute. The remaining 25 contracts would be returned to BOX. These 25 contracts would still have the same Acceptable Trade Range as when the order was first received by BOX ($1.27–$1.18); the Acceptable Trade Range does not get recalculated when an order returns from being routed. Therefore, the Exchange would cancel the remaining 25 orders because the only remaining interest is the order on BOX to sell at $1.32, which is outside the Acceptable Trade Range.

The proposed price protection feature will be available to all Participants and will be mandatory. If a Participant does not provide values for this feature, the Exchange's default values will be applied. Additionally, this proposed price protection feature will be available each trading day after the opening until the close of trading.[19]

The Exchange notes that the proposed price protections are intended to protect market participants from executions at prices that are significantly through the market. BOX believes that Participants who submit orders and quotes on the Exchange generally intend to receive executions at or near where the market was when the order or quote was received. Accordingly, the Exchange believes that the propose price protections will help prevent orders and quotes from trading at an excessive number of price points. BOX also believes that orders and quotes which trade at an excessive number of price points have the potential to create market volatility. As such, the Exchange believes these enhancements to the price protections available on BOX may also help limit unnecessary volatility.

The Exchange will provide Participants with notice, via Information Circular, about the implementation date of these proposed enhancements to the price protections.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[20] in general, and Section 6(b)(5) of the Act,[21] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. In particular, the propose [sic] rule change is consistent with these requirements in that it will reduce the negative impacts of sudden, unanticipated volatility in individual options, and serve to preserve an orderly market in a transparent and uniform manner, increase overall market confidence, and promote fair and orderly markets and the protection of investors. Specifically, BOX believes that the NBBO is a fair representation of then-available prices and accordingly the proposal helps to avoid executions at prices that are significantly worse than the NBBO.

BOX believes the proposed price protection functionality will remove impediments to and perfect the mechanism of a free and open market by providing Participants with greater flexibility and control over how orders and quotes interact. Instead of imposing a rigid one-size-fits-all price protection mechanism, the proposed functionality allows for customization and choice on the part of the Participant entering orders and quotes. As proposed, the Participant can select how many price points beyond the NBBO at the time the Exchange receives the order or quote

[19] The proposed price protection feature will not cover the opening of the market. The opening of the market is covered by Rule 7070.

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

that the Participant would like the order to trade.

BOX believes that providing default values and using the most restrictive value between the Participant-provided and default values is consistent with the stated goals of this feature and is necessary to achieve the proposed expansion of price protection on the Exchange. Providing default values will benefit the options market as a whole as this will ensure that all eligible orders and quotes have a minimal level of price protection.

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 proposal will provide market participants with additional price protection. The Exchange does not believe the proposed rule change imposes any burden on intramarket competition as the feature is available to all orders and quotes of all Participants. Nor will the proposal impose a burden on competition among the options exchanges because of the vigorous competition for order flow among the options exchanges. BOX competes with many other options exchanges. In this highly competitive market, market participants can easily and readily direct order flow to competing venues. Additionally, the proposed price protections are similar to those available on competing exchanges.[22]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[23] and Rule 19b–4(f)(6) thereunder.[24] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[25] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[26] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange may implement the proposed price protections as soon as possible, which will benefit all market participants. In support of its request, the Exchange states the proposed rule change will help to prevent dramatic price swings. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[27]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2016–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2016–03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2016–03 and should be submitted on or before March 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Brent J. Fields,

Secretary.

[FR Doc. 2016–02985 Filed 2–12–16; 8:45 am]

BILLING CODE 8011–01–P

[22] *See* PHLX Rule 1080(p).

[23] 15 U.S.C. 78s(b)(3)(A)(iii).

[24] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[25] 17 CFR 240.19b–4(f)(6).

[26] 17 CFR 240.19b–4(f)(6)(iii).

[27] For purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77097; File No. SR–MIAX–2016–05]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Implement a Professional Rebate Program

February 9, 2016.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 27, 2016, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule (the ''Fee Schedule'').

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule by implementing a Professional Rebate Program (the ''Program''). Under the Program, the Exchange will credit each Member the per contract amount resulting from any contracts executed from an order submitted by a Member for the account(s) of a (i) Public Customer that is not a Priority Customer; (ii) Non-MIAX Market Maker; (iii) Non-Member Broker-Dealer; or (iv) Firm (for purposes of the Professional Rebate Program, ''Professional'') which is executed electronically on the Exchange in all multiply-listed option classes (excluding mini-options, Non-Priority Customer to Non-Priority Customer orders, QCC Orders, PRIME Orders, PRIME AOC Responses, PRIME Contra-side Orders, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in MIAX Rule 1400 (collectively, for purposes of the Professional Rebate Program, ''Excluded Contracts'')), provided the Member achieves certain Professional volume increase percentage thresholds in the month relative to the fourth quarter of 2015.

The percentage thresholds in each tier are based upon the increase in the total volume submitted by a Member and executed for the account(s) of a Professional on MIAX (not including Excluded Contracts) during a particular month as a percentage of the total volume reported by the Options Clearing Corporation (OCC) in MIAX classes during the same month (the ''Current Percentage''), less the total volume submitted by that Member and executed for the account(s) of a Professional on MIAX (not including Excluded Contracts) during the fourth quarter of 2015 as a percentage of the total volume reported by OCC in MIAX classes during the fourth quarter of 2015 (the ''Baseline Percentage'').

The Member's percentage increase will be calculated as the Current Percentage less the Baseline Percentage. Members will receive rebates for contracts submitted by such Member on behalf of a Professional(s) that are executed within a particular percentage tier based upon that percentage tier only, and will not receive a rebate for such contracts that applies to any other tier.

Thus, the per contract credit of $0.10 for Tier 1 will apply to percentage thresholds from above 0.00% up to 0.005%. Next, the per contract credit of $0.15 for Tier 2 will apply only to percentage thresholds from above 0.005% up to 0.020%, beginning with the first contract executed in Tier 2, but will not apply to contracts executed in Tier 1, to which the $0.10 per contract credit applied. Thereafter, the per contract credit of $0.20 for Tier 3 will apply to percentage thresholds from above 0.020%, beginning with the first contract executed in Tier 3, but will not apply to contracts executed in Tier 1, to which the $0.10 per contract credit applied, and will not apply to contracts executed in Tier 2, to which the $0.15 per contract credit applied.

The below table applies to Members submitting orders for the account(s) of Professionals, as defined above.

Percentage thresholds of volume increase in multiply-listed options classes listed on MIAX (Current month compared to prior calendar quarter)	Per contract credit
Tier 1—Above 0.00%–0.005%	$0.10
Tier 2—Above 0.005%–0.020%	0.15
Tier 3—Above 0.020%	0.20

The increase in volume will be recorded for and credits will be delivered to the Member Firm that submits the order to the Exchange. The Exchange will aggregate the contracts resulting from Professional orders transmitted and executed electronically on the Exchange from affiliated Members for purposes of the thresholds above, provided there is at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A. A Member may request to receive its credit under the Program as a separate direct payment.

In the event of a MIAX System outage or other interruption of electronic trading on MIAX, the Exchange will adjust the increase in volume in multiply-listed options (not including Excluded Contracts) for the duration of the outage.

The purpose of the Program is to encourage Members to direct greater Professional trade volume to the Exchange. Increased Professional volume will provide for greater liquidity, which benefits all market participants. The practice of incentivizing increased retail customer order flow in order to attract liquidity is, and has been, commonly practiced in the options markets. As such, marketing

fee programs,[3] and customer posting incentive programs,[4] are based on attracting public customer order flow. The Program similarly intends to attract Professional order flow, which will increase liquidity, thereby providing greater trading opportunities and tighter spreads for other market participants and causing a corresponding increase in order flow from such other market participants.

The specific volume increase thresholds of the Program's tiers were set based upon business determinations and an analysis of current volume levels. The volume increase thresholds are intended to encourage firms that route some Professional orders to the Exchange to increase the number of such orders that are sent to the Exchange to achieve the next threshold and to provide incentive for new participants to send Professional orders as well. Increasing the number of such orders sent to the Exchange will in turn provide tighter and more liquid markets, and therefore attract more business overall. Similarly, the different credit rates at the different tier levels were based on an analysis of revenue and volume levels and are intended to provide increasing rewards for increasing the volume of trades sent to and executed on the Exchange. The specific amounts of the tiers and rates were set in order to encourage suppliers of Professional order flow to reach for higher tiers.

The purpose of calculating the Baseline Percentage as the total volume submitted by that Member and executed for the account(s) of a Professional on MIAX (not including Excluded Contracts) during the fourth quarter of 2015 as a percentage of the total volume reported by OCC in MIAX classes during the fourth quarter of 2015 is to maintain a constant measuring methodology based upon a sample of the most current market conditions available over a meaningful period of time (*e.g.,* three months), which should help Members submitting orders designated as Professional (as defined above) better understand the volume thresholds that will result in higher rebate amounts. As overall market conditions evolve, the Exchange will analyze and re-assess the calculation of the Baseline Percentage, and if its analysis justifies a change in the calculation of the Baseline Percentage due to changing overall market conditions, the Exchange will submit a proposed rule change reflecting this.

The Exchange proposes to leave certain Excluded Contracts (specifically, Non-Priority Customer to Non-Priority Customer orders, QCC Orders, PRIME Orders, PRIME AOC Responses, and PRIME Contra-side Orders) out of the calculation of the Current and Baseline percentages measuring contracts executed on MIAX and accordingly from the calculation of the percentage thresholds of volume increase. The Exchange believes that it is unnecessary and redundant to offer an incentive where both sides of the trade are submitted and executed by the same Member that submits such orders on behalf of Professionals.

Executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in MIAX Rule 1400 would be excluded from the calculation because the execution of such orders occurs on away markets. Providing rebates to Professional executions that occur on other trading venues would be inconsistent with the proposal. Therefore, such volume is excluded from the Program in order to promote the underlying goal of the proposal, which is to increase liquidity and execution volume on the Exchange.

The Exchange also proposes to exclude mini-options from the calculation of the percentage thresholds of volume increase. Mini-options contracts are excluded from the Program because the cost to the Exchange to process quotes, orders and trades in mini-options is the same as for standard options. This, coupled with the lower per-contract transaction fees charged to other market participants, makes it impractical to offer Members a credit for Professional mini-option volume that they transact.

The Exchange proposes limiting the Program to multiply-listed options classes on MIAX because MIAX does not compete with other exchanges for order flow in the proprietary, singly-listed products. In addition, the Exchange does not trade any singly-listed products at this time, but may develop such products in the future. If at such time the Exchange develops proprietary products, the Exchange anticipates having to devote a lot of resources to develop them, and therefore would need to retain funds collected in order to recoup those expenditures.

The credits paid out as part of the program will be drawn from the general revenues of the Exchange.[5] The proposed rule change is to take effect February 1, 2016.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(4) of the Act[7] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members, and issuers and other persons using its facilities.

The Exchange believes that the proposed Program is fair, equitable and not unreasonably discriminatory. The Program is reasonably designed because it will encourage providers of Professional order flow to send that Professional order flow to the Exchange in order to receive a credit in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants. The proposed Program is fair and equitable and not unreasonably discriminatory because it will apply equally to all Members submitting orders for the account(s) of Professionals. All similarly situated Professional orders are subject to the same rebate schedule, and access to the Exchange is offered on terms that are not unfairly discriminatory. In addition, the Program is equitable and not unfairly discriminatory because, while only Professional order flow qualifies for the Program, an increase in Professional order flow will bring greater volume and liquidity, which benefit all market participants by providing more trading opportunities and tighter spreads. Similarly, offering increasing credits to Members for submitting and executing higher percentages of total national customer volume (increased credit rates at increased volume tiers) is equitable and not unfairly discriminatory because such increased rates and tiers encourage Members to direct increased amounts of Professional contracts to the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The

[3] *See* MIAX Fee Schedule, Section 1(b).

[4] *See* NYSE Arca, Inc. Fees Schedule, page 4 (section titled ''Customer Monthly Posting Credit Tiers and Qualifications for Executions in Penny Pilot Issues'').

[5] Despite providing credits under the Program, the Exchange represents that it will continue to have adequate resources to fund its regulatory program and fulfill its responsibilities as a self-regulatory organization during the limited period that the Program will be in effect.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

Exchange believes that the proposed rule change would increase both intermarket and intramarket competition by incenting Members to direct orders for the account(s) of Professionals to the Exchange, which should enhance the quality of the Exchange's markets and increase the volume of contracts traded here. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow directed to the Exchange will benefit all market participants and improve competition on the Exchange. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange believes that the proposed rule change reflects this competitive environment because it reduces the Exchange's fees through rebates in a manner that encourages market participants to direct their customer order flow, to provide liquidity, and to attract additional transaction volume to the Exchange. Given the robust competition for volume among options markets, many of which offer the same products, implementing a volume increase based rebate program to attract order flow like the one being proposed in this filing is consistent with the above-mentioned goals of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[8] and Rule 19b–4(f)(2)[9] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email *to rule-comments@sec.gov.* Please include File Number SR–MIAX–2016–05 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–MIAX–2016–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2016–05 and should be submitted on or before March 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Brent J. Fields,

Secretary.

[FR Doc. 2016–02989 Filed 2–12–16; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77096; File No. SR–BOX–2016–05]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 7290 (Price Protection for Limit Orders) To Enhance the Protections Provided to Participants Executing Orders and Quotes on the Exchange

February 9, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 27, 2016, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7290 (Price Protection for Limit Orders) to enhance the protections provided to Participants executing orders and quotes on the Exchange. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Rule 7290 to enhance the protections provided to Participants executing orders and quotes on the Exchange. Specifically, BOX is proposing to expand the current price protections to (i) cover quotes, (ii) allow Participants to provide their own parameters, and (iii) make these price protections mandatory.

Background

Currently, the Exchange employs a filter on all incoming Limit Orders, including Limit Order modifications, pursuant to which the Trading Host [3] will reject these orders if priced outside an acceptable price range based on price parameters set by BOX. Specifically, as the Exchange receives Limit Orders, the Trading Host compares the price of each order against the contra-side National Best Bid/Offer (''NBBO'') at the time of order entry to determine if the price is outside the acceptable price parameter.[4] If the order is priced outside of the acceptable price parameter, it will be rejected.

Unless determined otherwise by the Exchange and announced to the Participants via Informational Circular, the price parameters are currently set at the price 100% greater than the National Best Offer (''NBO'') (for incoming buy orders), and 100% less than the National Best Bid (''NBB'') (for incoming sell orders), when the NBB/NBO is priced at or below $0.25; and the price parameters are set at the price 50% greater than the NBO (for incoming orders), and 50% less than the NBB (for incoming sell orders), when the NBB/NBO is priced above $0.25. The Exchange rejects incoming buy (sell) orders that are priced above (below) these parameters. For example, if the NBO is $1.20, a buy order priced above $1.80 ($1.20 * 1.50) will be rejected. Likewise, if the NBB is $1.10, a sell order priced below $0.55 ($1.10 * 0.50) will be rejected. If the NBO is $0.10, a buy order priced above $0.20 ($0.10 * 2.00) will be rejected. However, for non-Complex Orders, if the NBB is less than or equal to $0.25, the default limits set above will result in all incoming sell orders being accepted regardless of their limit.

The price protection feature is operational each trading day after the opening until the close of trading, and only applies to Limit Orders. This feature is available to all Participants; however, it is disabled until the Participant enables it by contacting the Exchange.

Proposal

BOX is now proposing to amend this price protection to expand and enhance the protections to Participants submitting orders and quotes to the Exchange. Specifically, the Exchange is proposing to: (i) Expand this price protection to cover quotes, (ii) allow Participants to provide their own parameters, and (iii) make these price protections mandatory. These proposed changes are designed to help Participants further control risk by checking prices against certain parameters.

Quotes

As previously mentioned, the current price protection is only available for Limit Orders. BOX is now proposing to expand this price protection to cover incoming quotes, including quote updates. Incoming quotes will be processed in the same way that Limit Orders are currently processed by this mechanism. Specifically, under the proposed rule, if an incoming quote is priced outside the price parameter it will be rejected by the Exchange.[5] Under the proposed change, when the Exchange receives quotes, the Trading Host will compare the price of each quote against the contra-side NBBO at the time of quote entry to determine if the price is outside the acceptable price parameter. Therefore, the proposed price protection will now cover all incoming Limit Orders and quotes. The proposed price protection mechanism for quotes will be applied in the same manner as the price protections currently applicable to Limit Orders; all quotes will be evaluated against the contra-side NBBO to determine whether it is within an acceptable price range before it is accepted by the Trading Host.

The Exchange believes that expanding this price protection mechanism to quotes will greatly enhance the risk protections available on the Exchange. The proposed enhancement will allow the Trading Host to reject quotes that likely resulted from human or operation error.

Parameters

The Exchange currently provides the values for the price parameters and Participants are not able to override them with their own more restrictive values. The Exchange is now expanding this price protection to allow Participants to provide their own parameters. Specifically, Participants will be allowed to provide values, on an underlying security basis, for: (i) The cut-off price,[6] (ii) the price parameters, and (iii) minimum price variation, as described in further detail below. Participants will be able to update the values on a daily basis with such changes taking effect on the following trading day. The Exchange will still provide Exchange default values on an underlying security basis and will use the most restrictive parameters between the Participant-provided values and the Exchange defaults. Unless determined otherwise by the Exchange and announced to Participants via Informational Circular, the Exchange defaults shall be: 100% for the contra-side NBB or NBO priced at or below $0.25; and 50% for the contra-side NBB or NBO priced above $0.25. Any changes to the Exchange default values would take effect no earlier than the following trading day. For example, assume for a particular option series the NBO is $0.80 and the NBB is $0.70. Also assume that the cut-off price provided by the Participant is $0.50 and the Exchange default is $0.25. The Participant provides a price parameter of 20% for options above the cut-off price and the Exchange default for above the cut-off price is 50%. The Exchange will use the 20% price parameter when validating incoming orders and quotes from the Participant because it is the most restrictive between the Exchange default and Participant-provided parameter. Therefore, the Exchange will reject any order or quote to buy at a price above $0.96 (0.80 * 1.20) or any order or quote to sell at a price below $0.56 (0.70 * .80).

A minimum price variation will apply when using the price parameters from either the Participant or Exchange to

[3] The term ''Trading Host'' means the automated trading system used by BOX for the trading of options contracts. *See* Rule 100(a)(66).

[4] The price parameter is set by the Exchange and is percentage of the NBBO on the opposite side of the incoming order.

[5] *See* Proposed Rule 7290(a).

[6] The ''cut-off price'' is the price level where options priced above and below it will have different price parameters. It is designed to allow Participants to have additional control by being able to apply different price parameters depending how high or low the price of the options series is.

calculate the acceptable price range.[7] Specifically, the minimum price variation is the minimum amount that can be added or subtracted from the contra-side NBB or NBO. The Exchange will apply the smallest minimum price variation between the Exchange default and the value provided by the Participant. For example, assume in the example above that instead of providing a price parameter of 20% the Participant provides a price parameter of 5%. Also, assume that the Participant provides a minimum price variation of $0.05 and the Exchange default is $0.10. The 5% price parameter would provide an acceptable price range of $0.84 to $0.665. However, the Exchange would use the minimum price variation provided by the Participant so the acceptable price range for incoming Limit Orders and quotes would be $0.85 to $0.65.

Mandatory

The current price protections for Limit Orders are not mandatory; a Participant may elect to use them but they are not required. BOX is now proposing that use of this price protection mechanism will be mandatory for all Limit Orders [8] and quotes on the Exchange. Additionally, as mentioned above, the Exchange will provide default values to ensure that all orders and quotes receive a baseline of protection. By providing Exchange default values and making this price protection mandatory, BOX is attempting to ensure that orders and quotes will have a minimum level of protection from executing at potentially erroneous prices even if a Participant does not provide its own price parameters or selects price parameters that are not restrictive enough.

Additional Changes

The rule change also clarifies what happens when the NBBO on the opposite side is not available and how the acceptable price range is calculated for complex orders. First, proposed Rule 7290(b)(3) will clarify that for Limit Complex Orders the cNBBO [9] will be used when calculating the acceptable price range. The Exchange will apply the price parameters to the cNBBO when determining the acceptable price range for an incoming Limit Complex Order. Next, the Exchange is proposing to clarify how the acceptable price range will be calculated when the NBBO on the opposite side of an incoming order or quote is not available. In this situation, the Exchange will use the NBBO on the same side of the incoming order or quote when calculating the acceptable price range.[10] If there is also no NBBO on the same side of the order or quote, no price protection will apply to such incoming order or quote.[11]

The Exchange notes that these proposed enhancements to the Exchange's price protections are intended to protect market participants from executions at prices that are significantly outside the Exchange's displayed market. BOX believes that Participants that submit orders and quotes on the Exchange generally intend to receive executions at or near the Exchange's displayed market. An order or quote that is priced significantly outside the Exchange's displayed market could be indicative of an error (*e.g.,* mistake in intended price, series, put/call) and could result in executions occurring at prices that have little or no relation to the theoretical price of the option. Accordingly, the Exchange believes these enhancements will help prevent erroneous orders and quotes, dramatic price swings and, potentially, executions qualifying as obvious errors [12] on the Exchange. The Exchange also believes that orders that are significantly priced outside the Exchange's displayed market have the potential to create market volatility by trading at different price levels until executed in their entirety. As such, BOX believes these enhancements to the price protections may also help limit unnecessary volatility.

The Exchange also proposes to fix a typographical error with the original rule text of Rule 7290. Specifically, BOX is proposing to capitalize Limit Orders in the text of Rule 7290 to make it consistent with the rest of the Exchange's Rulebook.

The Exchange will provide Participants with notice, via Information Circular, about the implementation date of these proposed enhancements to the price protections.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[13] in general, and Section 6(b)(5) of the Act,[14] in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest.

In particular, BOX believes that expanding the price protection to incoming quotes assures that executions will not occur at erroneous prices, thereby promoting fair and orderly markets. The Exchange believes that this proposed change is reasonable as it will protect Participants by mitigating the risk of having orders executed at erroneous prices.

BOX believes the propose rule change furthers the objectives of Section 6(b)(5) of the Act in that it permits the Exchange to address the entry of orders and quotes that are priced significantly away from the market that are likely to have resulted from human or operational error.[15] By being able to quickly and efficiently reject orders that likely resulted from such error, the proposed use of the price protections would promote a fair and orderly market. Additionally, by providing Participants with the flexibility to determine the price parameters while still providing Exchange defaults, the Exchange is ensuring that all Limit Orders and quotes will have at least a minimum level of protection while, at the same time, allowing Participants to apply more restrictive controls when needed.

The proposed price protections are similar to the protections available at other exchanges.[16] Accordingly, the Exchange believes that this proposal is designed to promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market.

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. BOX believes

[7] *See* Proposed IM–7290–1 to Rule 7290.

[8] The proposed price protections will cover Intermarket Sweep Orders (''ISO''), as defined in Rule 15000(h).

[9] The term ''cNBBO'' means the best net bid and offer price for a Complex Order Strategy based on the NBBO for the individual options components of such Strategy. *See* Rule 7240(a)(3).

[10] *See* Propose Rule 7290(b)(2).

[11] For Complex Orders, there is always a cNBBO calculated even if no NBBO exists on the individual options components of such Complex Order.

[12] *See* Rule 7170.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] The Exchange believes that these principles are equally applicable to ISOs. In an effort to protect market participants from the consequences of such order entry errors and prevent market disruptions that may be caused by erroneously placed orders, the Exchange has determined to apply price protections to ISOs on the Exchange.

[16] *See* NYSE Arca Rules 6.60 and 6.61, and NYSE MKT Rules 967NY and 967.1NY. The price protections at NYSE Arca and NYSE MKT are different in that the exchanges provide the price parameters and does not allow for a Participant to provide their own values.

the proposal will provide market participants with additional protection against erroneous executions. The Exchange does not believe the proposed rule change imposes any burden on intramarket competition as the feature is available to all Limit Orders and quotes of all Participants. Nor will the proposal impose a burden on competition among the options exchanges, because of the vigorous competition for order flow among the options exchanges. The Exchange competes with many other options exchanges. In this highly competitive market, market participants can easily and readily direct order flow to competing venues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [17] and Rule 19b–4(f)(6) thereunder.[18] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [19] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange may implement the proposed rule change without undue delay. In support of its request, the Exchange states the proposed rule change will provide additional protections against executions that are priced significantly away from the market as a result of human or operational error. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2016–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2016–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2016–05 and should be submitted on or before March 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Brent J. Fields,

Secretary.

[FR Doc. 2016–02988 Filed 2–12–16; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] For purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77085; File No. SR–NYSEMKT–2016–19]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 990NY(8) To Correct a Typographical Error

February 9, 2016.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on February 3 2016, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 990NY(8) to correct a typographical error. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 990NY (Definitions Related to Order Protection and Locked and Crossed Markets) to correct a typographical error. Specifically, in Rule 990NY(8), regarding the definition of an Intermarket Sweep Order, the Exchange proposes to replace the inaccurate reference to ''OTP Holder'' with ''ATP Holder.'' OTP Holder refers to individuals on NYSE Arca, Inc. who have been issued an Options Trading Permit on that exchange,[4] whereas ATP Holders refer holders of Amex Trading Permits on the Exchange.[5] The Exchange inadvertently included the reference to OTP Holder when it adopted the definitions for the Options Plan for Locked/Crossed Markets.[6] The proposed rule change would clarify Exchange rules and alleviate any investor confusion.

2. Statutory Basis

The Exchange believes that the proposed change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5),[8] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation [sic] transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Specifically, the Exchange believes that the proposed rule change will remove impediments to and perfect the mechanisms of a free and open market by correcting an inaccurate reference contained in Rule 990NY(8), which would clarify Exchange rules and alleviate any investor confusion. The Exchange believes this additional transparency and clarity removes a potential impediment to, and would contribute to perfecting, the mechanism for a free and open market and a national market system, and, in general, would protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather to correct an inaccurate reference in Rule 990NY(8), thereby reducing confusion and making the Exchange's rules easier to understand and navigate. The Exchange believes that the proposed rule change will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange may correct inaccurate references in its rules without undue delay. The Exchange believes that the proposed rule change will promote clarity in its rules and help eliminate potential investor confusion, consistent with the protection of investors and the public interest. The Commission agrees and has determined to waive the 30-day operative date so that the proposal may take effect upon filing.[14]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if

[4] *See* NYSE Arca Rule 1.1(q) (defining OTP Holder as ''a natural person in good standing who has been issued an OTP'').

[5] *See* Rule 900.2NY(5) (defining ATP Holder as ''a natural person, sole proprietorship, partnership, corporation, limited liability company or other organization, in good standing, that has been issued an ATP'').

[6] *See* Securities Exchange Act Release No. 60526 (August 18, 2009), 74 FR 43185 (August 26, 2009) (SR–NYSEAmex–2009–19).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2016–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2016–19. 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–NYSEMKT–2016–19 and should be submitted on or before March 8, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Brent J. Fields,

Secretary.

[FR Doc. 2016–02980 Filed 2–12–16; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(2)(B).

[16] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[PennantPark SBIC II, LP; License No. 02/02–0663]

Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that PennantPark SBIC II, LP, 590 Madison Avenue, 15th Floor, New York, NY 10022, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under section 312 of the Act and section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730) PennantPark SBIC II, LP proposes to provide debt financing to Triad Manufacturing, Inc., 4700 Goodfellow Blvd., Saint Louis, MO 63120.

The financing is brought within the purview of § 107.730(a)(1) of the regulations because PennantPark Investment Corporation, an Associate of PennantPark SBIC II, LP, owns more than ten percent of Triad Manufacturing, Inc., and therefore this transaction is considered a financing of an Associate requiring prior SBA approval.

Notice is hereby given that any interested person may submit written comments on the transaction, within fifteen days of the date of this publication, to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

Dated: February 3, 2016.

Mark L. Walsh,

Associate Administrator for Office of Investment and Innovation.

[FR Doc. 2016–03005 Filed 2–12–16; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 9446]

Culturally Significant Objects Imported for Exhibition Determinations: ''Pharaoh: King of Ancient Egypt'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015), I hereby determine that the objects to be included in the exhibition ''Pharaoh: King of Ancient Egypt,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at The Cleveland Museum of Art, Cleveland, Ohio, from on or about March 13, 2016, until on or about June 12, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: February 9, 2016.

Mark Taplin,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–03218 Filed 2–12–16; 8:45 am]

BILLING CODE 4710–05–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: January 1–31, 2016.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net*. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(e) and (f) for the time period specified above:

Approvals By Rule Issued Under 18 CFR 806.22(e)

1. Bell & Evans Realty, LLC, Esther's Project, ABR–201601001, Bethel Township, Lebanon County, Pa.; Consumptive Use of Up to 0.180 mgd; Approval Date: January 5, 2016.

2. Schreiber Foods, Inc., Shippensburg Plant, ABR–201601002, Borough of Shippensburg, Cumberland County, Pa.; Consumptive Use of Up to 0.499 mgd; Approval Date: January 13, 2016.

Approvals By Rule Issued Under 18 CFR 806.22(f)

1. Penn Virginia Oil & Gas Corporation, Pad ID: Cady #1, ABR–20091026.R1, Brookfield Township, Tioga County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: January 4, 2016.

2. Seneca Resources Corporation, Pad ID: DCNR 100 Pad D, ABR–201102002.R1, McIntyre Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 4, 2016.

3. Seneca Resources Corporation, Pad ID: DCNR 100 Pad C, ABR–201102007.R1, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 4, 2016.

4. SWEPI LP, Pad ID: Dietz 490, ABR–201010030.R1, Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 4, 2016.

5. SWEPI LP, Pad ID: Westbrook 487, ABR–201010040.R1, Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 4, 2016.

6. SWEPI LP, Pad ID: Zimmer 586, ABR–201010042.R1, Covington Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 4, 2016.

7. SWEPI LP, Pad ID: Signor 566, ABR–201010054.R1, Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 4, 2016.

8. SWEPI LP, Pad ID: Smithgall 293, ABR–201010055.R1, Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 4, 2016.

9. SWEPI LP, Pad ID: Guillaume 715, ABR–201011002.R1, Liberty Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 4, 2016.

10. SWEPI LP, Pad ID: Nestor 551, ABR–201011040.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 4, 2016.

11. SWEPI LP, Pad ID: Torpy & Van Order Inc. 574, ABR–201011043.R1, Covington Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 4, 2016.

12. SWEPI LP, Pad ID: Signor 583, ABR–201011059.R1, Covington Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 4, 2016.

13. SWEPI LP, Pad ID: Shaw Trust 500, ABR–201011070.R1, Sullivan Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 4, 2016.

14. SWEPI LP, Pad ID: Sevem 474, ABR–201011071.R1, Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 4, 2016.

15. SWEPI LP, Pad ID: Propheta 288, ABR–201011078.R1, Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 4, 2016.

16. SWEPI LP, Pad ID: Brewer 258, ABR–201012013.R1, Jackson Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 4, 2016.

17. SWEPI LP, Pad ID: Crittenden 593, ABR–201012016.R1, Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 4, 2016.

18. SWEPI LP, Pad ID: Swingle 591, ABR–201012018.R1, Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 4, 2016.

19. SWEPI LP, Pad ID: I G Coveney Revocable LVG Trust 282, ABR–201012032.R1, Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 4, 2016.

20. Anadarko E&P Onshore LLC, Pad ID: Eugene P Nelson Pad A, ABR–201103036.R1, Cascade Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 12, 2016.

21. EOG Resources, Incorporated, Pad ID: SGL 90C Pad, ABR–201011024.R1, Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: January 12, 2016.

22. SWN Production Company, LLC, Pad ID: Broughton, ABR–201012001.R1, Morris Township, Tioga County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: January 12, 2016.

23. SWEPI LP, Pad ID: Neal 815, ABR–201011058.R1, Chatham Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 12, 2016.

24. SWEPI LP, Pad ID: Groff 720, ABR–201012017.R1, Canton Township, Bradford County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 12, 2016.

25. SWEPI LP, Pad ID: Vanvliet 614, ABR–201012044.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 12, 2016.

26. SWEPI LP, Pad ID: Wilson 283, ABR–201012048.R1, Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 12, 2016.

27. SWEPI LP, Pad ID: Buckwalter 429, ABR–201012049.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 12, 2016.

28. SWEPI LP, Pad ID: Hitesman 580, ABR–201012052.R1, Covington Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 12, 2016.

29. Chesapeake Appalachia, LLC, Pad ID: Ramblinrose, ABR–201105003.R1, Tuscarora Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: January 21, 2016.

30. Chesapeake Appalachia, LLC, Pad ID: LRJ, ABR–201105011.R1, Rush Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: January 21, 2016.

31. Chesapeake Appalachia, LLC, Pad ID: Packard, ABR–201105022.R1, Sheshequin Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: January 21, 2016.

32. Chesapeake Appalachia, LLC, Pad ID: Lomison Inc., ABR–201105023.R1, Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: January 21, 2016.

33. Chesapeake Appalachia, LLC, Pad ID: Karp, ABR–201105027.R1, Lemon

Township, Wyoming County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: January 21, 2016.

34. Chief Oil & Gas, LLC, Pad ID: Taylor Drilling Pad #1, ABR–201104024.R1, Lenox Township, Susquehanna County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: January 21, 2016.

35. Chief Oil & Gas, LLC, Pad ID: Polovitch West Drilling Pad #1, ABR–201104025.R1, Nicholson Township, Wyoming County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: January 21, 2016.

36. Seneca Resources Corporation, Pad ID: Covington Pad M, ABR–201102031.R1, Covington Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 21, 2016.

37. Talisman Energy USA Inc., Pad ID: 05 202 Slovak M, ABR–201012031.R1, Windham Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: January 21, 2016.

38. Tenaska Resources, LLC, Pad ID: Brookfield #1 Pad, ABR–201601003, Brookfield Township, Tioga County, Pa.; Consumptive Use of Up to 1.0000 mgd; Approval Date: January 22, 2016.

39. Anadarko E&P Onshore LLC, Pad ID: Cynthia M. Knispel Pad A, ABR–201103038.R1, Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 22, 2016.

40. Chesapeake Appalachia, LLC, Pad ID: Hulslander, ABR–201104021.R1, Smithfield Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: January 21, 2016.

41. Chesapeake Appalachia, LLC, Pad ID: Kingsley, ABR–201104029.R1, Smithfield Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: January 22, 2016.

42. Chesapeake Appalachia, LLC, Pad ID: Moody, ABR–201104027.R1, Springfield Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: January 22, 2016.

43. Chesapeake Appalachia, LLC, Pad ID: Sensinger, ABR–201104002.R1, Franklin Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: January 22, 2016.

44. Chief Oil & Gas, LLC, Pad ID: Jerauld Drilling Pad #1, ABR–201105005.R1, Lenox Township, Susquehanna County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: January 22, 2016.

45. SWEPI LP, Pad ID: Neal 375, ABR–201012053.R1, Union Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 22, 2016.

46. SWEPI LP, Pad ID: Yourgalite 1119, ABR–201012056.R1, Farmington Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 22, 2016.

47. SWEPI LP, Pad ID: Marshall Brothers Inc. 731, ABR–201012057.R1, Jackson Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: January 22, 2016.

48. Talisman Energy USA Inc., Pad ID: 03 052 Watkins, ABR–201011048.R1, Columbia Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: January 22, 2016.

49. Talisman Energy USA Inc., Pad ID: 02 015 DCNR 587, ABR–201012012.R1, Ward Township, Tioga County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: January 22, 2016.

50. Cabot Oil & Gas Corporation, Pad ID: LopatofskyJ P1, ABR–201105015.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.5750 mgd; Approval Date: January 29, 2016.

51. SWN Production Company, LLC, Pad ID: TI–32 STAFFORD PAD, ABR–201601004, Morris Township, Tioga County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: January 29, 2016.

52. SWN Production Company, LLC, Pad ID: RU–74 TRETTER PAD, ABR–201601005, Great Bend Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: January 29, 2016.

53. SWN Production Company, LLC, Pad ID: TI—Kohler Pad, ABR–201601006, Liberty Township, Tioga County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: January 29, 2016.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: February 10, 2016.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2016–03051 Filed 2–12–16; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2016–2612]

Petition for Authorization To Exceed Mach 1; Summary of Petition Received; The Boeing Company

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request for an authorization to exceed Mach 1.

SUMMARY: This notice summarizes a petition received by the FAA requesting a special flight authorization as described in FAA regulations. The FAA is not requesting comments because a special flight authorization petition to exceed Mach 1 follows a separate regulatory process.

FOR FURTHER INFORMATION CONTACT: Rebecca Cointin, Office of Environment and Energy, Noise Division (AEE–100), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Telephone: (202) 267–4770.

This notice is published pursuant to 14 CFR 91.817.

Issued in Washington, DC, on February 3, 2016.

Curtis Holsclaw.

Deputy Director, Office of Environment and Energy.

Petition for Authorization To Exceed Mach 1

Docket No.: FAA–2016–2612.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: 91.817, and Appendix B to Part 91.

Description of Authorization Sought: The requested authorization seeks to allow the petitioner time-limited and conditional flight operations that exceed Mach 1 for a specified duration and location. Title 14 of the Code of Federal Regulations (14 CFR) part 91, Subpart I—Operating Noise Limits, addresses civil aircraft-generated sonic boom in § 91.817. An operator must comply with the flight conditions and limitations designated by the FAA in any authorization to exceed Mach 1 issued under appendix B to part 91. The petitioner is requesting that it be allowed to conduct flight test operations of civil F–15 fighter aircraft over a portion of the Kansas City Air Route Traffic Control Center (ARTCC) airspace that it has used when it operated supersonic aircraft in support of U.S. Department of Defense flights (conducted as public aircraft operations). The region of operation proposed by the petitioner extends approximately 200 miles west from St. Louis, Missouri (excluding the airspace within 50 nautical miles of St. Louis airport) and terminates laterally to the north and south approximately 50 miles inside the Missouri border with neighboring states. Supersonic flight operations above Mach 1 are proposed to be limited to 5 minutes in duration and to occur above 37,000 feet altitude. Proposed operations are for one airplane flown per month, with a total of 8 airplanes to be operated. The petitioner has requested that operations begin in

early 2016. The FAA is not requesting comments because Appendix B of § 91.817 contains its own process to submit a special flight authorization petition to exceed Mach 1 which the FAA will follow. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

[FR Doc. 2016–03003 Filed 2–12–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016 0008]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel TIME MACHINE; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before March 17, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0008. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.Carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel TIME MACHINE is:

Intended Commercial Use Of Vessel: ''Six Pack Charter''

Geographic Region: ''California''

The complete application is given in DOT docket MARAD–2016–XXXX at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

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

By Order of the Maritime Administrator.

Dated: February 4, 2016.

Gabriel Chavez,

Acting Secretary, Maritime Administration.

[FR Doc. 2016–03004 Filed 2–12–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016 0012]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ABBEY ROAD; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before March 17, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0012. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–465, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION:

As described by the applicant the intended service of the vessel ABBEY ROAD is:

Intended Commercial Use of Vessel: ''The Mission of Lake Superior Tall Ships is; To teach youth seamanship, personal responsibility, teamwork and self-esteem, while building skills in leadership and citizenship, to inspire all generations to be responsible stewards of Lake Superior (and all lakes, rivers, and oceans), and to promote awareness, appreciation and preservation of Lake Superior's marine communities and maritime heritage. To accomplish this mission, we take Sea Scouts, Girl Scouts, 4H members and youth from other organizations sailing for free. We are able to operate and maintain the vessel with the help of solicited and unsolicited donations. We would like to offer public passengers for hire sails to generate additional revenue to support our programs.''

Geographic Region: ''Wisconsin, Minnesota, Michigan''.

The complete application is given in DOT docket MARAD–2016–0012 at *http://www.regulations.gov.* Interested

parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

By Order of the Maritime Administrator.

Dated: February 4, 2016.

Gabriel Chavez,

Acting Secretary, Maritime Administration.

[FR Doc. 2016–03007 Filed 2–12–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015 0037]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel MISTY; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before March 17, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2015–0037. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MISTY is:

Intended Commercial Use of Vessel: ''6 Pack/Charter''.

Geographic Region: ''Minnesota, Wisconsin, Michigan, Maine, New Hampshire, Massachusetts, New York, Maryland, Virginia, North Carolina, South Carolina, Florida, Texas, Washington State, Oregon, California, Hawaii and Puerto Rico.''

The complete application is given in DOT docket MARAD–2015–0037 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

By Order of the Maritime Administrator.

Dated: February 4, 2016.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. 2016–03009 Filed 2–12–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016 0011]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LIMERICK; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before March 17, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0011. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel LIMERICK is:

Intended Commercial Use Of Vessel: ''Passenger vessel of six or fewer people''

Geographic Region: ''Washington and Alaska (excluding waters in Southeastern Alaska and waters North of a line between Gore Point to Cape Suckling [including the North Gulf Coast and Prince William Sound]).''

The complete application is given in DOT docket MARAD–2016–0011 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

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

By Order of the Maritime Administrator.

Dated: February 4, 2016.

Gabriel Chavez,

Acting Secretary, Maritime Administration.

[FR Doc. 2016–03008 Filed 2–12–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016–0007]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LONE STAR; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before March 17, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0007. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel LONE STAR is:

Intended Commercial Use of Vessel: ''Passenger Vessel''.

Geographic Region: ''Texas and Louisiana''.

The complete application is given in DOT docket MARAD–2016–0007 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

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

By Order of the Maritime Administrator.

Dated: February 4, 2016.

Gabriel Chavez,

Acting Secretary, Maritime Administration.

[FR Doc. 2016–03002 Filed 2–12–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0083; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming Model Year 2014 Mercedes-Benz SLK Class Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Receipt of petition.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that model year (MY) 2014 Mercedes-Benz SLK Class passenger cars (PC) that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS), are eligible for importation into the United States because they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the 2014 Mercedes-Benz SLK Class PC) and they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is March 17, 2016.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the

online instructions for submitting comments.

- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

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

How to Read Comments submitted to the Docket: You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

FOR FURTHER INFORMATION CONTACT: George Stevens, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies LLC (JK) of Baltimore, Maryland (Registered Importer R–90–006) has petitioned NHTSA to decide whether nonconforming 2014 Mercedes-Benz SLK Class PCs are eligible for importation into the United States. The vehicles which JK believes are substantially similar are MY 2014 Mercedes-Benz SLK Class PCs sold in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it compared non-U.S. certified MY 2014 Mercedes-Benz SLK Class PCs to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

JK submitted information with its petition intended to demonstrate that non-U.S. certified MY 2014 Mercedes-Benz SLK Class PCs, as originally manufactured, conform to many applicable FMVSS in the same manner as their U.S.-certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non U.S.-certified MY 2014 Mercedes-Benz SLK Class PCs, as originally manufactured, conform to: Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 113 *Hood Latch System,* 114 *Theft Protection,* 116 *Motor Vehicle Brake Fluids,* 118 *Power-Operated Window, Partition, and Roof panel System,* 124 *Accelerator Control Systems,* 126 *Electronic Stability Control Systems,* 135 *Light Vehicle Brake Systems,* 139 *New Pneumatic Radial Tires for Light Vehicles,* 201 *Occupant Protection in Interior Impact,* 202a *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

The petitioner also contends that the subject non-U.S certified vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* replacement of the original instrument cluster with the U.S.-model component and reprogramming the associated software as described in the petition.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* replacement of the front and rear turn signal and side marker lamps, headlamps, taillamps, stop lamps, backup lamps, and rear and side mounted reflex reflectors with U.S.-conforming components; reprogramming the vehicle software to activate the lamps such that they conform to the standard.

Standard No. 110 *Tire Selection and Rims:* installation of the required tire information placard.

Standard No. 111 *Rearview Mirrors:* inscription of the required warning statement on the face of the passenger side mirror, or replacement of that mirror with the U.S.-model component.

Standard No. 138 *Tire Pressure Monitoring Systems:* installation of U.S.-model pressure sensor, tire valve kit and tire pressure monitor module. The system must also be reprogrammed with the U.S.-model tire pressure loss warning code pack before reprograming the CAN E and changing the TPMS SA codes to ''installed.''

Standard No. 208 *Occupant Crash Protection:* replacement of; passenger side seat cushion with the U.S.-model seat cushion and sensor mat set, passenger side electrical wiring harness, passenger side seat belt, instrument panel, glove box, wire harness for the dash board, and airbag control module. Installation of U.S.-model driver's and passenger's knee airbags and U.S.-model air bag warning labels is also necessary.

In addition, documentation required as part of the owner's manual or

supplemental documentation must be provided by the RI.

After the new components are installed and wired the diagnostic programming/coding tool must be used to insure that the latest U.S.-model code packs are installed and operational in all applicable vehicle control modules, including the airbag control module.

Standard No. 209 *Seat Belt Assemblies:* replacement of the passenger seat belt assembly with U.S.-model components.

Standard No. 225 *Child Restraint Anchorage Systems:* inspection of all vehicles and replacement of any non U.S.-model child restraint anchorage system components with U.S.-model components (this may require seat replacement as part of modifications made to conform the vehicle to FMVSS No. 208) as necessary to conform to the requirements of the standard.

Standard No. 301 *Fuel System Integrity:* replacement of the following fuel system components with U.S.-model components as necessary to meet all applicable requirements of the standard: Evaporative system, fuel tank, fuel level unit with check valve (fuel tank pressure sensor), fuel filler cap, charcoal canister fuel shut off valve, vapor lines, wire harness for fuel tank pressure sensor and charcoal canister shut off valve.

After all replacements have been installed and wired the diagnostic programming/coding tool must be used to reprogram the ECU to select the ULE/LEV mode.

Standard No. 401 *Interior Trunk Release:* installation of all U.S.-model interior trunk release components.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicle near the left windshield pillar to meet the requirements of 49 CFR part 565.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2016–02968 Filed 2–12–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2016–XXXX]

Driving Behavioral Change in Traffic Safety

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) is announcing a meeting that will be held in Washington, DC on March 10–11, 2016 to explore ways to promote evidence-based behavior change in a traffic safety setting. The Driving Behavioral Change in Traffic Safety workshop will include presentations and discussions on a number of topics including analysis and feasibility of using different approaches to changing behavior; exploring promising untested strategies; identifying long-term pathways to eliminate fatalities; and considering how evidence-based behavior change strategies can be used in the broader policy discussion. Attendance at the meeting is limited to invited participants because of space limitations of the DOT Conference Center. However, the meeting will be available for live public viewing on the NHTSA Web site (*www.nhtsa.gov*).

DATES: The meeting will be held on March 10, 2016 from 8:30 a.m. to 4:30 p.m. and on March 11, 2016 from 8:30 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held in the Media Center of the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Ms. Esther Wagner, Telephone: 202–366–0932; email address: *esther.wagner@dot.gov*.

SUPPLEMENTARY INFORMATION: NHTSA will host a workshop to launch a new behavioral safety initiative. The Driving Behavioral Change in Traffic Safety forum will begin with an introduction by NHTSA Administrator Mark Rosekind, followed by presentation of the history of NHTSA's behavioral safety programs and a discussion of its status in practice. The forum will also include panels focusing on evidence-based behavior-change strategies; the feasibility of using different approaches to behavior change in traffic safety; consideration of promising strategies that are not evidence-based; a discussion of the changes necessary to achieve near-zero traffic safety deaths; and how to place this issue in the broader policy context to drive action.

Invited participants will include representatives from a number of topic areas including the behavioral sciences, traffic safety, and public health, as well as from diverse organizations including advocacy groups, industry, state government, and other Federal Agencies.

NHTSA will use this forum to discuss research and program objectives, consider priority public policy needs to address behaviors that lead to deaths and injuries in traffic crashes. Addressing behavioral safety is a top priority for this Administration.

Workshop Procedures. NHTSA will conduct the meeting informally. Thus, technical rules of evidence will not apply.

The workshop will consist of presentations and panels. Each panel will have two or three short presentations, a roundtable discussion among the panel members, and questions from the other participants to be discussed by the meeting participants.

Authority: 49 U.S.C. 30182.

Issued on: February 9, 2016.

Jeff Michael,

Associate Administrator for Research and Program Development.

[FR Doc. 2016–03040 Filed 2–12–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC) is publishing the name of 1 individual whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: OFAC's action described in this notice is effective on February 10, 2016.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202/622–2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Office of Foreign Assets Control, or Chief

Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treas.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs is also available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Notice of OFAC Actions

On February 10, 2016, OFAC blocked the property and interests in property of the following 1 individual pursuant to E.O. 13224, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism'':

Individual

1. AL-HABABI, Nayf Salam Muhammad Ujaym (a.k.a. AL-HABABI, Nayef Salam Muhammad Ujaym; a.k.a. AL-QAHTANI AL-QATARI, Farouq; a.k.a. AL-QAHTANI, Faruq; a.k.a. AL-QAHTANI, Sheikh Farooq; a.k.a. AL-QATARI, Faruq; a.k.a. AL-QATARI, Sheikh Farooq; a.k.a. FAROUK, Shaykh Imran), Afghanistan; DOB 01 Jan 1979 to 31 Dec 1981; POB Saudi Arabia; nationality Qatar; alt. nationality Saudi Arabia; Passport 592667 (Qatar) issued 03 May 2007; Sheikh (individual) [SDGT] (Linked To: AL QA'IDA).

Dated: February 10, 2016.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2016–03041 Filed 2–12–16; 8:45 am]

BILLING CODE 4810–AL–P

FEDERAL REGISTER

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Part II

Department of Transportation

Federal Transit Administration

Notice of FTA Transit Program Changes, Authorized Funding Levels and Implementation of Federal Public Transportation Law as Amended by the Fixing America's Surface Transportation (FAST) Act and FTA Fiscal Year 2016 Apportionments, Allocations, Program Information and Interim Guidance; Notice

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of FTA Transit Program Changes, Authorized Funding Levels and Implementation of Federal Public Transportation Law as Amended by the Fixing America's Surface Transportation (FAST) Act and FTA Fiscal Year 2016 Apportionments, Allocations, Program Information and Interim Guidance

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice announces changes in the Federal Transit Administration (FTA) programs in accordance with Federal public transportation law by the Fixing America's Surface Transportation (FAST) Act, which authorizes surface transportation programs of the Department of Transportation (DOT) for Federal fiscal years (FY) 2016 through 2020. This notice provides preliminary implementation instructions and guidance for the new and revised programs in FY 2016, announces the apportionment for programs authorized and funded with FY 2016 contract authority, and describes future plans for several discretionary programs. The notice also includes locations of FY 2016 apportionment tables and unobligated (or carryover) funds allocated under the discretionary programs from prior years.

FOR FURTHER INFORMATION CONTACT: For general information about this notice contact Kimberly Sledge, Director, Office of Transit Programs, at (202) 366–2053. Please contact the appropriate FTA Regional Office for any specific requests for information or technical assistance. FTA Regional Office contact information is available on FTA's Web site: *www.fta.dot.gov*.

An FTA headquarters contact for each major program area is included in the discussion of that program in the text of this notice. FTA recommends that stakeholders subscribe on FTA's Web site (*www.fta.dot.gov*) to receive email notifications when new information is available.

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I. Overview

This document contains important information and interim guidance about new FTA programs and changes to existing FTA program statutes (49 U.S.C. 5301, *et seq.*) as amended by the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114–94), signed by President Obama on December 4, 2015 and effective on October 1, 2015.

In addition, this document provides full year apportionments for FTA formula and discretionary programs that are available in FY 2016 pursuant to the *Consolidated Appropriations Act, 2016* (Pub. L. 114–113) (FY 2016 Appropriations Act). It also contains information on how FTA plans to administer its transit programs in FY 2016 and how funds appropriated and allocated prior to FY 2016 will be treated.

This notice highlights important changes to FTA programs, including new discretionary programs. It describes definitional changes and cross-cutting requirements, identifies repealed programs and provides specific information about FTA's statutory programs as amended by the FAST Act.

For each FTA program, FTA has provided information on the FAST Act authorized funding levels for FY 2016, the basis for apportionment or allocation of funds, requirements specific to the program, period of availability of funds, and other program information. A separate section provides information on pre-award authority and other requirements and guidance applicable to FTA programs and grant

administration. Finally, the notice includes references to tables on FTA's Web site that show amounts apportioned under the FAST Act, and approximately $1.04 billion in unobligated or carryover funding available in FY 2016 from prior years under certain discretionary programs carried out in accordance with prior authorization acts.

Information in this document includes references to the existing FTA program guidance and circulars. Some information may have been superseded by new provisions in the FAST Act, but these guidance documents and circulars remain a resource for program management in most areas. FTA intends to revise the guidance and circulars, as appropriate, with an opportunity for public comment where necessary.

II. FY 2016 Funding for FTA Programs

A. Federal Transit Law as Amended by the FAST Act Authorization and FY 2016 Appropriations

The FAST Act is the new five-year surface transportation authorization that provides FTA an authorization level of $11.78 billion in FY 2016 and a total of $61.56 billion from FY 2016 through FY 2020. The FAST Act realigns several transit programs, provides significant funding increases specifically for bus and bus facilities, creates several new discretionary programs and changes several cross-cutting requirements. The law continues and expands FTA authority to strengthen the safety of public transportation systems throughout the United States.

The FY 2016 Appropriations Act makes appropriations at the full-year level for FY 2016 through September 30, 2016. In section 5301 of title 49, United States Code, Congress specifies that funding is available for the development and revitalization of public transportation systems. Current funding availability for each program is identified in section IV of this notice and in Table 1 located on FTA's FY 2016 Apportionment Web page.

B. Oversight Takedown

The FAST Act modifies section 5338(f) [1] to provide for the following oversight takedowns of FTA programs: 0.5 percent of Metropolitan and Statewide Planning funds, 0.75 percent of Urbanized Area Formula funds, 1 percent of Fixed Guideway Capital Investment funds, 0.5 percent of Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities, 0.5 percent of Formula Grants for Rural Areas, 1 percent of State of Good Repair Formula funds, 0.75 percent for Grants for Buses and Bus Facilities, and 1 percent of Capital and Preventive Maintenance Projects for Washington Metropolitan Area Transit Authority funds. The funds are used to provide necessary oversight activities, such as oversight of the construction of any major capital project receiving Federal transit assistance; to conduct State Safety Oversight, drug and alcohol, civil rights, procurement systems, management, planning certification, and financial reviews and audits, as well as evaluations and analyses of grantee-specific problems and issues; and to generally provide technical assistance and correct deficiencies identified in compliance reviews and audits.

C. Previously Authorized Funding

Funds allocated or apportioned in FY 2013 through 2015 that remain unobligated and for which the program has been repealed or its activities have been consolidated with other programs under Chapter 53 will continue to be subject to the program and eligibility requirements that existed prior to the enactment of FAST and to new cross-cutting requirements found in section III.D. of this notice. These programs are as follows:

- Section 5312, Research, Development, Demonstration and Deployment
- Section 5313, Transit Cooperative Research Program
- Section 5314, Technical Assistance and Standards Development
- Section 5322, Human Resources and Training

For programs that are continued under FAST with amendments, the provisions of the FAST Act now apply to all unobligated funds from FY 2015 and prior years, as well as to FY 2016 funds. These programs are:

- Section 5305 Planning Programs
- Section 5307 Urbanized Area Formula Grants
- Section 5309 Fixed Guideway Capital Investment Grants
- Section 5310 Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities
- Section 5311 Formula Grants for Rural Areas
- Section 5339 Grants for Buses and Bus Facilities
- Section 20005(b) of MAP–21, Pilot Program for Transit-Oriented Development Planning

II. FAST Act and FY 2016 Appropriations: Highlights of Changes

The FAST Act furthers several important goals of the DOT, including safety, state of good repair, performance, innovation and program efficiency. The FAST Act continues FTA's expanded authority to strengthen the safety of public transportation systems throughout the United States. The Act also continues to emphasize restoring and replacing the Nation's aging public transportation infrastructure. The level of overall funding is increased for transit projects by 17 percent over the five-year authorization. Most notable is the increase to the Bus program where funding increased 62.5 percent in FY 2016 and nearly 90 percent over the five-year timeframe. In addition, the Bus Discretionary Grant program is reinstated and includes a set-aside for low or no emission vehicles and facilities.

A. Focus Areas

1. Safety Authority

The FAST Act amends 49 U.S.C. 5329 to provide FTA with expanded authority to strengthen the safety of public transportation systems throughout the United States by developing safety standards for the public transportation industry and granting FTA the authority to administer temporary Federal safety management and oversight if a State Safety Oversight Program is not being carried out in accordance with section 5329, has become inadequate to ensure the enforcement of Federal safety regulation, or is incapable of providing adequate safety oversight consistent with the prevention of substantial risk of death, or personal injury. If there is a failure to develop an adequate State Safety Oversight Program, FTA may withhold Federal funding from the State safety oversight program and from the urbanized area or State in which the rail transit system overseen by the State Safety Oversight Agency is located. Additional information on FTA's safety authority and the requirements under section 5329 can be found in section IV.M. of this notice.

2. Transit Award Management System (TrAMS)

FTA's Transportation Electronic Award and Management (TEAM) system closed for grant making and grant management on November 30, 2015. TEAM is currently available on a read-only basis and FTA is planning to transition to the Transit Award Management System (TrAMS) on February 16, 2016.

[1] All references to ''section'' herein refer to sections of Chapter 53 of Title 49 of the United States Code, unless otherwise specifically stated.

When deployed, TrAMS will offer a more efficient, user-friendly, and flexible tool to award and manage grants and cooperative agreements. It will provide more useful grant information and will strengthen the integrity and consistency of the grant award and management processes.

FTA will continue to provide training and technical assistance on using TrAMS. Training will include live webinars as well as training videos and guidance and technical assistance documents. Information on upcoming training will be posted at *http://www.fta.dot.gov/TrAMS*.

Recipient and grant award information and attachments as of November 30, 2015 will migrate from TEAM into TrAMS. Individual user account information and TEAM user roles (as of November 30, 2015) will also migrate into TrAMS. Once TrAMS is deployed, recipients will be able to manage TEAM awarded grants as well as create new applications in TrAMS for FY 2016 and prior year funding.

As reports contain cumulative information, FTA waived submission of monthly (for certain grantees) and quarterly reporting requirements for December, January, and February. The first monthly milestone progress reports (MPR) and Federal Financial Reports (FFR) will be due in TrAMS by March 30, 2016. The MPR and FFR reports for quarterly reporters will be due in TrAMS by April 30, 2016.

3. Between Car Barriers for Rail Systems

All rail systems operating in a level-boarding environment must have between car barriers. FTA's Acting Administrator issued a Dear Colleague letter related to between car barriers on September 15, 2015. See: *http://www.fta.dot.gov/newsroom/12910_16573.html*.

The Acting Administrator's letter focused on light rail systems, but rapid rail, commuter rail, and automated guideway systems are also required to have between car barriers. Specifically, 49 Code of Federal Regulations (CFR) sections 38.63, 38.85, 38.109, and 38.173 require between car barriers. Generally the requirement is, ''Where vehicles operate in a high-platform, level-boarding mode, devices or systems shall be provided to prevent, deter or warn individuals from inadvertently stepping off the platform between cars.'' The regulations do not prescribe a particular type of between car barrier. Rather, they state that suitable devices include pantograph gates, chains, and motion detectors. The purpose of this provision is to stop an individual from mistaking the gap between cars for an open vehicle door and then stepping off the platform. It should be noted the regulations do not define what constitutes a ''high platform,'' but the regulatory text links ''high-platform'' to ''level-boarding mode'' and must be considered in conjunction with other key parts of the regulations, which clearly point to the relationship between platform height and entrance to the vehicle floor. In a level-boarding/platform environment without between-car barriers, the hazard of falling to the track bed exists whenever a rail system operates trains of more than one car. This represents a physical risk to the traveling public as well as a financial risk to a transit agency.

4. Public Transportation Innovation

The FAST Act continues to emphasize innovation and renames FTA's research program at 49 U.S.C. 5312 to ''Public Transportation Innovation''. Innovation has been a focus area for both the DOT and FTA for a number of years. Most recently, FTA launched the XPEDITE Innovation initiative, which was an online dialogue that sought industry input on a number of innovation areas from technology advances to financing and project delivery. FTA's research program will continue to build on this effort, along with major departmental initiatives such a Beyond Traffic and Ladders of Opportunity with a significant emphasis on technology trends that increase public transportation efficiency, effectiveness and enhance the quality of customer travel. FTA research goals are to promote innovation through projects of national significance that improve our nation's public transportation operations, infrastructure, and the travelers' experience in three focus areas: Safety, asset innovation/management, and mobility. Under 49 U.S.C. 5312, as amended by the FAST Act, three categories of projects are authorized: Research; innovation and development; and demonstration, deployment and evaluation. FTA research projects achieve public transportation innovation goals by utilizing one or more of the following strategic directions:

- Enhancing equitable and accessible mobility for everyone
- Extending public private partnerships
- Ensuring public transportation efficiency, safety and reliability
- Enabling seamless, effective integration across transportation modes and applications, and;
- Expanding customer satisfaction and value.

FTA's research and innovation activities harness thought leadership and promising practices as directed in 49 U.S.C. 5312 through contracts and cooperative agreements across states, academic institutions, transportation providers, and private and nonprofit organizations.

5. Innovative Procurement (Section 3019)

Section 3019 of the FAST Act clarifies and emphasizes the ability of FTA recipients to enter into cooperative procurements and creates a pilot program. FTA will issue guidance in the near future related to cooperative procurement schedules, the Pilot Program for Nonprofit Cooperative Procurements, and the Joint Procurement Clearinghouse.

Additionally, Section 3019 modifies and clarifies FTA's leasing requirements and eligibility. See changes for lease requirements in the cross-cutting section III.D.4 of this Notice.

6. Tribal Transportation Self-Governance Program (Title 23 Federal-Aid Highways Program)

Section 1121 of the FAST Act establishes a Tribal Transportation Self-Governance Program (Self Governance) at 23 U.S.C. 207. The Self-Governance Program establishes specific criteria for determining eligibility for a tribe to participate in the program. DOT will implement this program in consultation with tribal representatives and other interested stakeholders. More information about this program will be provided at a later date.

7. Discretionary Programs

The FAST Act continues several discretionary programs that were authorized under MAP–21 and creates new ones. FTA is in the process of developing criteria and program guidance for the discretionary programs, which will be published in Notices of Funding Availability (NOFA). These include:

a. Transit-Oriented Development Planning Pilot Program (Section 20005(b) of MAP–21)

This discretionary pilot program for transit-oriented development (TOD) planning grants continues with no changes from what was included under MAP–21 and is authorized for $10 million for FY 2016. Eligible activities include comprehensive planning in corridors with proposed New Starts, Small Starts, or Core Capacity projects. The comprehensive plans should enhance economic development, ridership, and other goals; facilitate

multimodal connectivity and accessibility; increase access to transit hubs for pedestrian and bicycle traffic; enable mixed-use development; identify infrastructure needs associated with the project; and include private sector participation. A NOFA will be published announcing the amount of funding available, application procedures, project and applicant eligibility, and relevant selection criteria. For more information or questions on this program, please contact *Ben Owen at 202–366–5602 or Benjamin.Owen@dot.gov.*

b. Passenger Ferry Grant Program (49 U.S.C. 5307)

Of the amount authorized for Section 5307 each year, $30 million is set aside for the competitive discretionary Passenger Ferry Grant Program. Eligible projects are capital projects including ferries, terminals, and related infrastructure. FTA will allocate FY2016 funds for the discretionary passenger ferry competition to specific projects submitted in response to a NOFA published August 3, 2015. A Notice of Award will be published in the **Federal Register** announcing project selections. Awards will also be posted to FTA's Web site. For more information about this program, please contact *Vanessa Williams at 202–366–4818 or Vanessa.Williams@dot.gov.*

c. Innovative Coordinated Access and Mobility Pilot Program (49 U.S.C. 5310)

Section 3006(b) of the FAST Act created a new discretionary pilot program for innovative coordinated access and mobility. The $2 million program is open to Section 5310 recipients and subrecipients to assist in financing innovative projects for the transportation disadvantaged that improve the coordination of transportation services and non-emergency medical transportation (NEMT) services. Examples of eligible projects include the deployment of coordination technology, and projects that create or increase access to community One-Call/One-Click Centers. A NOFA will be published announcing the amount of FY 2016 funding available, application procedures, project and applicant eligibility, and relevant selection criteria. A report is required by December 31 of each year on the pilot program. The report will include a detailed description of the activities carried out under the pilot program, and an evaluation of the program, including an evaluation of the performance measures. For more information about this program, please contact *Danielle Nelson at 202–366–2160 or Danielle.nelson@dot.gov.*

d. Public Transportation on Indian Reservations (49 U.S.C. 5311(j))

The Tribal Transit program continues to be a set-aside from the Rural Areas Formula program and includes a $5 million competitive discretionary grant program. Eligible projects are planning, capital and operating. FTA will publish a NOFA announcing FY 2016 funding, application procedures, project and applicant eligibility, and relevant selection criteria. For more information or questions on this program, please contact *Elan Flippin at (202) 366–3800 or elan.flippin@dot.gov.*

e. Buses and Bus Facilities Competitive Grants (49 U.S.C. 5339(b))

The FAST Act authorizes a discretionary bus and bus facilities program in 49 U.S.C. 5339. In FY 2016 a total of $213 million is available to carry out the 5339(b) Bus and Bus Facilities Competitive Grant Program. Eligible capital projects include projects to replace, rehabilitate, lease, and purchase buses and related equipment and projects to purchase, rehabilitate, construct or lease bus-related facilities. FTA will publish a NOFA announcing the amount of FY 2016 funding available, application procedures, project and applicant eligibility, and relevant selection criteria. *For more information about the Bus and Bus Facilities competitive grants discretionary program, contact Sam Snead, Office of Transit Programs, at (202) 366–1089 or Samuel.Snead@dot.gov.*

f. Low or No Emission Grants (49 U.S.C. 5339(c))

The FAST Act authorizes a total of $55 million for the 5339(c) Low or No Emissions Program (Low-No Program). Eligible projects or program of projects include the acquisition and leasing of low or no emission vehicles, constructing and leasing facilities and rehabilitating or improving existing facilities to accommodate low or no emission vehicles. FTA will publish a NOFA announcing the amount of FY 2016 funding available, application procedures, project and applicant eligibility, and relevant selection criteria. *For more information about the Low or No Emission discretionary program, contact Sam Snead, Office of Transit Programs, at (202) 366–1089 or Samuel.Snead@dot.gov.*

FTA's research office will continue to implement and evaluate the MAP–21-authorized FY 2013–2015 resources available through the Low or No Emission Deployment Program (49 U.S.C. 5312). FTA expects to announce the final research deployment grants (FY 2015; $22.5M) in the summer of 2016. *For more information about the MAP–21-authorized Low or No Emission discretionary research program, contact Sean Ricketson, Office of Research, Demonstration and Innovation, at (202) 366–6678 or sean.ricketson@dot.gov.*

g. Positive Train Control (Section 3028)

Section 3028 of the FAST Act authorizes grants for positive train control. The discretionary program authorizes funding for FY 2017, and funds will be used for the installation of positive train control systems as required under 49 U.S.C. 20157, which states that Class I railroad carriers and each entity providing regularly scheduled intercity or commuter rail passenger transportation shall submit to the Secretary of Transportation a revised plan for implementing a positive train control system by December 31, 2018. The Federal Railroad Administration (FRA) will issue the Notice of Funding Availability and select the recipients of the positive train control grants. FTA will administer the grants once the allocations to recipients are announced.

B. Definitional Changes and New Definitions

Section 3002 of the FAST Act amended section 5302 to provide new definitions and to amend existing definitions that clarify eligibility and requirements within FTA's programs. Unless otherwise stated, these definitions apply across all FTA programs, and are effective with all funds obligated as of the date of this notice even if the funds were appropriated in earlier fiscal years. Several important definitional changes include:

1. Associated Transit Improvement

The term associated transit improvement means, with respect to any project or an area to be served by a project, projects that are designed to enhance public transportation service or use and that are physically or functionally related to transit facilities.

A few minor changes were noted in the definition of associated transit improvement. The word *functional* has been added as a description to landscaping and streetscaping. Also, a sentence was restructured to clarify the definition of bicycle access in (1)(E) to read *bicycle access, including bicycle storage shelters and parking facilities and the installation of equipment for transporting bicycles on public transportation vehicles.*

2. Capital Project

Several sections under the definition of capital project have been amended. Leasing equipment or a facility for use in public transportation no longer is subject to regulations that the Secretary prescribes or a cost effectiveness test. (See changes to leasing in the cross-cutting requirements section of this Notice).

The construction of space for commercial uses, including the outfitting of commercial space is now an eligible expense as a part of a joint development project. Language was removed stating that construction of space for commercial uses *does not* include outfitting of commercial space (other than intercity bus station or terminal) or a part of a public facility not related to public transportation.

A new provision was added for non-fixed route paratransit transportation services. It retains the eligibility for grant recipients to use up to 10 percent of a recipient's annual formula apportionment under sections 5307 and 5311 for the provision of non-fixed route Americans with Disabilities (ADA) complementary paratransit services at an 80 percent Federal share. Additionally, recipients now may use up to 20 percent of the amounts apportioned under sections 5307 and 5311 for ADA complementary paratransit service at an 80 percent Federal share if the recipient demonstrates that the recipient meets at least two of the following requirements: (I) Provides an active fixed route travel training program that is available for riders with disabilities, (II) provides that all fixed route and paratransit operators participate in a passenger safety, disability awareness, and sensitivity training class on at least a biennial basis, or (III) has memoranda of understanding in place with employers and the American Job Center to increase access to employment opportunities for people with disabilities.

The definition of a capital project now specifically includes associated transit improvements and technological changes or innovations to modify low or no emission vehicles (as defined in section 5339)(c)) or facilities.

3. Value Capture and Value Capture Revenue

The term ''value capture'' is a new term in the FAST Act that has been in practice for several years. Value capture is a financing strategy for recovering the increased property value from property located near public transportation resulting from investments in public transportation. Under section 5323(s), a recipient of assistance may use the revenue generated from value capture financing mechanisms as local matching funds for capital projects and operating costs eligible under Chapter 53 of title 49, United States Code. FTA will issue subsequent guidance on implementing this provision.

C. Repealed and Consolidated Programs in FTA's Authorization

The FAST Act focuses on improving the efficiency of grant program operations by consolidating certain programs and repealing other programs. For programs that expired on September 30, 2015, no new funding is authorized beyond fiscal year 2015. However, unobligated funds appropriated or authorized in FY 2015 and prior years remain available for obligation (for the established period of availability when appropriated or allocated) and expenditure, and follow program-specific requirements established under prior authorizations. In addition, there are new cross-cutting requirements under the FAST Act found in section III.D of this notice that apply to all grants obligated in FY 2016.

1. Research, Development, Demonstration and Deployment Program (49 U.S.C. 5312)

Formerly the Research, Development, Demonstration, and Deployment Program, the FAST Act amends 49 U.S.C. 5312 and renames this section, which authorizes FTA's research program, to ''Public Transportation Innovation.'' While maintaining the authority for research, development, demonstration, deployment, and evaluation activities as previously authorized in section 5312, the Low or No Emission Vehicle Deployment Program (Lo-No Deployment Program) is no longer authorized as a discretionary research-funded activity; however, FTA is currently in the process of evaluating eligible proposals submitted in response to the NOFA published on September 24, 2015 (closed on November 23, 2015) and anticipates allocating the FY 2015 appropriations to selected projects in the summer of 2016. FTA also continues to work with the recipients of the FY 2013–2014 Lo-No Deployment program to implement and evaluate vehicle and facilities projects. And, while no longer eligible in the research program, grantees can compete under the new discretionary authority found in the Bus and Bus Facilities program (section 5339) specifically for Low and No Emission vehicle and facility projects in FY 2016.

2. Transit Cooperative Research Program (49 U.S.C. 5313)

The FAST Act repeals section 5313 and moves the authority for the cooperative research program to section 5312 (49 U.S.C. 5312(i)) as described above.

3. Technical Assistance and Standards Development (49 U.S.C. 5314)

Formerly Technical Assistance and Standards Development, the FAST Act amends 49 U.S.C. 5314 to include new authority and renames the section to ''Technical Assistance and Workforce Development.'' In addition to funding technical assistance and standards development, this section now authorizes FTA's workforce development activities and the National Transit Institute (NTI), both formerly found in section 5322.

Of particular note, this section now authorizes recipients under sections 5307, 5337, and 5339 to use 0.5 percent of their available funds to pay for workforce development activities (up to an 80 percent Federal share). There is a separate eligibility to use 0.5 percent of available funds under the sections above for training at the National Transit Institute.

4. Bicycle Facilities (49 U.S.C. 5319)

Section 5319—Bicycle facilities has been repealed. This section had permitted a higher Federal share of up to 95 percent for bicycle access and other bicycle capital projects. However, capital projects for bicycle access, including bicycle storage shelters and parking facilities and the installation of equipment for transporting bicycles on public transportation vehicles remains eligible at an 80 percent Federal share.

5. Human Resources and Training (49 U.S.C. 5322)

The FAST Act repeals section 5322 and moves the authority for human resources and training to section 5314, as described above.

D. Cross-Cutting Programmatic Requirements and Changes

The following cross-cutting requirements apply to all FTA programs as of the date of this notice.

1. Metropolitan and Statewide Planning

The planning programs provide funding and procedural requirements to metropolitan areas and States for multimodal transportation planning that is cooperative, continuous, and comprehensive, resulting in long-range plans and short-range programs of projects that reflect transportation investment priorities. The planning

programs are jointly administered by FTA and the Federal Highway Administration (FHWA), which provides additional funding. There are six changes noted below. These requirements will not go into effect until FTA and FHWA complete a rulemaking process and issue further guidance. The amendments to sections 5305 and 5304:

- Place new emphasis on intercity transportation, including intercity buses and intermodal facilities that support intercity transportation, and commuter vanpool providers; and
- Clarify the selection and role of the transit representation on Metropolitan Planning Organization (MPO) policy boards in large urbanized areas. MPOs in urbanized areas designated as transportation management areas must include officials of agencies that administer or operate major modes of transportation, as well as representatives of public transit operators, on MPO policy boards. The representative of public transit shall be selected according to the bylaws or enabling legislation of the MPO, and the representative of public transit may also serve as a representative of a local municipality on the MPO board. For additional information please reference the Policy Guidance on Metropolitan Planning Organization (MPO) Representation Published on July 2, 2014, at *http://www.fta.dot.gov/documents/Transit_Rep_Fed_Register.pdf.*
- The scope of the planning process should improve the resiliency and reliability of the transportation system, in addition to the eight pre-existing goals established under MAP–21, and reduce the vulnerability of the existing transportation infrastructure to natural disasters.
- MPOs and State DOTs should provide public ports, intercity bus operators and employer-based commuting programs with a reasonable opportunity to comment on transportation plans.
- Place greater emphasis on the congestion management process. MPOs that serve transportation management areas shall develop a congestion management plan with input from employers, private and public transit providers, transportation management associations, and organizations that provide low-income individuals transportation access to jobs and job related services.
- The Statewide transportation plan must include a description of the performance measures and performance targets. State DOTs are also required to provide a system performance report evaluating the condition and performance of the transportation system.

In addition to changes in sections 5303 and 5304, FTA notes the Metropolitan and Statewide planning processes continue to emphasize a performance-based planning process: MPOs and State DOTs must establish performance targets that address forthcoming U.S. DOT-issued national performance measures that are based on the goals outlined in the legislation– safety, infrastructure condition, congestion reduction, system reliability, economic vitality, environmental sustainability, reduced project delivery delays, transit safety, and transit asset management. MPOs also must coordinate their performance targets, to the maximum extent practicable, with performance targets set by FTA grantees under the new performance measure requirements for safety and state of good repair. Transportation Improvement Programs (TIPs) must include a description of the anticipated progress toward achieving the performance targets resulting from implementation of the TIP. By October 1, 2017, the DOT is to provide Congress with a report evaluating the effectiveness of performance-based planning and assessing the technical capacity of MPOs in smaller areas to undertake performance-based planning.

2. Provision of Non-Fixed Route Paratransit Under ADA

The FAST Act amended the definition of capital projects relative to Americans with Disabilities Act (ADA) complementary paratransit services in 49 U.S.C. 5302. Specifically, grant recipients that are in compliance with applicable requirements of the ADA, including both fixed route and demand responsive service, may continue to expend up to 10 percent of the recipient's annual formula apportionment under sections 5307 and 5311 for ADA complementary paratransit service at an 80 percent Federal share. In addition, grant recipients may now expend up to 20 percent of the recipient's annual formula apportionment under sections 5307 and 5311 for ADA complementary paratransit service, at an 80 percent Federal share, if the recipient provides evidence to the applicable FTA Regional office that it meets at least two of the following requirements:

(1) Provides an active fixed-route travel training program that is available for riders with disabilities.

(2) Provides that all fixed route and paratransit operators participate in a passenger safety, disability awareness, and sensitivity training class on at least a biennial basis.

(3) Have memoranda of understanding in place with employers and the American Job Center to increase access to employment opportunities for people with disabilities.

Eligibility for using formula funds at an 80 percent Federal share for ADA service is contingent on compliance with ADA requirements for both fixed route and demand responsive service. FTA recipients must certify compliance with the ADA annually, and are subject to compliance review activities conducted by FTA to monitor compliance and correct deficiencies.

3. Buy America

The FAST Act amended the Buy America requirements to provide for a phased increase in the domestic content for rolling stock. For FY16 and FY17, the cost of components and subcomponents produced in the United States must be more than 60 percent of the cost of all components. For FY18 and FY19, the cost of components and subcomponents produced in the United States must be more than 65 percent of the cost of all components. For FY20 and beyond, the cost of components and subcomponents produced in the United States must be more than 75 percent of the cost of all components. There is no change to the requirement that final assembly of rolling stock must occur in the United States. FTA will be issuing guidance on the implementation of the phased increase in domestic content in the near future.

4. Leasing

The FAST Act amends the definition of Capital project in section 5302 to remove the requirement that leasing equipment or a facility for use in public transportation is subject to regulations limiting those leases to those that are more cost effective than purchase or construction. FTA will therefore no longer enforce 49 CFR part 639 Capital Leases. Recipients should therefore refer to leasing eligibility under 2 CFR part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, specifically part 200.465 *Rental costs of real property and equipment.*

Although the regulatory requirements are eliminated, section 3019 of the FAST Act requires all recipients of capital leases to submit to FTA, no later than 3 years after the date on which the lease was entered, a report evaluating the overall costs and benefits of leasing rolling stock and comparing the expected short-term and long-term

maintenance costs of leasing versus buying rolling stock.

Although already eligible under FTA's programs, section 3019 of the FAST Act emphasizes that power sources separately installed in and removed from a zero emission vehicle may be acquired through capital lease.

5. Project Management Oversight

The FAST Act amended the project management oversight statute, 49 U.S.C. 5327, to specify that FTA conduct a review of a grantee's compliance with its approved project management plan for a major capital project on a quarterly basis, rather than monthly, unless the grantee is not in compliance with the project management plan and the project is at risk of running over budget and behind schedule, in which case FTA may conduct more frequent reviews. Section 5327 also requires a grantee for a major capital project to submit quarterly updates of the project budget and schedule. These changes in oversight practice will apply to all major capital projects.

6. Incremental Costs of Art and Non-Functional Landscaping Prohibited

The FAST Act makes ineligible the incremental costs of incorporating art or non-functional landscaping into facilities, including the costs of an artist on a design team.

7. Use of Geographic Preferences in Hiring

Section 415 of Title IV of the FY2016 Consolidated Appropriations Act continues the provision in Section 418 of the Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113–235 that FTA is prohibited from using appropriated funds for the year to implement, administer or enforce section 18.36(c)(2) of title 49, Code of Federal Regulations, for construction hiring purposes. Section 18.36(c)(2) prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation bids or proposals. The provisions of 49 CFR 18.36(c)(2) have been recodified in substantially similar form at 2 CFR 200.319(b). Although Congress did not address the change in codification in Section 415, FTA believes that Congress intended to apply section 415 to grants subject to 2 CFR 200.319(b). FTA will administer Section 415 in accordance with this intent.

Please note, however, that Section 192 of the FY2016 Consolidated Appropriations Act provides that FTA may assist a contract under title 49 of the United States Code that utilizes a geographic, economic, or any other hiring preference on a contract or construction project with which the Department of Transportation is assisting, only if the grant recipient certifies the following: (1) That except with respect to apprentices or trainees, a pool of readily available but unemployed individuals possessing the knowledge, skill, and ability to perform the work that the contract requires resides in the jurisdiction; (2) that the grant recipient will include appropriate provisions in its bid document ensuring that the contractor does not displace any of its existing employees in order to satisfy such hiring preference; and (3) that any increase in the cost of labor, training, or delays resulting from the use of such hiring preference does not delay or displace any transportation project in the applicable Statewide Transportation Improvement Program or Transportation Improvement Program. FTA will provide additional guidance on these provisions in the near future.

II. Program-Specific Information

A. Metropolitan Planning Program (49 U.S.C. 5303 and 5305(d))

Section 5305(d) authorizes Federal funding to support a cooperative, continuous, and comprehensive planning program for transportation investment decision-making at the metropolitan area level. The specific requirements of metropolitan transportation planning are set forth in 49 U.S.C. 5303 and further explained in 23 CFR part 450, as incorporated by reference in 49 CFR part 613, Statewide Transportation Planning; Metropolitan Transportation Planning. State Departments of Transportation (DOTs) are direct recipients of funds allocated by FTA, which are then sub-allocated to Metropolitan Planning Organizations (MPOs), for planning activities that support the economic vitality of the metropolitan area.

The metropolitan transportation planning process must establish a performance-based approach in which the MPO will develop specific performance targets that address transportation system performance measures (to be issued by U.S. DOT), where applicable, to use in tracking progress towards attaining critical outcomes. These performance targets will be established by MPO's in coordination with States and transit providers. MPOs will provide a system performance report that evaluates the progress of the MPO in meeting the performance targets in comparison with the system performance identified in prior reports.

This funding must support work elements and activities resulting in balanced and comprehensive intermodal transportation planning for the movement of people and goods in the metropolitan area. Comprehensive transportation planning is not limited to transit planning or surface transportation planning, but also encompasses the relationships among land use and all transportation modes, without regard to the programmatic source of Federal assistance. Eligible work elements or activities include, but are not limited to studies relating to management, mobility management, planning, operations, capital requirements, and economic feasibility; evaluation of previously funded projects; peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analysis among MPOs and other transportation planners; work elements and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment; development of coordinated public transit human services transportation plans. An exhaustive list of eligible work activities is provided in FTA Circular 8100.1C, *Program Guidance for Metropolitan Planning and State Planning and Research Program Grants,* dated September 1, 2008. For more about the Metropolitan Planning Program, *contact Victor Austin, Office of Planning and Environment at (202) 366–2996 or victor.austin@dot.gov.*

1. Authorized Amounts

The FAST Act authorizes $108.14 million in FY 2016, $110.35 million in FY 2017, $112.66 million in FY 2018, $115.05 million in FY 2019 and $117.49 million in FY 2020 to provide financial assistance for metropolitan planning needs under section 5305.

Fiscal year	2016	2017	2018	2019	2020
Funds Authorized	*$108,141,510*	*$110,347,597*	*$112,664,897*	*$115,053,393*	*$117,492,524*

The table above shows the funding amounts authorized for the Metropolitan Planning Program.

2. FY 2016 Funding Availability

In FY 2016, $108,141,510 is available for the period October 1, 2015 through September 30, 2016 to the Metropolitan Planning Program (section 5305(d)) to support metropolitan transportation planning activities set forth in section 5303. The total amount apportioned for the Metropolitan Planning Program to States for use by MPOs in urbanized areas (UZAs) is $107,600,802 as shown in the table below, after the deduction for oversight (authorized by section 5338).

METROPOLITAN PLANNING PROGRAM—FY 2016

Total Appropriation	$108,141,510
Oversight Deductions	(540,707)
Total Apportioned	107,600,803

3. Basis for Formula Apportionment

The FAST Act did not change the funding formula. Of the amounts authorized in section 5305, 82.72 percent is made available to the Metropolitan Planning program. Eighty percent of the funds are apportioned on a statutory basis to the States based on the most recent decennial Census for each State's UZA population. The remaining 20 percent is provided to the States based on an FTA administrative formula to address planning needs in larger, more complex UZAs. The amount published for each State includes the supplemental allocation.

4. Requirements

The State allocates Metropolitan Planning funds to MPOs in UZAs or portions thereof to provide funds for planning projects included in a one or two-year program of planning work activities (the Unified Planning Work Program, or UPWP) that includes multimodal systems planning activities spanning both highway and transit planning topics. Each State has either reaffirmed or developed, in consultation with their MPOs, an allocation formula among MPOs within the State, based on the 2010 Census. The allocation formula among MPOs in each State may be changed annually, but any change requires approval by the FTA Regional Office before grant approval. Program guidance for the Metropolitan Planning Program is found in FTA Circular 8100.1C, *Program Guidance for Metropolitan Planning and State Planning and Research Program Grants,* dated September 1, 2008.

5. Period of Availability

The Metropolitan Planning program funds apportioned in this notice are available for obligation during FY 2016 plus three additional fiscal years. Accordingly, funds apportioned in FY 2016 must be obligated in grants by September 30, 2019. Any FY 2016 apportioned funds that remain unobligated at the close of business on September 30, 2019, will revert to FTA for reapportionment under the Metropolitan Planning program.

B. State Planning and Research Program (49 U.S.C. 5304 and 5305(e))

This program provides financial assistance to States for statewide transportation planning and other technical assistance activities, including supplementing the technical assistance program provided through the Metropolitan Planning program. The specific requirements of Statewide transportation planning are set forth in 49 U.S.C. 5304 and further explained in 23 CFR part 450 as referenced in 49 CFR part 613, Statewide Transportation Planning; Metropolitan Transportation Planning; Final Rule. State DOTs are required to reference performance measures and performance targets within the Statewide Planning process. This funding must support work elements and activities resulting in balanced and comprehensive intermodal transportation planning for the movement of people and goods. Comprehensive transportation planning is not limited to transit planning or surface transportation planning, but also encompasses the relationships among land use and all transportation modes, without regard to the programmatic source of Federal assistance. For more information, contact *Victor Austin, Office of Planning and Environment at (202) 366–2996 or victor.austin@dot.gov*.

1. Authorized Amounts

FAST authorizes $22,590,490 in FY 2016, $23,051,336 in FY 2017, $23,535,414 in FY 2018, $24,034,364 in FY 2019 and $24,543,893 in FY 2020 to provide financial assistance for statewide planning and other technical assistance activities under section 5305. As specified in law, this represents the 17.28 percent of the amounts authorized for section 5305 that are allocated to the Statewide Planning and Research program, as shown below.

Fiscal year	2016	2017	2018	2019	2020
Funds Authorized	$22,590,490	$23,051,336	$23,535,414	$24,034,364	$24,543,893

2. FY 2016 Funding Availability

In FY 2016, $22,590,490 is available for the period October 1, 2015 through September 30, 2016 to the State Planning and Research Program (section 5305(e)). The total amount apportioned for the State Planning and Research Program (SPRP) is $22,477,537 as shown in the table below, after the deduction for oversight (authorized by section 5338).

STATEWIDE PLANNING PROGRAM—FY 2016

Total Appropriation	$22,590,490
Oversight Deductions	(112,953)

STATEWIDE PLANNING PROGRAM—FY 2016—Continued

Total Apportioned	22,477,537

States' apportionments for this program are displayed in Table 2.

3. Basis for Formula Apportionment

The FAST Act did not change the funding formula. Of the amount authorized in section 5305, 17.28 percent is allocated to the State Planning and Research program. FTA apportions funds to States by a statutory formula that is based on the most recent decennial Census data available, and the State's UZA population as compared to the UZA population of all States.

4. Requirements

Funds are provided to States for Statewide transportation planning programs. These funds may be used for a variety of purposes such as planning, technical studies and assistance, demonstrations, and management training. In addition, a State may authorize a portion of these funds to be used to supplement Metropolitan Planning funds allocated by the State to its UZAs, as the State deems appropriate. Program guidance for the State Planning and Research program is found in FTA Circular 8100.1C, *Program Guidance for Metropolitan Planning and State Planning and Research Program Grants,* dated September 1, 2008.

5. Period of Availability

The State Planning and Research program funds apportioned in this notice are available for obligation during FY 2016 plus three additional fiscal years. Accordingly, funds apportioned in FY 2016 must be obligated in grants by September 30, 2019. Any FY 2016 apportioned funds that remain unobligated at the close of business on September 30, 2019 will revert to FTA for reapportionment under the State Planning and Research program.

C. Urbanized Area Formula Program (49 U.S.C. 5307)

Section 5307 authorizes Federal assistance for capital, planning, job access and reverse commute projects, and, in some cases, operating assistance for public transportation in urbanized areas. An urbanized area (UZA) is an area with a population of 50,000 or more that has been defined and designated as such by the U.S. Census Bureau. Program funds are apportioned to urbanized areas through a statutory formula. In addition, $30 million is allocated each year under this program to passenger ferry projects through a discretionary funding competition.

For more information about the Urbanized Area Formula Program, contact *Tara Clark, Office of Transit Programs, at (202) 366–2623 or tara.clark@dot.gov.*

1. Authorized Amounts

The FAST Act authorizes $4,538,905,700 in FY 2016, $4,629,683,814 in FY 2017, $4,726,907,174 in FY 2018, $4,827,117,606 in FY 2019 and $4,929,452,499 in FY 2020 to provide financial assistance for urbanized areas under section 5307. Of the amount authorized and appropriated for section 5307 in each year, $30 million is set aside for the competitive discretionary Passenger Ferry Grant Program, 0.5 percent will be apportioned to eligible States for State Safety Oversight (SSO) Program grants, and 0.75 percent will be set aside for program oversight.

Further information on the Passenger Ferry Discretionary Program is provided in section III of this notice. Further information on the 0.5 percent apportionment to States for the State Safety Oversight Program is provided in section IV.N. of this notice.

Fiscal year	2016	2017	2018	2019	2020
Funds Authorized	$4,538,905,700	$4,629,683,814	$4,726,907,174	$4,827,117,606	$4,929,452,499

2. FY 2016 Funding Availability

A total of $4,538,905,700 is available for the section 5307 program for FY 2016. The total amount apportioned to urbanized areas is $4,911,077,833 which includes the addition of amounts apportioned to UZAs pursuant to the Section 5340 Growing States and High Density States Formula factors. This amount excludes the set-aside for the Passenger Ferry Discretionary Program, apportionments under the State Safety Oversight Program, and oversight (authorized by section 5338), as shown in the table below:

URBANIZED AREA FORMULA PROGRAM—FY 2016

Total Appropriation	[a] $4,538,905,700
Oversight Deduction	(34,041,793)
Ferry Discretionary Program	(30,000,000)
State Safety Oversight Program	(22,694,529)
Section 5340 High Density States	263,964,457
Section 5340 Growing States	194,943,998
Total Apportioned	4,911,077,833

[a] Includes 1.5 percent set-aside for Small Transit Intensive Cities Formula.

Table 3 displays the amounts apportioned under the Urbanized Area Formula Program.

3. Basis for Formula Apportionment

FTA apportions Urbanized Area Formula Program funds based on statutory formulas. Congress established four separate formulas that are used to apportion portions of the available funding: The section 5307 Urbanized Area Formula Program formula, the Small Transit Intensive Cities (STIC) formula, the Growing States and High Density States formula, and a formula based on low-income population.

The FAST Act did not make changes to the apportionment formula for FY 2016 through 2018. Section 5336(h) states that 3.07 percent of section 5307 funds available are for apportionment are allocated on the basis of low-income persons residing in urbanized areas, with 25 percent of these funds allocated to areas below 200,000 in population and the remaining 75 percent allocated to areas 200,000 and over in population. The percentage of funds allocated on the basis of Small Transit Intensive Cities (STIC) factor remains 1.5 percent. However, the STIC factor will increase to 2.0 percent in FY 2019. Finally, The 0.5 percent takedown for State Safety Oversight grant program still applies.

Consistent with prior apportionment notices, Table 3 shows a total section 5307 apportionment for each UZA, which includes amounts apportioned under each of these formulas. Detailed information about the formulas is provided in Table 4. For technical assistance purposes, the UZAs that receive STIC funds are listed in Table 6. FTA will provide breakouts of the funding allocated to each UZA under these formulas upon request to the FTA Regional Office.

a. Section 5307—Urbanized Area Formula

For UZAs between 50,000 and 199,999 in population, the section 5307 formula is based on population and population density. For UZAs with populations of 200,000 and more, the formula is based on a combination of bus revenue vehicle miles, bus passenger miles, bus operating costs, fixed guideway vehicle revenue miles, and fixed guideway route miles, as well as population and population density. The Urbanized Area Formula is defined in 49 U.S.C. 5336.

To calculate a UZA's FY 2016 apportionment, FTA used population and population density statistics from the 2010 Census and validated mileage and transit service data from transit providers' 2014 National Transit Database (NTD) Report Year (when applicable). Consistent with section 5336(b), FTA has included 27 percent of the fixed guideway directional route miles and vehicle revenue miles from eligible urbanized area transit systems, but which were attributable to rural areas outside of the urbanized areas from which the system receives funds. FTA has calculated dollar unit values for the formula factors used in the Urbanized Area Formula Program apportionment calculations. These values represent the amount of money each unit of a factor is worth in this year's apportionment. The unit values change each year, based on all of the data used to calculate the apportionments, as well as the amount appropriated by Congress for the apportionment. The dollar unit values for FY 2016 are displayed in Table 5. To replicate the basic formula component of a UZA's apportionment, multiply the dollar unit value by the appropriate formula factor (*i.e.,* the population,

population x population density), and when applicable, data from the NTD (*i.e.,* route miles, vehicle revenue miles, passenger miles, and operating cost).

b. Small Transit Intensive Cities Formula

Under the STIC formula, FTA apportions 1.5% of the funds made available for section 5307 to UZAs that are under 200,000 in population and have public transportation service that operates at a level equal to or above the industry average for UZAs with a population of at least 200,000, but not more than 999,999. STIC funds are apportioned on the basis of one or more of six performance categories: Passenger miles traveled per vehicle revenue mile, passenger miles traveled per vehicle revenue hour, vehicle revenue miles per capita, vehicle revenue hours per capita, passenger miles traveled per capita, and passengers per capita. In FY 2019, the STIC set aside will increase from 1.5% to 2%.

The data used to determine a UZA's eligibility under the STIC formula and to calculate the STIC apportionments was obtained from the NTD reports for the 2014 reporting year. Because performance data change with each year's NTD reports, the UZAs eligible for STIC funds and the amount each receives may vary each year. UZAs that received funding through the STIC formula for FY 2016 are listed in Table 6.

c. Section 5340—Growing States and High Density States Formula

FTA also apportions funds to qualifying UZAs and States according to the section 5340 Growing States and High Density States formula, as shown in Table 3. For fiscal year 2016 FTA apportions $194,943,998 to UZAs in Growing States and $263,964,457 to UZAs in High Density States. More information on this program and its formula is found in section IV.P. of this notice.

d. Low-Income Population

The FAST Act does not change the formula factor for low-income population. Of the amount authorized and appropriated for the Urbanized Area Formula Program in each year, 3.07 percent is apportioned on the basis of low income population. A total of $139,344,405 has been apportioned to UZAs based on this formula for FY 2016, as described below.

As specified in statute, FTA apportions 75 percent of the available funds to UZAs with a population of 200,000 or more. Funds are apportioned based on the ratio of the number of low income individuals in each UZA to the total number of low income individuals in all urbanized areas of that size. FTA apportions the remainder of the funds (25 percent) to UZAs with populations of less than 200,000, according to an equivalent formula. The low income populations used for this calculation were based on the American Community Survey (ACS) data set for 2009–2013. This information is updated by the Census Bureau annually.

4. Eligible Expenses

Eligible activities include planning, engineering design and evaluation of transit projects and other technical transportation-related studies; capital investments in bus and bus-related activities such as replacement of buses, overhaul and rebuilding of buses; crime prevention and security equipment; construction of maintenance and passenger facilities; and capital investments in new and existing fixed guideway systems including rolling stock, overhaul and rebuilding of vehicles, track, signals, communications, and computer hardware and software. All preventive maintenance and some Americans with Disabilities Act complementary paratransit service costs are considered capital costs. For urbanized areas with populations less than 200,000, operating assistance is an eligible expense. In areas over 200,000 in population, operating assistance is an eligible expense if the special rule (100 Bus Rule) at 49 U.S.C. 5307(a)(2) applies. Job Access and Reverse Commute activities remain eligible under the program.

In addition, recipients may now use up to one-half of one percent of their section 5307 funds to support workforce development activities at an 80 percent Federal share; the eligible workforce development activities are defined in section 5314; see Section IV.K. of this notice for more information. This provision is new in section 5314 and is in addition to the one-half of one percent that recipients may use for training activities with the National Transit Institute.

5. Requirements

Program guidance for the Urbanized Area Formula Program is found in FTA Circular *9030.1E, Urbanized Area Formula Program: Program Guidance and Application Instructions,* dated January 16, 2014, and is supplemented by additional information and changes provided in this notice and that may be posted to section 5307 Web page. FTA is in the process of updating the program circular to incorporate changes resulting from FAST Act amendments to 49 U.S.C. 5307.

Key program requirements and changes that apply to all programs are addressed in section III.D. of this notice, ''Cross-Cutting Programmatic Requirements and Changes.'' The following subsections outline several important program requirements and changes that apply specifically to the Urbanized Area Formula Program.

In FY 2016, FTA will apportion funds to a new large UZA for which a designated recipient has not yet been selected. These funds will become available for grants once FTA has received documentation of the selection of a designated recipient (for the Lake Tahoe UZA identified in section 5303(r) Bi-State Metropolitan Planning Organization).

6. Period of Availability

Funds made available under Section 5307 are available for obligation during the year of apportionment plus five additional years. This is unchanged under the FAST Act. Accordingly, funds apportioned in FY 2016 must be obligated in grants by September 30, 2021. Any FY 2016 apportioned funds that remain unobligated at the close of business on September 30, 2021 will revert to FTA for reapportionment under the Urbanized Area Formula Program.

Funds allocated under the Passenger Ferry discretionary program follow the same period of availability as section 5307. Accordingly, funds allocated in FY 2016 must be obligated in grants by September 30, 2021. Any of the funds allocated in FY 2016 that remain unobligated at the close of business on September 30, 2021 will revert to FTA for reallocation under the Passenger Ferry program.

7. What's New and Other Program Highlights

a. Special Rule for Operating Assistance in Large Urbanized Areas

The FAST Act amended the special rule at 49 U.S.C. 5307(a)(2) to add demand response service. The special rule allows recipients in urbanized areas with populations of 200,000 or above and those that operate 100 or fewer buses in fixed route service or demand response, excluding ADA complementary paratransit service, during peak hours, to receive a grant for operating assistance subject to a maximum amount per system as explained below:

i. Public transportation systems that operate a minimum of 76 buses and a maximum of 100 buses in fixed route

service or demand response, excluding ADA complementary paratransit service, during peak service hours may receive operating assistance in an amount not to exceed 50 percent of the share of the apportionment that is attributable to such systems within the urbanized area, as measured by vehicle revenue hours.

ii. Public transportation systems that operate 75 or fewer buses in fixed route service or demand response, excluding ADA complementary paratransit service, during peak service hours may receive operating assistance in an amount not to exceed 75 percent of the share of the apportionment that is attributable to such systems within the urbanized area, as measured by vehicle revenue hours.

iii. A list of eligible recipients and their maximum operating assistance amounts for FY 2016 is shown in Table 3–A. FTA identified the systems eligible to use this provision and their maximum amounts for FY 2016 using data from the NTD for reporting year 2014. Operating assistance requires a 50 percent local match.

In accordance with section 5307(a)(2), FTA has calculated a fixed annual cap on operating assistance for each eligible agency that provides service in a large UZA. The cap is determined by dividing the UZA's apportionment by the total number of vehicle revenue hours reported from all public transportation operators and from all transit modes in the UZA, and then by multiplying this quotient by the number of bus vehicle revenue hours operated in the UZA by the eligible system. The result is the proportional share of the apportionment that is attributable to the qualifying system, as measured by vehicle revenue hours. This cap is calculated based on the FY 2016 apportionment for an eligible provider's UZA. Eligible systems operating in more than one UZA over 200,000 in population will receive separate operating caps from each UZA in which the system operates. The FY 2016 Apportionment Table 3A includes all eligible general public demand response operators.

In determining the amount of operating assistance available for specific systems in urbanized areas under the Special Rule, public transportation systems may execute a written agreement with one or more other public transportation systems within the urbanized area to allocate funds by a method other than by measuring vehicle revenue hours. Systems within the urbanized area may combine their individual operating assistance caps and allocate the combined funds using a method that is agreed upon by all of the systems. The method used should be documented in a written agreement, signed by all parties, and transmitted to FTA as a part of the split letter.

b. Equipment and Facilities Maintenance

Section 5307(c) is amended to require recipients to maintain equipment and facilities in accordance with the recipient's transit asset management plan.

c. Associated Transit Improvements

Designated recipients in UZAs with populations of 200,000 or more are no longer required to expend not less than one percent of the section 5307 funds apportioned to the UZA be set aside for associated transit improvements. Designated recipients must still submit an annual report listing projects carried out in the preceding year with these funds as part of the Federal fiscal year's final quarterly progress report in TrAMS. The report should include the following elements: (1) Grantee name; (2) UZA name and number; (3) FTA project number; (4) associated transit improvement category; (5) brief description of improvement and progress towards project implementation; (6) activity line item code from the approved budget; and (7) amount awarded by FTA for the project. The list of associated transit improvement categories and activity line item (ALI) codes may be found in the table of Scope and ALI codes in TrAMS.

It is the responsibility of the recipients in a UZA to identify associated transit improvement projects that will receive funding from the Urbanized Area Formula Program.

d. Increased Cap on Spending for ADA Paratransit Service

As under previous authorizations, recipients that are in compliance with the requirements of the ADA may use 10 percent of their annual formula apportionment for ADA paratransit service, funded at an 80 percent Federal share. The FAST Act increases the spending cap for ADA paratransit service to 20 percent of a recipient's annual formula apportionment under certain conditions. See sections III.D. and V.D for more information on this provision.

e. Eligibility for Safety Certification Training

Effective May 2015, FTA established an Interim Safety Certification Training Program. Recipients of section 5307 funds are permitted to use not more than 0.5 percent of their formula funds under the Urbanized Area Formula Program to pay not more than eighty percent of the cost of participation for an employee who is directly responsible for safety oversight to participate in public transportation safety certification training. The interim program will remain in place until the effective date of the final rule. FTA published a Notice of Proposed Rulemaking (NPRM) for this program on December 3, 2015. Comments were due on February 1, 2016.

D. Fixed Guideway Capital Investment Grant Program (49 U.S.C. 5309)

The Capital Investment Grant (CIG) Program includes four types of eligible projects—New Starts projects, Small Starts projects, Core Capacity Improvement projects, and Programs of Interrelated Projects. Funding is provided for construction of: (1) New fixed guideway systems or extensions to existing fixed guideway systems such as rapid rail (heavy rail), commuter rail, light rail, trolleybus (using overhead catenary), cable car, passenger ferries, and bus rapid transit operating on an exclusive transit lane for the majority of the corridor length that also includes features that emulate the services provided by rail fixed guideway including defined stations, traffic signal priority for public transit vehicles, and short headway bi-directional service for a substantial part of weekdays and weekends; (2) corridor-based bus rapid transit service that does not operate on an exclusive transit lane but includes features that emulate the services provided by rail fixed guideway including defined stations, traffic signal priority for public transit vehicles, and short headway bi-directional services for a substantial part of weekdays; (3) projects that expand the capacity by at least 10 percent of an existing fixed guideway corridor that is at capacity today or will be in five years; and (4) programs of two or more projects as described above that have logical connectivity with one another and will all begin construction in a reasonable timeframe.

Projects become candidates for funding under the Capital Investment Grant program by successfully completing steps in the process defined in section 5309 and obtaining a satisfactory rating under the statutorily-defined criteria. For New Starts and Core Capacity Improvement projects, the steps in the process include project development, engineering, and construction. For Small Starts projects the steps in the process include project development and construction. For

Programs of Interrelated Projects, the steps in the process depend on the combination of project types included. New Starts and Core Capacity Improvement projects receive construction funds from the program through a full funding grant agreement (FFGA) that defines the scope of the project and specifies the total multi-year Federal commitment to the project.

Small Starts projects receive construction funds through a single year grant or an expedited grant agreement that defines the scope of the project and specifies the Federal commitment to the project.

For more information about the Capital Investment Grant program contact Elizabeth Day, Office of Capital Project Development, at (202) 366–5159 or *elizabeth.day@dot.gov*. For information about published allocations contact Eric Hu, Office of Transit Programs, at (202) 366–0870 or *eric.hu@dot.gov*.

1. Authorized Amounts

The FAST Act authorizes $2,301,785,760 for FY 2016 through FY 2020 for the Capital Investment Grant program.

Fiscal year	2016	2017	2018	2019	2020
Funds Authorized	$2,301,785,760	$2,301,785,760	$2,301,785,760	$2,301,785,760	$2,301,785,760

2. FY 2016 Funding Availability

Although the program is authorized at $2,301,785,760 for FY 2016, the Appropriations Act makes $2,177,000,000 available for the section 5309 program for FY 2016. After the oversight deduction, $2,155,230,000 is available for eligible projects under the program.

NAME OF PROGRAM—FY 2016

Total Appropriation	$2,177,000,000
Oversight Deduction	(21,770,000)
Total Apportioned	2,155,230,000

3. Basis for Allocation

Funds are allocated on a discretionary basis and subject to program evaluation.

4. Eligible Expenses

See beginning of section D above.

5. Requirements

FTA will be completing a rulemaking and interim policy guidance documents for the Capital Investment Grant program to implement the changes made in FAST. Project sponsors should reference the FTA Web site at *www.fta.dot.gov* for the most current Capital Investment Grant program policy guidance to learn what is required to enter and advance through the program. Grant-related guidance is found in FTA Circular 9300.1B, Capital Investment Grant Program Guidance and Application Instructions, November 1, 2008; and C5200.1A, Full Funding Grant Agreement Guidance, December 5, 2002, which will be updated in the future to incorporate the changes made by the FAST Act.

6. Period of Availability

The FAST Act shortened the period of availability for section 5309 capital investment grant program funds from five years to four years, which is the fiscal year in which the amount is made available plus three additional years. Therefore, funds for a project identified in FY 2016 must be obligated for the project by September 30, 2019. Section 5309 funds that remain unobligated after four fiscal years to the projects for which they were originally designated may be made available for other section 5309 projects.

7. What's New and Other Program Highlights

a. New Starts and Core Capacity

The FAST Act amended the Capital Investment Grant Program (CIG) by changing slightly the eligibility parameters for New and Small Starts projects as described below, allowing joint intercity rail/public transportation projects to be eligible, limiting the maximum CIG share for New Starts projects to 60 percent, and clarifying how Programs of Interrelated Projects are to be evaluated and rated.

Under 49 U.S.C. 5309, as amended by the FAST Act, New Starts projects are defined as projects with a total capital cost of $300 million or greater or that are seeking $100 million or more in section 5309 funding. Previously, these thresholds were $250 million and $75 million respectively. Eligible New Starts projects are new fixed-guideway systems, such as rapid rail (heavy rail), commuter rail, light rail, streetcars, trolleybus (using overhead catenary), cable car, passenger ferries, and fixed guideway bus rapid transit, or an extension of any of these systems. Fixed guideway bus rapid transit is defined as operating on an exclusive transit lane for the majority of the corridor length and that also includes features that emulate the services provided by rail fixed guideway including defined stations, traffic signal priority for public transit vehicles, and short headway bi-directional service for a substantial part of weekdays and weekends.

Small Starts projects are defined as projects with a total capital cost less than $300 million and that are seeking less than $100 million in section 5309 funding. Previously, these thresholds were $250 million and $75 million respectively. Eligible Small Starts projects are those mentioned for the New Starts program, as well as corridor-based bus rapid transit projects that do not operate on a separated fixed guideway but include features that emulate the services provided by rail fixed guideway including defined stations, traffic signal priority for public transit vehicles, and short headway bi-directional services for a substantial part of weekdays. The previous authorization also required substantial, bi-directional service on weekends for corridor-based bus rapid transit projects but the FAST Act amended 49 U.S.C. 5309 to remove that requirement.

Core Capacity Improvement projects are defined as substantial, corridor-based investments in existing fixed guideway systems that are at capacity today or will be in five years. A Core Capacity Improvement project must increase the capacity of the existing fixed guideway system in the corridor by at least 10 percent. Core Capacity projects cannot include elements designed to maintain a state of good repair. This was not changed from the eligibility under MAP–21.

Additionally, the FAST Act amends section 5309 to define a Program of Interrelated Projects as the simultaneous development of two or more New Starts projects, Small Starts projects, or Core Capacity projects or any combination thereof. The projects in the Program must have logical connectivity to one another and construction must begin on the projects in the Program in a reasonable timeframe. Programs of Interrelated Projects may also include non-federally funded projects, which can count as match toward the overall Program. FTA is required to evaluate and rate a Program of Interrelated Projects as a whole rather than rating the individual projects in the Program. The FAST Act amended the evaluation

criteria in 49 U.S.C. 5309(i) that FTA must use when developing the ratings, indicating that if the Program of Interrelated Projects includes a combination of project types, the New Starts criteria should be used. Annually FTA must review the Program of Interrelated Projects to ensure it is adhering to its schedule.

The number of steps in the process for projects has not changed. For New Starts and Core Capacity Improvement projects, the steps in the process include project development, engineering, and construction. For Small Starts projects the steps in the process include project development and construction. FTA must evaluate and rate projects seeking section 5309 funding according to statutorily defined criteria at various steps in the process. There is a new provision that allows for an optional early rating for Small Starts projects after the completion of the National Environmental Policy Act (NEPA). FTA will implement amendments to 49 U.S.C. 5309 through rule-making and future policy guidance, which will be developed through a notice and comment process.

b. Expedited Project Delivery for Capital Investment Grants Pilot Program

The FAST Act repealed the pilot program with a similar name authorized under MAP–21 and replaced it with this new pilot program at section 3005(b) of the Fast Act. Eligible projects for the pilot program include New Starts, Small Starts, or Core Capacity improvement projects that have not yet received a full funding grant agreement. However the definitions of New Starts, Small Starts, and Core Capacity differ slightly from those used in the Capital Investment Grant program.

A New Starts project under the pilot program is defined as a project with a total capital cost of $300 million or greater or that is seeking $75 million or more in funding from the pilot program. A Small Starts project under the pilot program is defined as a project with a total capital cost less than $300 million and that is seeking less than $75 million in funding from the pilot program. A Core Capacity Improvement project under the pilot program is defined as a substantial, corridor-based investment in an existing fixed guideway system that is at capacity today or will be in five years. The Core Capacity Improvement project must increase the capacity of the existing fixed guideway system in the corridor by at least 10 percent. It can include elements designed to maintain a state of good repair.

The FAST Act allows for up to eight projects to be selected for the pilot program. Projects must be supported at least in part through a public-private partnership, but must be operated and maintained by employees of an existing provider of fixed guideway or bus rapid transit services in the area. The maximum Federal funding provided to projects selected for the pilot program is 25 percent.

The FAST Act also requires that FTA determine a proposed pilot project is justified based on its mobility improvements, environmental benefits, congestion relief, economic development effects, and estimated ridership and that it is supported by an acceptable degree of local financial commitment. FTA will publish guidance in a future **Federal Register** notice describing the process for project sponsors to apply to FTA for consideration as a pilot project.

E. Enhanced Mobility of Seniors and Individuals With Disabilities Program (49 U.S.C. 5310)

The Enhanced Mobility of Seniors and Individuals with Disabilities Program provides formula funding apportioned to direct recipients: States for rural (under 50,000) and small urban areas (50,000–200,000); and designated recipients chosen by the Governor of the State for large urban areas (populations of 200,000 or more); or a State or local governmental entity that operates a public transportation service. The 5310 program provides capital and operating assistance for improving the mobility for seniors and individuals with disabilities by removing barriers to transportation service and expanding transportation mobility options. This program supports transportation services planned, designed, and carried out to meet the special transportation needs of seniors and individuals with disabilities in all areas.

This program provides funds to: (1) Serve the special needs of transit-dependent populations beyond traditional public transportation service, where public transportation is insufficient, inappropriate, or unavailable; (2) projects that exceed the requirements of the Americans with Disabilities Act (ADA); (3) project that improve access to fixed route service and decrease reliance on complementary paratransit; and (4) projects that are alternatives to public transportation. For more information about the section 5310 program, contact *Danielle Nelson, Office of Transit Programs, at (202) 366–2160 or Danielle.Nelson@dot.gov.*

1. Authorized Amounts

The FAST Act authorizes $264,949,400 in FY 2016, $271,208,388 in FY 2017, $277,090,764 in FY 2018, $283,146,188 in FY 2019 and $289,074,688 in FY 2020 for the Enhanced Mobility of Seniors and Individuals with Disabilities formula program. These amounts include funding for the discretionary pilot program as shown below.

Fiscal year	2016	2017	2018	2019	2020
5310 Formula Grants	$262,949,400	$268,208,388	$273,840,764	$279,646,188	$285,574,688
Discretionary Pilot Program	2,000,000	3,000,000	3,250,000	3,500,000	3,500,000
5310 Total	264,949,400	271,208,388	277,090,764	283,146,188	289,074,688

2. FY 2016 Funding Availability

In FY 2016, $262,949,400 is available for formula funding and $2,000,000 for the discretionary pilot program. Total available funding for the section 5310 Program for FY 2016 is $263,634,653 after the oversight deduction as shown in the table below.

SECTION 5310 FORMULA PROGRAM—FY 2016

Total Appropriation	$262,949,400
Oversight Deductions (oversight 0.5%)	(1,314,747)
Total Apportioned	261,634,653
Discretionary Pilot Program	2,000,000

SECTION 5310 FORMULA PROGRAM—FY 2016—Continued

Total Apportioned	263,634,653

3. Basis for Formula Apportionment

Sixty percent of the funds are apportioned among designated recipients for urbanized areas with a population of 200,000 or more

individuals. Twenty percent of the funds are apportioned among the States for their urbanized areas with a population of at least 50,000 but less than 200,000. Twenty percent of the funds are apportioned among the States for their rural areas, areas with a population less than 50,000. Census Data on Older Adults and People with Disabilities is used for the Section 5310 Enhanced Mobility of Older Adults and People with Disabilities Apportionments. To view the Section 5310 table which displays the amounts apportioned under the Enhanced Mobility of Seniors and Individuals with Disabilities Program click here: *http://www.fta.dot.gov/12853_13935.html*.

Under the section 5310 formula, funds are allocated using Census data on seniors (*i.e.,* persons 65 and older) and people with disabilities. However, beginning in 2010, the Census Bureau stopped collecting this demographic information on as part of its decennial census. Data on seniors and people with disabilities is now only available from the American Community Survey (ACS), which is conducted and published on a rolling basis. FTA's FY 2016 section 5310 apportionments incorporate ACS data published in December 2014. Data on seniors comes from the ACS 2009–2013 five-year data set, Table B01001, ''Sex by Age''. Data on persons with disabilities comes from the ACS 2009–2013 five-year data set, Table S.1810, ''Disability Characteristics.''

4. Eligible Expenses

At least 55 percent of program funds must be used on capital or ''traditional'' 5310 project such as buses and vans; wheelchair lifts, ramps, and securement devices; transit-related information technology systems including scheduling/routing/one-call systems; and mobility management programs. The acquisition of transportation services under a contract, lease, or other arrangement is also eligible. Both capital and operating costs associated with contracted service are eligible capital expenses. User-side subsidies are considered one form of eligible arrangement. Funds may be requested for contracted services covering a time period of more than one year. The capital eligibility of acquisition of services is limited to the section 5310 program.

The remaining 45 percent is for additional ''traditional'' and other ''nontraditional'' projects. This includes projects eligible under the former 5317 New Freedom program, described as: Capital and operating expenses for new public transportation services and alternatives beyond those required by the ADA, designed to assist individuals with disabilities and seniors.

5. Requirements

a. Eligible Recipients

Eligible recipients include States for rural and small urban areas and designated recipients chosen by the Governor of the State for large urban areas; or a State or local governmental entity that operates a public transportation service. For urbanized areas less than 200,000 in population and in the rural areas, the State is the designated recipient for section 5310. Current section 5310 designations remain in effect until changed by the Governor of a State by officially notifying the appropriate FTA regional administrator of re-designation.

In urbanized areas over 200,000 in population, the recipient charged with administering the section 5310 Program must be officially designated in accordance with the planning process, by the Governor of a State, responsible local officials, and publicly owned operators of public transportation prior to grant award (See definition of designated recipient, 49 U.S.C. 5302(4)). Designated recipients are responsible for administering the program. Responsibilities include: Notifying eligible local entities of funding availability; developing project selection processes; determining project eligibility; developing the program of projects; and ensuring that all subrecipients comply with Federal requirements.

Although FTA will only award grants to the eligible recipients for the program, there are other entities eligible to receive funding as subrecipients. These include private nonprofit agencies, public bodies approved by the state to coordinate services for seniors and people with disabilities, or public bodies which certify to the Governor that no nonprofit organizations or associations are readily available in an area to provide the service.

b. Local Match

The matching requirements for this program remain the same; capital assistance is provided on an 80 percent Federal share, 20 percent local share. Operating assistance requires a 50 percent match. Funds provided under other Federal programs (other than those of the DOT, with the exception of the Federal Lands Transportation Program and Tribal Transportation Program established by sections 202 and 203 of title 23 U.S.C.) may be used for local match for funds provided under section 5310, and revenue from service contracts may be used as local match.

c. Planning and Consultation

The coordinated planning provision requires that all projects be included in the local coordinated human service-public transportation plan.

FTA requires the following elements, at a minimum, be included in the plans:

i. An assessment of available services that identifies current transportation providers (public, private, and nonprofit);

ii. An assessment of transportation needs for individuals with disabilities and seniors;

iii. Strategies, activities, and/or projects to address the identified gaps between current services and needs, as well as opportunities to achieve efficiencies in service delivery; and,

iv. Priorities for implementation based on resources (from multiple program sources), time, and feasibility for implementing specific strategies and/or activities identified.

Additionally, the plan must be developed and adopted with representation from seniors, individuals with disabilities, representatives of public, private, nonprofit transportation and human services providers, and other members of the public. Recipients must certify that projects were selected from this process and must make reference to the plan in the program of projects, which is described below.

d. State and Project Management Plans

FTA will continue to require States, designated recipients, and State or local governmental entities that operate a public transportation service who are responsible for implementing the section 5310 program to document their approach to managing the program. The primary purposes of Management Plans are to serve as the basis for FTA management reviews of the program, and to provide public information on the administration of the programs.

e. Program of Projects (POP)

Designated recipients are required to develop a Program of Projects (POP) with the grant application and submit it to the FTA Regional Office. The POP should be developed with respect to the coordinated plan, long range plan, and the transportation improvement plan.

For additional guidance in developing the required POP, recipients can use Chapter IV of the FTA Circular 9070.1G, *Enhanced Mobility of Seniors and Individuals with Disabilities Program Guidance and Application Instructions,* dated July 7, 2014.

6. Period of Availability

For Enhanced Mobility of Seniors and Individuals with Disabilities Program funds apportioned under this notice, FTA has administratively set the period of availability to three years, which includes the year of apportionment plus two additional years. Accordingly, funds apportioned in FY 2016 must be obligated in grants by September 30, 2018. Any FY 2016 apportioned funds that remain unobligated at the close of business on September 30, 2018 will revert to FTA for reapportionment among the States and urbanized areas.

7. What's New and Other Program Highlights

Under the FAST Act, 49 U.S.C. 5310(a) is amended to allow a State or local governmental entity that operates a public transportation service and is eligible to receive direct grants under 5311 or 5307 to be a direct recipient for Section 5310 funds.

The FAST Act amends Section 5310 to require FTA to collect best practices for dissemination to the public transportation industry related to innovation, program models, new service delivery options, performance measure findings, and transit cooperative research program reports. FTA will undertake these activities through the National Aging and Disability Transportation Center (NADTC).

Recipients may continue to use a competitive selection process to select projects, but it is not required. A State may transfer apportioned funds between small urbanized areas and rural areas if it can certify that the needs are being met in the area to which the funds were originally apportioned. The State can transfer the funds (rural and small urbanized area) to any area within the state if a statewide program for section 5310 is established. There are no administrative or statutory provisions to permit transferring section 5310 funds to other FTA programs nor is there a provision for large urbanized areas to transfer their funds to the State.

Section 5310 program recipients may continue to partner with meal delivery programs such as the OAA-funded meal programs (to find local programs, visit: *www.Eldercare.gov*) and the USDA Summer Food Service Program *http://www.fns.usda.gov/sfsp/summer-food-service-program-sfsp*. Transit service providers receiving 5310 funds may coordinate and assist in providing meal delivery services on a regular basis as long as this does not conflict with the provision of transit services.

Program Guidance is found in FTA Circular 9070.1G, Enhanced Mobility of Seniors and Individuals with Disabilities Program Guidance and Application Instructions, dated July 7, 2014. FTA is in the process of updating the program circular to incorporate changes resulting from the FAST Act.

Section 3006(b) of the FAST Act creates a new discretionary pilot program for innovative coordinated access and mobility that is discussed in section III of this notice. The Federal share is 80% for capital projects and 50% for operating assistance. Match can come from other Federal (non-DOT) funds. A report will be made available by December 31 of each year on the pilot program. The report will include a detailed description of the activities carried out under the pilot program, and an evaluation of the program, including an evaluation of the performance measures.

In addition, Section 3006(c) of the FAST Act includes Coordinated Mobility, which requires that FTA implement recommendations made by the Interagency Transportation Coordination Council on Access and Mobility (CCAM) 2005 Report to the President relating to the implementation of Executive Order No. 13330 (49 U.S.C. 101) including publishing an updated strategic plan and developing a cost-sharing policy. The cost-sharing policy must be developed in compliance with applicable Federal laws for use by grantees of Federal programs funded by members of the CCAM. The cost allocation model developed under this section will facilitate local coordination efforts and include: Eligibility requirements; service delivery requirements; and reimbursement requirements.

F. Formula Grants for Rural Areas Program (49 U.S.C. 5311)

The Rural Areas program provides formula funding to States and Indian tribes for the purpose of supporting public transportation in areas with a population of less than 50,000. Funding may be used for capital, operating, planning, job access and reverse commute projects, and State administration expenses. Eligible sub-recipients include State and local governmental authorities, Indian Tribes, private non-profit organizations, and private operators of public transportation services, including intercity bus companies. Indian Tribes are also eligible direct recipients under section 5311, both for funds apportioned to the States and for projects apportioned or selected to be funded with funds set aside for a separate Tribal Transit Program. For more information about the Formula Grants for Rural Areas program, contact *Marianne Stock, Office of Transit Programs, at (202) 366–2677 or Marianne.stock@dot.gov.*

1. Authorized Amounts

The FAST Act authorizes $619,956,600 in FY 2016, $632,355,120 in FY2017, $645,634,578 in FY2018, $659,322,031 in FY2019, and $673,299,658 in 2020 to provide financial assistance for rural areas under section 5311.

Fiscal year	2016	2017	2018	2019	2020
Funds Authorized	$619,956,000	$632,355,120	$645,634,578	$659,322,031	$673,299,658

In addition to the funds made available to States under section 5311, approximately 16 percent of the funds authorized for the new section 5340 Growing States and High Density States formula factors will be apportioned to States for use in rural areas.

Funding for oversight, the Rural Transportation Assistance Program (RTAP), Tribal Transit Program, and the Appalachian Development Public Transportation Assistance Program will be deducted before amounts are apportioned to the States.

2. FY 2016 Funding Availability

In FY 2016, $619,956,000 is available for the section 5311 program for the period October 1, 2015 through September 30, 2016.

FORMULA GRANTS FOR RURAL AREAS PROGRAM—FY 2016

Total Appropriation	$619,956,000
Oversight Deductions	(3,099,780)
RTAP Takedown	(12,399,120)
Tribal Takedown	(35,000,000)
Appalachian Takedown	(20,000,000)
Section 5340 Growing States	77,353,084
Total Apportioned	626,810,184

Table 12 displays the amounts apportioned to the States under the Formula Grants for Rural Areas Program.

3. Basis for Formula Apportionment

The FAST Act made no changes to the formula for the Rural Areas Program. FTA apportions section 5311 funds to the states by a statutory formula using the latest available U.S. decennial census data. The majority of rural formula funds (83.15 percent) are apportioned based on land area and population factors. In this first tier, no state may receive more than 5 percent of the amount apportioned on the basis of land area. The remaining rural formula funds (16.85 percent) are apportioned based on land area, vehicle revenue miles, and low-income individuals factors. In this second tier, no state may receive more than 5 percent of the amount apportioned on the basis of land area, or more than 5 percent of the amounts apportioned for vehicle revenue miles. In addition to funds made available under Section 5311, FTA adds amounts apportioned based on rural population according to the growing states formula factors of 49 U.S.C. 5340 to the amounts apportioned to the states under the Section 5311 formula. Before FTA apportions Section 5311 funds to the states, FTA subtracts funding from the total available amounts for the Appalachian Development Transportation Assistance Program, the Tribal Transit Program, the Rural Transportation Assistance Program (RTAP), and FTA oversight activities.

Data from the Rural Module of the National Transit Database (NTD) 2014 Report Year was used for this apportionment, including data from directly-reporting Indian tribes. Data from public transportation systems that reported to the Annual (Urbanized Area) Module, and that was not attributable to an urbanized area, was also included. The section 5311 program includes three takedowns: The Appalachian Development Public Transportation Assistance Program; the Rural Transit Assistance Program (RTAP); and the Tribal Transit Program. These separate programs are described in the sections that follow.

4. Eligible Expenses

The section 5311 program provides funding for capital, operating, planning, job access and reverse commute projects, and administration expenses for public transit service in rural areas under 50,000 in population. The planning activities undertaken with section 5311 funds are in addition to those awarded to the State under section 5305 and must be used specifically for rural areas' needs. Job access and reverse commute projects are also eligible under this program.

a. Intercity Bus Transportation

Each State must continue to spend no less than 15 percent of its annual Rural Areas Formula apportionment for the development and support of intercity bus transportation, unless it can certify, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are adequately being met. FTA continues to encourage consultation with other stakeholders, such as communities affected by loss of intercity service. The FAST Act amended the intercity bus service match requirement in 49 U.S.C. 5311(g)(3) and now allows the cost of an unsubsidized portion of privately provided intercity bus service that connects feeder service, including all operating and capital costs of such service whether or not offset by revenue from such service to be used as in-kind local match for the intercity bus projects. FTA will update the Section 5311program circular to include this change.

b. State Administration

The FAST Act did not change the amount available to States for administration, planning, and technical assistance. States may elect to use up to 10 percent of their apportionment at 100 percent Federal share to administer the section 5311 program and provide technical assistance to subrecipients. Technical assistance includes project planning, program and management development, public transportation coordination activities, and research the State considers appropriate to promote effective delivery of public transportation to rural areas.

c. Eligibility for Safety Certification Training

Recipients of section 5311 funds are permitted to use not more than 0.5 percent of their formula funds under the Rural Areas program to pay not more than eighty percent of the cost of participation for an employee who is directly responsible for safety oversight to participate in public transportation safety certification training. Safety certification training program requirements are established in accordance with section 5329.

5. Requirements

The program requirements under this section are generally unchanged, with the exception of the cross-cutting requirements mentioned in section III.D. of this notice and specific subsections outlined below.

The Federal share for capital assistance is 80 percent and for operating assistance is 50 percent, except that States eligible for the sliding scale match under FHWA programs may use that match ratio for section 5311 capital projects and 62.5 percent of the sliding scale capital match ratio for operating projects. This is not changed under the current authorization.

Each State prepares an annual program of projects, which must provide for fair and equitable distribution of funds within the States, including Indian reservations, and must provide for maximum feasible coordination with transportation services assisted by other Federal sources.

Additional program guidance for the Rural Areas Program is found in FTA Circular 9040.1G, *Formula Grants for Rural Areas: Program Guidance and Application Instructions,* dated October 24, 2014, and is supplemented by additional information and changes provided in this notice and that may be posted to FTA's section 5311 Web page. FTA is in the process of updating the program circular to incorporate changes resulting from FAST Act amendments to 49 U.S.C. 5311.

The following subsections outline several important program requirements and changes that apply specifically to the section 5311 program.

6. Period of Availability

Section 5311 funds remain available to states for obligation for three Federal fiscal years, beginning with the year of apportionment plus two additional years. The Rural Areas program funds apportioned in this notice are available for obligation during FY 2016 plus two additional years. Any FY 2016 apportioned funds that remain unobligated at the close of business on September 30, 2018 will revert to FTA for reapportionment under the Rural Areas program.

7. What's New and Other Program Highlights

Revenue from the sale of advertising and concessions may be used as local match. The capital and operating costs, with no revenue offset, of an unsubsidized portion of privately provided intercity bus service that connects feeder service can be used as in-kind local match for the intercity bus projects.

G. Rural Transportation Assistance Program (49 U.S.C. 5311(b)(3))

This program is not changed in the FAST Act and continues to provide funding to assist in the design and implementation of training and technical assistance projects, research, and other support services tailored to meet the needs of transit operators in rural areas. For more information about Rural Transportation Assistance Program (RTAP) contact *Marianne Stock, Office of Transit Programs, at (202) 366–2677 or marianne.stock@dot.gov*.

1. Authorized Amounts

The Fast Act authorizes a two percent takedown from the funds appropriated for section 5311 for RTAP. Of this amount, 15 percent is reserved for the National RTAP program. The remainder is available for allocation to the States.

The Fast Act authorizes the following amounts to carry out this program for fiscal years 2016–2020.

Fiscal year	2016	2017	2018	2019	2020
Funds Authorized	$12,399,120	$12,647,102	$12,912,692	$13,186,441	$134,659,93

2. FY 2016 Funding Availability

In FY 2016, $12,399,120 is available for the section 5311 RTAP program. After the reservation for the National RTAP program, a total of $10,539,252 is available for allocation to the States, as shown in the table below.

RURAL TRANSPORTATION ASSISTANCE PROGRAM—FY 2016

Total Appropriation	$12,399,120
National RTAP	−1,859,868
Total Apportioned	10,539,252

Table 12 shows the FY 2016 RTAP allocations to the States.

3. Basis for Formula Apportionment

FTA will continue to allocate funds to the States by an administrative formula. First, FTA allocates $65,000 to each State ($10,000 to territories), and then allocates the balance based on rural population in the 2010 census.

4. Eligible Expenses

Eligible expenses include the design and implementation of training and technical assistance projects, research, and other support services tailored to meet the needs of transit operators in rural areas.

5. Requirements

States may use the funds to undertake research, training, technical assistance, and other support services to meet the needs of transit operators in rural areas. These funds are to be used in conjunction with a State's administration of the Rural Areas Formula Program, but also may support the rural components of the section 5310 program.

6. Period of Availability

The section 5311 RTAP funds apportioned in this notice are available for obligation in FY 2016 plus two additional years, consistent with that established for the section 5311 program.

7. What's New and Other Program Highlights

The National RTAP project is administered by cooperative agreement and re-competed at five-year intervals. In July of 2014, FTA awarded a cooperative agreement to Neponset Valley Transportation Management Association to administer the National RTAP Program. The National RTAP projects are guided by a project review board that consists of managers of rural transit systems and State DOT RTAP programs. National RTAP resources also support the biennial TRB National Conference on Rural Public and Intercity Bus Transportation and other research and technical assistance projects of a national scope.

H. Appalachian Development Public Transportation Assistance Program (49 U.S.C. 5311(c)(2))

This program continues as a take-down under the section 5311 program to provide additional funding to support public transportation in the Appalachian region. There are sixteen eligible States that receive an allocation under this provision. The States and their allocation are shown in the Rural Areas Formula program table posted on FTA's Web site under the FY 2013 Apportionments page. For more information about the Appalachian Development Public Transportation Assistance Program, contact *Marianne Stock, Office of Transit Programs, at (202) 366–2677 or marianne.stock@dot.gov.*

1. Authorized Amounts

The FAST Act authorizes $20 million in each of FY 2016 through FY 2020 as a take-down under the section 5311 program to support public transportation in the Appalachian region.

Fiscal year	2016	2017	2018	2019	2010
Funds Authorized	$20,000,000	$20,000,000	$20,000,000	$20,000,000	$20,000,000

2. FY 2016 Funding Availability

A total of $20,000,000 is available for the Appalachian Development program for FY 2016, as shown below.

APPALACHIAN DEVELOPMENT PUBLIC TRANSPORTATION ASSISTANCE PROGRAM—FY 2016

Total Appropriation	$20,000,000
Total Apportioned	20,000,000

3. Basis for Formula Apportionment

FTA apportions the funds using percentages established under section 9.5(b) of the Appalachian Regional Commission Code (subtitle IV of title 40). Allocations are based in general on each State's remaining estimated need to complete eligible sections of the Appalachian Development Highway System as determined from the latest percentages of available cost estimates for completion of the System. Such cost estimates are produced at approximate five year intervals. Allocations contain upper and lower limits in amounts determined by the Commission and are made in accordance with legislative instructions.

4. Requirements

Funds apportioned under this program can be used for purposes consistent with section 5311 to support public transportation in the

Appalachian region. Funds can be applied for in the State's annual section 5311 grant.

Appalachian program funds that cannot be used for operating may be used for a highway project under certain circumstances. States should contact their regional office if they intend to request a transfer. Additional information about the requirements for this section can be found in Chapter VII of FTA Circular 9040.1G, *Formula Grants for Rural Areas: Program Guidance and Application Instructions,* dated October 24, 2014.

5. Period of Availability

Section 5311 Appalachian program funds are available for three years, which includes the year of apportionment plus two additional years, consistent with that established for the section 5311 program.

I. Formula Grants for Public Transportation on Indian Reservations Program (49 U.S.C. 5311(j))

The Public Transportation on Indian Reservations Program or Tribal Transit Program (TTP) totals $35 million, of which $30 million is for a formula program and $5 million is for a discretionary grant program. It is funded as a takedown from funds made available for the section 5311 program. Formula factors include vehicle revenue miles and the number of low-income individuals residing on tribal lands (American Indian Areas, Alaska Native Areas, and Hawaiian Home Lands). More information on the Discretionary program can be found in section III.6 of this notice. Eligible direct recipients are Federally recognized Indian tribes and Alaskan Native Villages providing public transportation in rural areas. The TTP funds are to be allocated for grants to eligible recipients for any purpose eligible under section 5311, which includes capital, operating, planning, job access and reverse commute projects. For more information about the Tribal Transit Program contact *Elan Flippin, Office of Transit Programs at (202) 366–3800 or elan.flippin@dot.gov*.

1. Authorized Funding

Under the FAST Act, $35 million is authorized in in each of FY 2016–FY 2020. Five million will be allocated on a competitive basis and $30 million will be allocated by formula.

2. FY 2016 Funding Availability

In FY 2016, $30,000,000 is made available by formula as shown in the table below.

FORMULA GRANTS FOR PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS PROGRAM—FY 2016

Total Appropriation	$30,000,000
Total Apportioned	30,000,000

3. Basis for Allocation

Funding is allocated by formula and distributed to eligible Indian tribes providing public transportation on tribal lands. The formula apportionment shown in Table 9 is based on a statutory formula which includes three tiers. Tiers 1 and 2 are based on data reported to NTD by Indian tribes; Tier 3 is based on 2009–2013 American Community Survey data. The three tiers for the formula are: Tier 1—50 percent based on vehicle revenue miles reported to the NTD; Tier 2—25 percent provided in equal shares to Indian tribes reporting at least 200,000 vehicle revenue miles to the NTD; Tier 3—25 percent based on Indian tribes providing public transportation on tribal lands (American Indian Areas, Alaska Native Areas, and Hawaiian Home Lands) on which more than 1,000 low income individuals reside. If more than one tribe provides public transportation services on tribal lands in a single Tribal Statistical area, and the tribes cannot determine how to allocate Tier 3 funds, FTA will allocate the funds based on the relative portion of transit (as defined by unlinked passenger trips) operated by each tribe, as reported to the National Transit Database.

4. Requirements

Formula funds apportioned under this program can be used for purposes consistent with section 5311 to support public transportation on Indian Reservations in rural areas. Funds allocated under the discretionary program must be used consistent with the tribe's proposal and the allocation notice published in the **Federal Register**, which is used to announce the selected projects. Eligible recipients under both the discretionary and formula program include federally-recognized Indian tribes or Alaska native villages, groups, or communities as identified by the U.S. Department of the Interior Bureau of Indian Affairs (BIA). A tribe must have the legal, financial and technical capabilities to receive and administer Federal funds.

Section 5335 requires NTD reporting for all direct recipients of section 5311 funds. This reporting requirement has and continues to apply to the Tribal Transit Program. Tribes that provide public transportation in rural areas are reminded to report annually so they are included in the TTP formula apportionments. To be considered in the FY 2016 formula apportionments, tribes should have submitted their reports to the NTD no later than April 30, 2015; voluntary reporting to the NTD is also encouraged. Additionally, to be considered for the FY 2017 formula apportionment funds, tribes need to submit their reports to the NTD no later than April 30, 2016. Tribes needing assistance with reporting to the NTD should contact the NTD Helpline at 1–888–252–0936 or *NTDHelp@dot.gov*.

5. Period of Availability

Funding for the TTP is available for three years, which includes the year of apportionment or allocation plus two additional years, consistent with that established for the section 5311 program. Any FY 2016 formula funds that remain unobligated at the close of business on September 30, 2018 will revert to FTA for reapportionment under the TTP.

6. What's New and Other Program Highlights

The FAST Act establishes a Tribal Transportation Self Governance Program (Self Governance). The Self Governance Program establishes specific criteria for determining eligibility for a tribe to participate in the program. DOT will develop rulemaking and the implementation of this program in consultation with tribal representatives and other interested stakeholders. See section III. 6 of this notice for more information.

The funds set aside for the TTP are not meant to replace or reduce funds that Indian tribes receive from States through the section 5311 program but are to be used to enhance public transportation on Indian reservations and transit serving tribal communities. Funds allocated to Indian tribes by the States may be included in the State's section 5311 application or awarded by FTA in a grant directly to the Indian tribe. FTA encourages Indian tribes intending to apply to FTA as direct recipients to contact the appropriate FTA Regional Office at the earliest opportunity.

TTP grantees must comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal requirements in carrying out the project supported by the FTA grant. To assist tribes with understanding these requirements, FTA regularly conducts Tribal Transit Technical Assistance Workshops, and expects to offer several workshops in FY2016. FTA has also expanded its technical assistance to tribes receiving

funds under this program. In FY15, FTA implemented the Tribal Transit Technical Assistance Assessments initiative. Through these assessments, FTA collaborates with tribal transit leaders to review processes and identify areas in need of improvement and then assist with solutions to address these needs—all in a supportive and mutually beneficial manner. FTA completed fifteen assessments in FY15, and expects to do a similar number in FY 2016. These assessments include discussions of compliance areas pursuant to the Master Agreement, a site visit, promising practices reviews, and technical assistance from FTA and its contractors. These workshops and assessments received exemplary feedback from Tribal Transit Leaders, and provided FTA with invaluable opportunities to learn more about tribal transit leaders' perspectives, and honor the sovereignty of tribal nations. FTA will post information about upcoming workshops to its Web site and will disseminate information about the reviews through its Regional offices. FTA has regional tribal transit liaisons in each of the FTA Regional Offices that are available to assist tribes with applying for and managing FTA grants. A list of regional tribal transit liaisons can be found on FTA's Web site at *http://www.fta.dot.gov/13094_15845.html*. Tribes are encouraged to work directly with their regional tribal transit liaison. For more information about the Tribal Transit Program, please contact *Élan Flippin at elan.flippin@dot.gov or 202–366–3800.*

J. Public Transportation Innovation (49 U.S.C. 5312)

Section 5312 is FTA's research program. Within this section, the FAST Act authorizes several different activities that comprise three distinct programs: (a) A Research, Development, Demonstration, Deployment, & Evaluation program (49 U.S.C. 5312(b–e)); (b) a Low or No Emission Vehicle Component Assessment (Lo-No Component Testing program) (49 U.S.C. 5312(h)); and (c) a Transit Cooperative Research Program (49 U.S.C. 5312(i)).

For more information about the Public Transportation Innovation program, contact *Mary Leary, Office of Research, Demonstration and Innovation at (202) 366–4052 or mary.leary@dot.gov*

1. Authorized Funding

The FAST Act authorizes $48 million for FY 2016 through FY 2020 for the Public Transportation Innovation program as shown in the table below, $28 million from the Mass Transit Account of the Highway Trust Fund and $20 million from General Fund appropriations.

Fiscal year	2016	2017	2018	2019	2020
Public Transportation Innovation	$48,000,000	$48,000,000	$48,000,000	$48,000,000	$48,000,000

2. FY 2016 Funding Availability

In FY 2016, $28,000,000 is available for the Public Transportation Innovation program as shown in the table below.

PUBLIC TRANSPORTATION INNOVATION—FY 2016

Research, Development, Demonstration, Deployment, & Evaluation	$20,000,000
Low or No Emission Vehicle Component Testing	3,000,000
Transit Cooperative Research Program (TCRP)	5,000,000
Total Apportioned	28,000,000

3. Basis for Allocation of Funds

Section 5312 funds are allocated according to the authorized purposes and amounts described above, and then remaining amounts are subject to discretionary allocations where not specifically authorized. For FY 2016, FTA intends to fund projects and activities in support of three major areas: Asset Innovation and Management, Mobility, and Safety. Projects may be selected through Notices of Funding Availability (NOFA) or Requests for Proposals (RFPs). Potential recipients can register to receive notification of funding availability under this program on Grants.gov.

4. Eligible Expenses

Eligible expenses include activities involving (a) Research, Innovation, Development, Demonstration, Deployment, Evaluation; (b) Low or No Emission Vehicle Component Testing; and (c) Transit Cooperative Research.

5. Requirements

The Government share of the cost of a project carried out under FTA's Research, Development, Deployment, and Demonstration program shall not exceed 80 percent; the remaining 20 percent of the costs can be met with in-kind resources. In some cases, FTA may require a higher non-Federal share if FTA determines a recipient would obtain a clear and direct financial benefit from the project, or if the non-Federal share is an evaluation factor under a competitive selection process. However, for the Lo-No Component Testing Program, the Government share is 50 percent; the remaining 50 percent of the costs will be paid by amounts recovered through the fees established by the testing facilities. There is no match requirement for the TCRP.

Application instructions and program management guidelines are set forth in FTA Circular C 6100.1E, Technology Development and Deployment, ''Research, Technical Assistance and Training Program: Application Instructions and Program Management Guidelines'' dated April 10, 2015. All research recipients are required to work with FTA to develop approved Statements of Work. FTA will be updating the Circular for the Research program during FY 2016.

6. Period of Availability

FTA establishes the period in which the funds must be obligated to the project. If the funds are not obligated within that period of time, they revert to FTA for reallocation under the program.

7. What's New and Other Program Highlights

The FAST Act amends 49 U.S.C. 5312 to create a new voluntary Lo-No Component Testing Program, which is separate and apart from the Bus Testing Program (Section 5318) and is authorized at $3 million annually.

The annual Research Report on projects, evaluations, and benefits will be posted to FTA's Web site rather than submitted to the Congress.

Section 6019(b) of the FAST Act establishes new requirements for annual modal research plans in 49 U.S.C. 6501. This section requires FTA to submit its comprehensive annual modal research plan to the Assistant Secretary for Research and Technology for review and approval prior to expending funds.

Pursuant to the Small Business Innovation Development Act, a portion of the 5312 funds must be set aside for the Department's SBIR program to address high priority research that will demonstrate innovative, economic,

accurate, and durable technologies, devices, applications, or solutions to significantly improve current transit-related service including transit vehicle operation, safety, infrastructure and environmental sustainability, mobility, rider experience, or broadband communication.

K. Technical Assistance and Workforce Development (49 U.S.C. 5314)

The Technical Assistance and Workforce Development program, 49 U.S.C. 5314, provides assistance to: (1) Carry out technical assistance activities that enable more effective and efficient delivery of transportation services, foster compliance with Federal laws, and improve public transportation service; (2) develop standards and best practices for the transit industry; and (3) address public transportation workforce needs through research, outreach, training and the implementation of a frontline workforce grant program, and conduct training and educational programs in support of the public transportation industry.

Section 5314 is funded from the Highway Trust Fund and is authorized at $9 million a year for all five years, with $5 million of that amount specifically set-aside for a National Transit Institute. FAST authorizes an additional $5 million from the General Fund that is subject to annual appropriations; for FY 2016, there are no additional appropriations from the General Fund leaving a balance of $4 million to fund all technical assistance, standards development, and workforce development activities.

For more information about the Technical Assistance and Workforce Development program, contact *Betty Jackson, Office of Research, Demonstration and Innovation at (202) 366–4052 or Betty.Jackson@dot.gov*.

1. Authorized Amounts

The FAST Act authorizes $14 million for each of FY 2016 through FY 2020 for the Technical Assistance and Workforce Development program as shown in the table below. $9 million is authorized from the trust fund. Of this amount $5 million is for the National Transit Institute (NTI). An additional $5 million is authorized to be appropriated from the General Fund of the Treasury.

Fiscal year	2016	2017	2018	2019	2020
Technical Assistance and Workforce Development	$14,000,000	$14,000,000	$14,000,000	$14,000,000	$14,000,000

2. FY 2016 Funding Availability

In FY 2016, $9,000,000 is available for Technical Assistance and Workforce Development as shown in the table below.

TECHNICAL ASSISTANCE AND WORKFORCE DEVELOPMENT—FY 2016

Technical Assistance, Standards Development & Human Resource Training	$4,000,000
National Transit Institute	5,000,000
Total Appropriated	$9,000,000

3. Basis for Allocation of Funds

Under section 5314, $5 million is available for the NTI. The remaining $4 million will be allocated in support for both FTA and USDOT strategic goals for technical assistance, standards development, and workforce development. Projects may be selected through Notices of Funding Availability (NOFA) or Requests for Proposals (RFPs). Potential recipients can register to receive notification of funding availability under this program on Grants.gov. Once selected, FTA enters into cooperative agreements, contracts, or other agreements to award funds and manage the projects carried out under this section.

4. Eligible Expenses

Eligible expenses include activities involving (a) Technical Assistance; (b) Standards Development; and (c) Human Resources and Training, to include Workforce Development programs and activities.

Eligible Technical Assistance activities may include activities to support: (a) Compliance with the ADA; (b) compliance with coordinating planning and human services transportation; (c) meeting the transportation needs of elderly individuals; (d) increasing transit ridership in coordination with MPOs and other entities, particularly around transit-oriented development; (e) addressing transportation equity with regard to the effect that transportation planning, investment, and operations have for low-income and minority individuals; (f) facilitating best practices to promote bus driver safety; (g): Compliance with Buy America and pre- and post-award audits; (h) assisting with the development and deployment of low and no emission vehicles or components for vehicles; (i) and other technical assistance activities that are necessary to advance the interests of public transportation.

Eligible Standards activities include the development of voluntary and consensus-based standards and best practices by the industry to include those needed for safety, fare collection, intelligent transportation systems, accessibility, procurement, security, asset management, operations, maintenance, vehicle propulsion, communications, and vehicle electronics.

Eligible Human Resources and Training activities include (a) employment training programs; (b) outreach programs to increase employment for veterans, females, individuals with disabilities, minorities in public transportation activities; (c) research on public transportation personnel and training needs; (d) training and assistance for veteran and minority business opportunities; and (e) consensus-based national training standards and certifications in partnership with industry stakeholders. FTA funding directly allocated for these eligible purposes must be done through a discretionary frontline workforce development program as required in the authorization. Should FTA allocate funds for these purposes, it will advertise the available funding in a Notice of Funding Availability (NOFA) on Grants.gov and on its Web site. FTA will be issuing additional guidance in the coming months on how grantees can utilize their formula funds in support of these eligible activities.

5. Requirements

a. Federal Share

The Government's share of the cost of a project carried out using a grant under this section shall not exceed 80 percent. However, for the Human Resources and Training, including the Innovative Public Transportation Frontline Workforce Development Program, the Government's share cannot exceed 50 percent. The Federal share for other types of awards will be stated in the agreement. In some cases, FTA may require a higher non-Federal share if FTA determines a recipient would obtain a clear and direct financial benefit from the project, or if the non-Federal share is an evaluation factor under a competitive selection process.

There is no match requirement for the National Transit Institute.

b. Non-Government Share

The non-Government share of the cost of a project carried out under these sections (Technical Assistance and Standards and Technical Assistance and Training) may be derived from in-kind contributions as defined in the most current version of FTA Circular 5010, ''Grants Management Guidelines'' found on FTA's Circular Web page at (*http://www.fta.dot.gov/circulars*). Application instructions and program management guidelines are set forth in FTA Circular 6100.1E, ''Research, Technical Assistance and Training Program: Application Instructions and Program Management Guidelines'' dated April 10, 2015. All research recipients are required to work with FTA to develop approved Statements of Work.

5. Period of Availability

FTA establishes the period in which the funds must be obligated to the project. If the funds are not obligated within that period of time, they revert to FTA for reallocation under the program.

6. What's New and Other Program Highlights

Under 49 U.S.C. 5314(b)(4), recipients may use no more than one-half of one percent (0.5%) of their section 5307, 5337 and 5339 funds to support workforce development activities. In addition, 49 U.S.C. 5314(c)(4) allows recipients to use no more than one-half of one percent (0.5%) of their 5307, 5337, and 5339 funds to attend NTI training. Both provisions allow recipients to use these funds to pay up to 80 percent of the cost of training. This amounts to approximately $36 million in formula funds that grantees can use to support workforce development activities and another $36 million that can be used to support NTI training activities. For more information about the NTI, contact Faith Hall, *Office of Research, Demonstration and Innovation at (202) 366–9055 or Faith.Hall@dot.gov.*

FTA is required to publish an annual report to Congress on the technical assistance and standards activities that receive assistance under this section. Additionally, FTA must report annually on the Frontline Workforce Development Program.

L. Public Transportation Emergency Relief Program (49 U.S.C. 5324)

FTA's Emergency Relief (ER) Program is authorized to provide funding for public transportation expenses incurred as a result of an emergency or major disaster. No funding was provided in the FY 2016 Appropriations Act for this program.

In the event of a publicly declared emergency or disaster, eligible expenses will include emergency operating expenses, such as evacuations, rescue operations, and expenses incurred to protect assets in advance of a disaster, as well as capital projects to protect, repair, reconstruct, or replace equipment and facilities of a public transportation system in the United States or on an Indian reservation that the Secretary determines is in danger of suffering serious damage or has suffered serious damage as a result of an emergency. Additional information on eligible expenses and the process for applying for ER Program funding can be found in FTA's *Emergency Relief Manual: A Reference Manual for States & Transit Agencies on Response and Recovery from Declared Disasters and FTA's Emergency Relief Program (49 U.S.C. 5324),* which was published on October 5, 2015.

While Congress did not provide funding for this program in FY 2016, recipients of FTA funding affected by a declared emergency or disaster are authorized to use funds apportioned under sections 5307 and 5311 for emergency purposes. Recipients are advised that formula funds used for emergency purposes will not be replaced or restored in the event that funding is subsequently made available through FTA under the ER Program or by Federal Emergency Management Agency (FEMA).

In the event of a disaster affecting a public transportation system, the affected recipient should contact their FTA Regional Office as soon as practicable to determine whether Emergency Relief funds are available, and to notify FTA that it plans to seek reimbursement for emergency operations and/or repairs that have already taken place or are in process. If Emergency Relief funds are unavailable the recipient may seek reimbursement from FEMA. Properly documented costs for which the grantee has not received reimbursement from FEMA may later be reimbursed by grants made either from section 5324 funding (if appropriated) or sections 5307 and 5311 program funding, once the eligible recipient formally applies to FTA for reimbursement and FTA determines that the expenses are eligible for emergency relief. Additional information about the Emergency Relief program and FTA's response to Hurricane Sandy is available on the FTA Web site at *www.fta.dot.gov/emergencyrelief*. For more information, contact *Adam Schildge, Office of Program Management, at 202–366–0778 or adam.schildge@dot.gov.*

M. Public Transportation Safety Program (49 U.S.C. 5329)

Section 5329(e)(6) of 49 U.S.C. provides funding to support States with rail fixed guideway public transportation systems (rail transit systems) to develop and carry out State Safety Oversight (SSO) Programs consistent with the requirements of 49 U.S.C. 5329. For more information, contact Maria Wright, Office of Safety Review at (202) 366–5922 or *maria1.wright@dot.gov*.

1. Authorized Amounts

Year	2016	2017	2018	2019	2010
Funds Authorized	$22,694,529	$23,148,419	23,634,536	24,135,588	24,647,262

2. FY 2016 Funding Availability

In FY 2016, $22,694,529 is available for the State Safety Oversight (SSO) program. The total amount allocated for the SSO program is as shown in the table below.

PUBLIC TRANSPORTATION SAFETY PROGRAM—FY 2016

Total Appropriation	$22,694,529
Total Apportioned	$22,694,529

3. Basis for Formula Apportionment

FTA will continue to allocate funds to the States by an administrative formula, which is detailed in the **Federal Register** notice which apportioned SSO Formula Grant Program FY13 and FY14 funds (Vol. 79, No. 46/Monday, March

10, 2014). Grant funds for the SSO program are apportioned to eligible States using a three-tier formula based on statutory requirements, which apportion sixty percent (60%) of available funds based rail transit system vehicle passenger miles (PMT), vehicle revenue miles (VRM), and directional route miles (DRM), twenty percent (20%) of available funds equally to each eligible State, and twenty percent (20%) based on the number of rail transit systems.

4. Requirements

FTA requires each applicant to demonstrate in its grant application that its proposed grant activities will develop, lead to, or carry out an State Safety Oversight program that meets the requirements under 49 U.S.C. 5329(e). Grant funds may be used for program operational and administrative expenses, including employee training activities. Please see the **Federal Register** notice which apportioned SSO Formula Grant Program FY13 and FY14 funds (Vol. 79, No. 46/Monday, March 10, 2014) for more information.

5. Period of Availability

SSO Formula Grant Program funds are available for the year of apportionment plus two additional years. Any FY 2016 funds that remain unobligated at the close of business on September 30, 2018 will revert to FTA for reapportionment under the SSO Formula Grant Program.

6. What's New and Other Program Highlights

Under the FAST Act, section 5329 provides for a temporary Federal assumption of rail transit safety oversight, under certain circumstances. This section also authorizes FTA to issue restrictions and prohibitions to address unsafe conditions or practices, and to withhold funds for non-compliance with safety requirements.

N. State of Good Repair Program (49 U.S.C. 5337)

The State of Good Repair program (SGR) provides capital assistance for maintenance, replacement, and rehabilitation projects of existing high intensity fixed guideway and high intensity motorbus systems to maintain a state of good repair. Additionally, SGR grants are eligible for developing and implementing Transit Asset Management plans. Estimates from the 2010 National State of Good Repair Assessment identified an $86 billion backlog in deferred maintenance and replacement needs, a backlog that continues to grow. This program provides funding for the following fixed guideway transit modes: Rapid rail (heavy rail), commuter rail, light rail, hybrid rail, monorail, automated guideway, trolleybus (using overhead catenary), aerial tramway, cable car, inclined plane (funicular), passenger ferries, and bus rapid transit. Fixed-route bus capital projects for services operating on high-occupancy-vehicle (HOV) facilities are also funded through High Intensity Motorbus tier of this program.

FTA published the State of Good Repair program guidance, FTA Circular 5300.1, State of Good Repair Grants Program: Guidance and Application Instructions, on January 28, 2015. The circular can be accessed at *www.fta.dot.gov/circulars.* For more information about the SGR program, contact *Eric Hu, Office of Transit Programs, at (202) 366–0870 or eric.hu@dot.gov.*

1. Authorized Amounts

The FAST Act authorizes $2,507,000,000 for FY 2016, $2,549,670,000 for FY 2017, $2,593,703,558 for FY 2018, $2,638,366,859 for FY 2019, and $2,683,798,369 for FY 2020 for the State of Good Repair program.

Fiscal year	2016	2017	2018	2019	2020
Funds Authorized	$2,507,000,000	$2,549,670,000	$2,593,703,558	$2,638,366,859	$2,683,798,369

2. FY 2016 Funding Availability

In FY 2016, $2,507,000,000 is available for the State of Good Repair program. After a one percent oversight takedown, the total amount allocated for the State of Good Repair program is $2,481,930,000 as shown in the table below.

STATE OF GOOD REPAIR PROGRAM—FY 2016

Total Appropriation	[a] $2,507,000,000
Oversight Deductions	−25,070,000
Total Apportioned	2,481,930,000

[a] *Total appropriation includes $2,435,550,500 for the High Intensity Fixed Guideway Formula and $71,449,500 for the High Intensity Motorbus Formula.*

Table 15 shows the FY 2016 State of Good Repair Program formula apportionments to eligible urbanized areas.

3. Basis for Formula Apportionment

FTA allocates State of Good Repair program funds according to a statutory formula. Funds are apportioned to urbanized areas with high intensity fixed guideway and high intensity motorbus systems that have been in operation for at least seven years. This means that only segments of high intensity fixed guideway and motorbus systems that entered into revenue service on or before September 30, 2008 are included in the formula, as identified in the NTD.

The law requires that 97.15 percent of the total amount authorized for the State of Good Repair program be apportioned to urbanized areas with ''High Intensity Fixed Guideway'' systems. The apportionments to urbanized areas with ''High Intensity Fixed Guideway'' systems are determined by two equal elements: (1) The proportion of the amount an urbanized area would have received in FY 2011 to the total amount apportioned to all urbanized areas in FY 2011 using new fixed guideway definition; (2) the proportion of vehicle revenue miles of an urbanized area to the total vehicle revenue miles of all urbanized areas and the proportion of directional route miles of an urbanized area to the total directional route miles of all urbanized areas. High Intensity Motorbus systems will receive the remaining 2.85 percent of the total amount authorized for the State of Good Repair program, and the apportionments to urbanized areas are based on vehicle revenue miles and directional route miles.

Vehicle revenue miles and directional route miles attributable to an urbanized area must be placed in revenue service at least 7 years before the first day of the fiscal year. A threshold level of more than one mile of high intensity fixed guideway is required in order to receive State of Good Repair funds. Therefore, urbanized areas reporting one mile or less of fixed guideway mileage under the NTD are not included. FTA will apportion funds to designated recipients in the UZAs (see section IV. C. of this notice for more information about designated recipients; FTA will apportion section 5337 funds to the section 5307 designated recipient for the UZA) with high intensity fixed guideway systems operating at least 7 years. The designated recipients will

then allocate funds as appropriate to recipients that are public entities in the urbanized areas and provide split letters to the FTA. FTA can make grants to direct recipients after sub-allocation of funds.

4. Eligible Expenses

Eligible activities include projects that maintain, rehabilitate, and replace transit assets, as well as projects that implement Transit Asset Management plan. Additionally, training and workforce activities authorized under 49 U.S.C. 5314(b) and (c) are eligible for the State of Good Repair funds, and the funds are limited to 1 percent of the total amount that apportioned to the recipient (0.5 percent for each of the authorized activities).

5. Requirements

In addition to the program guidance found in the circular, all recipients will need to certify that they will comply with the forthcoming rule issued under section 5326 for the Transit Asset Management plan, and SGR projects will need to be included in recipients' Transit Asset Management plans. This requirement is subject to FTA rulemaking and will become effective only after the rule is issued.

6. Period of Availability

The State of Good Repair Program funds apportioned in this notice are available for obligation during FY 2016 plus three additional years. Accordingly, funds apportioned in FY 2016 must be obligated in grants by September 30, 2019. Any FY 2016 apportioned funds that remain unobligated at the close of business on September 30, 2019 will revert to FTA for reapportionment under the State of Good Repair Program.

7. What's New and Other Program Highlights

High intensity motorbus funds may be used for any project eligible under section 5337(b)(1). Therefore, these funds may be used to maintain rail fixed guideways as well as to maintain high intensity motorbus equipment and facilities

Recipients may now use up to one-half of one percent of their section 5307 funds to support workforce development activities at an 80 percent Federal share; the eligible workforce development activities are defined in Section 5314; see Section IV. K. of this notice for more information. This provision is new in section 5314 and is in addition to the one-half of one percent that recipients may use for training activities with the National Transit Institute.

O. Grants for Buses and Bus Facilities Program (49 U.S.C. 5339)

The section 5339 program provides funding to replace, rehabilitate, and purchase buses and related equipment as well as construct bus-related facilities.

Additional guidance on the section 5339(a) formula program can be found in FTA Circular 5100.1, which was published on May 18, 2015. This circular will be updated to reflect the amendments to section 5339 by the FAST Act. Information on the 5339(b) Buses and Bus Facilities Competitive Grant Program and the Section 5339(c) Low or No Emission Bus Competitive Grant Program will be published in a forthcoming Notice of Funding Availability. For more information about the Bus and Bus Facilities program, contact *Sam Snead, Office of Transit Programs, at (202) 366–1089 or samuel.snead@dot.gov.*

1. Authorized Amounts

The FAST Act authorizes a total of $695,800,000 for FY 2016, $719,960,000 for FY 2017, $747,030,000 for FY 2018, $777,020,000 for FY 2019 and $808,650,000 for FY 2020 for the section 5339 Program, as shown below.

Fiscal year	2016	2017	2018	2019	2020
5339(a) Formula Program	$427,800,000	$436,360,000	$445,519,476	$454,964,489	$464,609,736
5339(b) Bus Discretionary	213,000,000	228,600,000	246,514,000	267,059,980	289,044,179
5339(c) Low or No Emission Discretionary	55,000,000	55,000,000	55,000,000	55,000,000	55,000,000
Section 5339 Total	695,800,000	719,960,000	747,033,476	777,024,469	808,653,915

2. Funding Availability

In FY 2016, $427,800,000 is available for the section 5339(a) Bus and Bus Facilities formula program. After the 0.75 percent take-down for oversight, $424,591,500 is available to be apportioned to States and urbanized areas.

GRANTS FOR BUSES AND BUS FACILITIES—FY 2015

Total Appropriation (Formula)	$427,800,000
Oversight Deduction	(3,208,500)
Total Apportioned (Formula)	424,591,500
Total Appropriation (Discretionary)	268,000,000
Oversight Deduction	(2,010,000)

GRANTS FOR BUSES AND BUS FACILITIES—FY 2015—Continued

Total to be Allocated (Discretionary)	265,990,000

Table 17 shows the FY 2015 Bus and Bus Facilities formula apportionments to States, Territories, and urbanized areas.

3. Basis for Allocation

Section 5339(a) Bus and Bus Facility formula program funds are apportioned to States, territories, and designated recipients based on a statutory formula. Under the National Distribution, each State is allocated $1.75 million and each territory is allocated $500,000 for use anywhere in the State or territory. The remainder of the available funding is then apportioned for UZAs based on population, vehicle revenue miles and passenger miles using the same apportionment formula and allocation process as section 5307. Funds for UZAs under 200,000 in population are apportioned to the State through a section 5339(a) Governor's Apportionment for allocation to eligible recipients within such areas of the State at the Governor's discretion. Funds for UZAs with populations of 200,000 or more are apportioned directly to one or more designated recipient(s) within each UZA for allocation to eligible projects and recipients within the UZA.

4. Eligible Expenses

Eligible capital projects continue to include projects to replace, rehabilitate, and purchase buses and related equipment, and projects to construct bus-related facilities.

Recipients may now use up to one-half of one percent of their section 5307 funds to support workforce development activities at an 80 percent Federal share; the eligible workforce development activities are defined in Section 5314; see Section IV. K. of this notice for more information. This provision is new in section 5314 and is in addition to the one-half of one percent that recipients may use for training activities with the National Transit Institute.

5. Requirements

The FAST Act modifies the definition of eligible recipients under Section 5339(a) to now include local governmental entities that operate fixed route bus service. Accordingly eligible recipients now include (1) designated recipients that allocate funds to fixed route bus operators, (2) States, and (3) local governmental entities that operate fixed route bus service and are direct recipients of Section 5307 funding. Eligible subrecipients continue to include public agencies or private nonprofit organizations engaged in public transportation, including those providing services open to a segment of the general public, as defined by age, disability, or low income. Consistent with the application of other changes under the FAST Act, this change to the definition of eligible recipients applies to funding apportioned in previous fiscal years that remains available for obligation.

The requirements of section 5307 apply to recipients of section 5339 funds within an urbanized area. The requirements of Section 5311 apply to recipients of section 5339 funds within rural areas. For additional program requirements, refer to FTA Circular 5100.1.

6. Period of Availability

The Bus and Bus Facilities Formula Program funds apportioned in this notice are available for obligation during FY 2016 plus three additional years. Accordingly, funds apportioned in FY 2016 must be obligated in grants by September 30, 2019. Any FY 2016 apportioned funds that remain unobligated at the close of business on September 30, 2019 will revert to FTA for reapportionment under the Bus and Bus Facilities Formula Program.

Discretionary program funds authorized under section 5339(b) and (c) (Bus and LoNo) follow the same period of availability: Year of allocation plus three additional years.

7. What's New and Other Program Highlights

a. Cost Effective Capital Investment Pilot Program (49 U.S.C. 5339(a)(9)

Although it does not provide additional funding, as authorized under section 5339(a)(9), FTA is establishing a pilot program to allow designated recipients in urbanized areas between 200,000 and 1 million in population to elect to pool their section 5339(a) formula allocations with other designated recipients within their respective states. The purpose of this provision is to allow for the transfer of formula funding within a State in a manner that supports the transit asset management plans of the participating designated recipients.

A State that intends to participate in this pilot program beginning in FY 2016 must submit a request to establish a State Pool to the FTA section 5339 Program Manager, Samuel Snead, (*samuel.snead@dot.gov*) by March 31, 2016. The request must identify the urbanized areas that will participate in the pool for FY 2016, and must include a letter from each participating designated recipient, and from any affected eligible recipients of 5339(a) funds within the urbanized area, indicating their intention to participate in this pooling provision for FY 2016. An urbanized area that participates in a State Pool must contribute its entire section 5339(a) apportionment for the fiscal years in which it participates in the pool. A designated recipient for a multistate area may participate in only one State Pool. A State that does not establish a State Pool in FY 2016 may choose to begin participating in this provision in a future fiscal year, but should be aware that the benefits of pooling program funds will be diminished over a shorter duration.

For FY 2016, the request must specify the proposed distribution of the pooled funding and must provide a detailed explanation of how this distribution will support the transit asset management plans of each participating designated recipient, including any eligible recipients to which the designated recipient will allocate funding. Upon approval, FTA will make the requested amounts of program funding available to the urbanized areas as directed in the request.

A State that elects to participate in this pilot program will be required to develop an allocation plan for the period of fiscal years 2016 through 2020 that ensures that a designated recipient participating in the State's pool receives under the program an amount of funds that equals the amount of funds that would have otherwise been available to the designated recipient for that period pursuant to the formulas provided. The amounts in the State Pool will be apportioned separately from funds apportioned to the State under the Governor's Apportionment for urbanized areas under 200,000 in population, and will be made available directly by FTA to the participating urbanized areas, as directed in the approved allocation plan. An allocation plan may be revised for future fiscal years, provided that it remains compliant with the requirement to ensure equity over the period the pool is in effect.

Approved requests to establish a State Pool for the specified UZAs will remain in effect until cancelled at the request of the State or one or more designated recipients. If a State or designated recipient elects to end its participation in this pooling provision in any future fiscal year, FTA will adjust the formula allocations so that the total amount that each affected urbanized area has received over the fiscal years in which it participated, plus the following apportionment, equals the amount it would have received over this period had it not participated in the State pool. Adjustments will be made using the formula apportionment factors used for each of the affected fiscal years.

After the pools are determined, FTA will publish a supplementary table showing the participating UZAs, the State total, and the amounts for each UZA for FY 2016. In future years, the States must provide the amounts determined by August 31 (in an updated allocation plan), so that FTA can publish the breakdowns and make the funds available in the Apportionment Notice.

b. Program Management Plans

As a result of the changes to the definition of eligible recipients under the FAST Act, designated recipients are no longer required to obligate grants on behalf of entities that are eligible direct recipients of Section 5307 funds. Accordingly, FTA no longer requires designated recipients to maintain program management plans (PMPs) if they do not manage any sub-awards of section 5339 funds.

P. Growing States and High Density States Formula Factors (49 U.S.C. 5340)

The FAST Act continues the use of formula factors to distribute additional funds to the section 5307 and section 5311 programs for Growing States and High Density States. FTA will continue to publish single urbanized and rural apportionments that show the total

amount for 5307 and 5311 programs that includes section 5340 apportionments for these programs.

1. Authorized Amounts

The FAST Act authorizes $536,261,539 for FY 2016, $544,433,788 for FY 2017, $552,783,547 for FY 2018, $561,315,120 for FY 2019 and $570,032,917 for FY 2020 for the Growing States and High Density States Formula factors, as shown below:

Fiscal year	2016	2017	2018	2019	2020
Growing States	$272,297,082	$279,129,509	$286,132,747	$293,311,066	$300,668,843
High Density States	263,964,457	265,304,279	266,650,800	268,004,054	269,364,074
Total Funds Authorized	536,261,539	544,433,788	552,783,547	561,315,120	570,032,917

2. FY 2016 Funding Availability

In FY 2016, $536,261,539 is available for apportionment in accordance with the formula factors prescribed for Growing States and High Density States set forth in section 5340 for FY 2016. The FAST Act did not change the funding formula.

GROWING STATES AND HIGH DENSITY STATES FORMULA FACTORS—FY 2016

Total Appropriation	$536,261,539
Total Apportioned	536,261,539

3. Basis for Formula Apportionment

Under the Growing States portion of the section 5340 formula, FTA projects each State's 2025 population by comparing each State's apportionment year population (as determined by the Census Bureau) to the State's 2010 Census population and extrapolating to 2025 based on each State's rate of population growth between 2010 and the apportionment year. Each State receives a share of Growing States funds on the basis of its projected 2025 population relative to the nationwide projected 2025 population.

Once each State's share is calculated, funds attributable to that State are divided into an urbanized area allocation and a non-urbanized area allocation on the basis of the percentage of each State's 2010 Census population that resides in urbanized and non-urbanized areas. Urbanized areas receive portions of their State's urbanized area allocation on the basis of the 2010 Census population in that urbanized area relative to the total 2010 Census population in all urbanized areas in the State. These amounts are added to the Urbanized Area's section 5307 apportionment.

The States' rural area allocation is added to the allocation that each State receives under the section 5311 Formula Grants for Rural Areas program.

The High Density States portion of the section 5340 formula are allocated to urbanized areas in States with a population density equal to or greater than 370 persons per square mile. Based on this threshold and 2010 Census data, the States that qualify are Maryland, Delaware, Massachusetts, Connecticut, Rhode Island, New York and New Jersey (these are the same States that qualified under SAFETEA–LU and based on 2000 Census data). The amount of funds provided to each of these seven States is allocated on the basis of the population density of the individual State relative to the population density of all seven States. Once funds are allocated to each State, funds are then allocated to urbanized areas within the States on the basis of an individual urbanized area's population relative to the population of all urbanized areas in that State.

Q. Washington Metropolitan Area Transit Authority Grants

Under the FY 2016 Appropriations Act, $150 million is available for the period October 1, 2015 through September 30, 2016 for grants to the Washington Metropolitan Area Transit Authority (WMATA). After the one percent oversight takedown, $148.5 million is available for obligation. Such funding is authorized under section 601 of the Passenger Rail Investment and Improvement Act of 2008. See Public Law 110–432, Division B, Title VI.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY GRANTS—FY 2016

Total Appropriation	$150,000,000
Oversight Deduction	(1,500,000)
Total Apportioned	148,500,000

Grants may be provided for capital and preventive maintenance expenditures for WMATA after it has been determined that WMATA has placed the highest priority on investments that will improve the safety of the system, including but not limited to fixing the track signal system, replacing 1000 series railcars, installing guarded turnouts, buying equipment for wayside worker protection, and installing rollback protection on cars that are not equipped with the safety feature. FTA will communicate further program requirements directly to WMATA.

V. FTA Policy and Procedures for FY 2016 Grants

A. Automatic Pre-Award Authority To Incur Project Costs

1. Caution to New Grantees

While FTA provides pre-award authority to incur expenses before grant award for formula programs, it recommends that first-time grant recipients NOT utilize this automatic pre-award authority without verifying with the appropriate FTA Regional Office that all pre-requisite requirements have been met. As a new grantee, it is easy to misunderstand pre-award authority conditions and be unaware of all of the applicable FTA requirements that must be met in order to be reimbursed for project expenditures incurred in advance of grant award. FTA programs have specific statutory requirements that are often different from those for other Federal grant programs with which new grantees may be familiar. If funds are expended for an ineligible project or activity, or for an eligible activity but at an inappropriate time (*e.g.,* prior to NEPA completion), FTA will be unable to reimburse the project sponsor and, in certain cases, the entire project may be rendered ineligible for FTA assistance.

2. Policy

FTA provides pre-award authority to incur expenses before grant award for certain program areas described below. This pre-award authority allows grantees to incur certain project costs before grant approval and retain the eligibility of those costs for subsequent reimbursement after grant approval. The grantee assumes all risk and is responsible for ensuring that all conditions are met to retain eligibility.

This pre-award spending authority permits an eligible grantee to incur costs on an eligible transit capital, operating, planning, or administrative project without prejudice to possible future Federal participation in the cost of the project. In this notice, FTA provides pre-award authority through the authorization period of the FAST Act (October 1, 2015 through September 30, 2020) for capital assistance under all formula programs, so long as the conditions described below are met. FTA provides pre-award authority for planning and operating assistance under the formula programs without regard to the period of the authorization. All pre-award authority is subject to conditions and triggers stated below:

a. Operating, Planning, or Administrative Assistance

FTA does not impose additional conditions on pre-award authority for operating, planning, or administrative assistance under the formula grant programs. Grantees may be reimbursed for expenses incurred before grant award so long as funds have been expended in accordance with all Federal requirements, and the grantee is otherwise eligible to receive the funding. In addition to cross-cutting Federal grant requirements, program specific requirements must be met. For example, a planning project must have been included in a Unified Planning Work Program (UPWP); a section 5310 project must have been included in a coordinated public transit-human services transportation plan (coordinated plan) and selected by the designated recipient before incurring expenses; expenditures on State Administration expenses under State Administered programs must be consistent with the State Management Plan (as defined in FTA Circular 9040.1G, Chapter 6). Designated recipients for section 5310 have pre-award authority for the ten percent of the apportionment they may use for program administration.

b. Transit Capital Projects

For transit capital projects, the date that costs may be incurred is: (1) For design and environmental review, the date of the authorization of formula funds or the date of the announcement of the discretionary allocation of funds for the project; and (2) for property acquisition, demolition, construction, and acquisition of vehicles, equipment, or construction materials for projects that qualify for a categorical exclusion pursuant to 23 CFR 771.118(c), the date of the authorization of formula funds or the date of the announcement of the discretionary allocation of funds for the project; and (3) for property acquisition, demolition, construction, and acquisition of vehicles, equipment, or construction materials for projects that require a categorical exclusion pursuant to 23 CFR 771.118(d), an environmental assessment, or an environmental impact statement, the date that FTA completes the environmental review process required by NEPA and its implementing regulations by its issuance of a Section 771.118(d) categorical exclusion determination, a Finding of No Significant Impact (FONSI), or a Record of Decision (ROD). For projects that qualify for a categorical exclusion pursuant to 23 CFR 771.118(c), if a project is subsequently found not to qualify for this CE, it will be ineligible for FTA assistance. FTA recommends that a grant applicant contact FTA's Regional Office for assistance in determining the appropriate environmental review process and level of documentation necessary before incurring costs for property acquisition, demolition, construction, and acquisition of vehicles, equipment, or construction materials. In particular, FTA encourages grant applicants to contact FTA's Regional Office before exercising pre-award authority for projects to which it believes a CE at 23 CFR 771.118(c)(8), (c)(9), (c)(10), (c)(12), or (c)(13) applies. Before an applicant may incur costs when pre-award authority has not been granted, it must first obtain a written Letter of No Prejudice (LONP) from FTA. To obtain an LONP, a grantee must submit a written request accompanied by adequate information and justification to the appropriate FTA regional office, as described in section 4 below.

c. Public Transportation Innovation, Technical Assistance and Workforce Development

Unless provided for in an announcement of project selections, pre-award authority does not apply to section 5312 Public Transportation Innovation projects or section 5314 Technical Assistance and Workforce Development. Before an applicant may incur costs for activities under these programs, it must first obtain a written Letter of No Prejudice (LONP) from FTA. To obtain an LONP, a grantee must submit a written request accompanied by adequate information and justification to the appropriate FTA headquarters office. Information about LONP procedures may be obtained from the appropriate headquarters office.

3. Conditions

The conditions under which pre-award authority may be utilized are specified below:

i. Pre-award authority is not a legal or implied commitment that the subject project will be approved for FTA assistance or that FTA will obligate Federal funds. Furthermore, it is not a legal or implied commitment that all items undertaken by the applicant will be eligible for inclusion in the project.

ii. All FTA statutory, procedural, and contractual requirements must be met.

iii. No action will be taken by the grantee that prejudices the legal and administrative findings that the Federal Transit Administration must make in order to approve a project.

iv. Local funds expended by the grantee after the date of the pre-award authority will be eligible for credit toward local match or reimbursement if FTA later makes a grant or grant amendment for the project. Local funds expended by the grantee before the date of the pre-award authority will not be eligible for credit toward local match or reimbursement. Furthermore, the expenditure of local funds or the undertaking of certain activities that would compromise FTA's ability to comply with Federal environmental laws (*e.g.,* project implementation activities such as land acquisition, demolition, or construction before the date of pre-award authority) may render the project ineligible for FTA funding.

v. The Federal amount of any future FTA assistance awarded to the grantee for the project will be determined on the basis of the overall scope of activities and the prevailing statutory provisions with respect to the Federal/local match ratio at the time the funds are obligated.

vi. For funds to which the pre-award authority applies, the authority expires with the lapsing of the fiscal year funds.

vii. When a grant for the project is subsequently awarded, the grant and the Federal Financial Report in TrAMS must indicate the use of pre-award authority.

viii. Planning, Environmental, and Other Federal requirements.

All Federal grant requirements must be met at the appropriate time for the project to remain eligible for Federal funding. The growth of the Federal transit program has resulted in a growing number of inexperienced grantees who find compliance with Federal planning and environmental laws increasingly challenging.

FTA has modified its approach to pre-award authority, and the date that costs may be incurred is as follows. For design and environmental review, costs

may be incurred as of the date of the authorization of formula funds or the date of the announcement of the discretionary allocation of funds for the project. For property acquisition, demolition, construction, and acquisition of vehicles, equipment, or construction materials for projects that require a categorical exclusion pursuant to 23 CFR 771.118(d), an environmental assessment, or an environmental impact statement, costs may be incurred as of the date that FTA completes the environmental review process required by NEPA and its implementing regulations (*i.e.,* through issuance of a Section 771.118(d) categorical exclusion determination, a Finding of No Significant Impact (FONSI), or a Record of Decision (ROD)). For pre-award authority triggered by the completion of the NEPA process, the completion of planning and air quality requirements is a prerequisite, as those activities are completed prior to conclusion of the environmental review process.

Formula funds must be authorized or appropriated and earmarked project allocations published or announced before pre-award authority can be considered.

The requirement that a project be included in a locally-adopted Metropolitan Transportation Plan, the metropolitan transportation improvement program and federally-approved statewide transportation improvement program (23 CFR part 450) must be satisfied before the grantee may advance the project beyond planning and preliminary design with non-federal funds under pre-award authority. If the project is located within an EPA-designated non-attainment or maintenance area for air quality, the conformity requirements of the Clean Air Act, 40 CFR part 93, must also be met before the project may be advanced into implementation-related activities under pre-award authority triggered by the completion of the NEPA process. For projects that qualify for a categorical exclusion pursuant to 23 CFR 771.118(c), if a project is subsequently found not to qualify for this CE, it will be ineligible for FTA assistance. For all other projects, compliance with NEPA and other environmental laws and executive orders (*e.g.,* protection of parklands, wetlands, and historic properties) must be completed before State or local funds are spent on implementation activities, such as site preparation, construction, and acquisition, for a project that is expected to be subsequently funded with FTA funds.

For a planning project to have pre-award authority, the planning project must be included in a MPO-approved Unified Planning Work Program (UPWP) that has been coordinated with the State.

ix. Federal procurement procedures, as well as the whole range of applicable Federal requirements (*e.g.,* Buy America, Davis-Bacon Act, and Disadvantaged Business Enterprise) must be followed for projects in which Federal funding will be sought in the future. Failure to follow any such requirements could make the project ineligible for Federal funding. In short, this increased administrative flexibility requires a grantee to make certain that no Federal requirements are circumvented through the use of pre-award authority.

x. All program specific requirements must be met. For example, projects under section 5310 must comply with specific program requirements, including coordinated planning.

Before incurring costs, grantees are strongly encouraged to consult with the appropriate FTA Regional office regarding the eligibility of the project for future FTA funds and for questions on environmental requirements, or any other Federal requirements that must be met.

4. Pre-Award Authority for the Fixed Guideway Capital Investment Grant Program (New and Small Starts Projects and Core Capacity Projects)

Projects proposed for section 5309 Capital Investment Grant (CIG) program funds are required to follow a multi-step, multi-year process defined in law. For New Starts and Core Capacity projects, this process includes three phases—project development (PD), engineering, and construction. For Small Starts projects, this process includes two phases—PD and construction. After receiving a letter from the project sponsor requesting entry into the PD phase, FTA must respond in writing within 45 days whether the information was sufficient for entry. If FTA's correspondence indicates the information was sufficient and the New Starts, Small Starts or Core Capacity project enters PD, FTA extends pre-award authority to the project sponsor to incur costs for PD activities. PD activities include the work necessary to complete the environmental review process and as much engineering and design activities as the project sponsor believes are necessary to support the environmental review process. Upon completion of the environmental review process with a ROD, FONSI, or CE determination by FTA for a New Starts, Small Starts, or Core Capacity Improvement project, FTA extends pre-award authority to project sponsors to incur costs for as much engineering and design as needed to develop a reasonable cost estimate and financial plan for the project, utility relocation, and real property acquisition and associated relocations for any property acquisitions not already accomplished as a separate project for hardship or protective purposes or right-of-way under 49 U.S.C. 5323(q). For Small Starts projects, upon completion of the environmental review process and confirmation from FTA that the overall project rating is at least a Medium, FTA extends pre-award authority for vehicle purchases. Upon receipt of a letter notifying a New Starts or Core Capacity project sponsor of the project's approval into the engineering phase, FTA extends pre-award authority for vehicle purchases as well as any remaining engineering and design, demolition, and procurement of long lead items for which market conditions play a significant role in the acquisition price. The long lead items include, but are not limited to, procurement of rails, ties, and other specialized equipment, and commodities. Please contact the FTA Regional Office for a determination of activities not listed here, but which meet the intent described above. FTA provides this pre-award authority in recognition of the long-lead time and complexity involved with purchasing vehicles as well as their relationship to the ''critical path'' project schedule. FTA cautions grantees that do not currently operate the type of vehicle proposed in the project about exercising this pre-award authority. FTA encourages these sponsors to wait until later in the process when project plans are more fully developed. FTA reminds project sponsors that the procurement of vehicles must comply with all Federal requirements including, but not limited to, competitive procurement practices, the Americans with Disabilities Act, and Buy America. FTA encourages project sponsors to discuss the procurement of vehicles with FTA in regards to Federal requirements before exercising pre-award authority. Because there is not a formal engineering phase for Small Starts projects, FTA does not extend pre-award authority for demolition and procurement of long lead items. Instead, this work must await receipt of a construction grant award or an expedited grant agreement.

a. Real Property Acquisition

As noticed above, FTA extends pre-award authority for the acquisition of real property and real property rights for fixed Guideway Capital Investment Grant projects (New or Small Starts or

Core Capacity) upon completion of the environmental review process for that project. The environmental review process is completed when FTA signs an environmental Record of Decision (ROD) or Finding of No Significant Impact (FONSI), or makes a Categorical Exclusion (CE) determination. With the limitations and caveats described below, real estate acquisition may commence, at the project sponsor's risk. For FTA-assisted projects, any acquisition of real property or real property rights must be conducted in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and its implementing regulations, 49 CFR part 24. This pre-award authority is strictly limited to costs incurred: (i) To acquire real property and real property rights in accordance with the URA regulation, and (ii) to provide relocation assistance in accordance with the URA regulation. This pre-award authority is limited to the acquisition of real property and real property rights that are explicitly identified in the final environmental impact statement (FEIS), environmental assessment (EA), or CE document, as needed for the selected alternative that is the subject of the FTA-signed ROD or FONSI, or CE determination. This pre-award authority regarding property acquisition that is granted at the completion of the environmental review process does not cover site preparation, demolition, or any other activity that is not strictly necessary to comply with the URA, with one exception. That exception is when a building that has been acquired, has been emptied of its occupants, and awaits demolition poses a potential fire safety hazard or other hazard to the community in which it is located, or is susceptible to reoccupation by vagrants. Demolition of the building is also covered by this pre-award authority upon FTA's written agreement that the adverse condition exists. Pre-award authority for property acquisition is also provided when FTA makes a CE determination for a protective buy or hardship acquisition in accordance with 23 CFR 771.117(d)(12). Pre-award authority for property acquisition is also provided when FTA completes the environmental review process for the acquisition of right-of-way as a separate project in accordance with 49 U.S.C. 5323(q). When a tiered environmental review in accordance with 23 CFR 771.111(g) is used, pre-award authority is NOT provided upon completion of the first tier environmental document except when the Tier-1 ROD or FONSI signed by FTA explicitly provides such pre-award authority for a particular identified acquisition. Project sponsors should use pre-award authority for real property acquisition relocation assistance with a clear understanding that it does not constitute a funding commitment by FTA. FTA provides pre-award authority upon completion of the environmental review process for real property acquisition and relocation assistance to maximize the time available to project sponsors to move people out of their homes and places of business, in accordance with the requirements of the URA, but also with maximum sensitivity to the circumstances of the people so affected.

b. Reimbursement of Costs Incurred Under Pre-Award Authority

Although FTA provides pre-award authority for property acquisition, long lead items, and vehicle purchases upon completion of the environmental review process, FTA will not make a grant to reimburse the sponsor for real estate activities, vehicle purchases or purchases of long lead items conducted under pre-award authority until the project receives its construction grant. This is to ensure that Federal funds are not risked on a project whose advancement into construction is still not yet assured.

c. National Environmental Policy Act (NEPA) Activities

NEPA requires that major projects proposed for FTA funding assistance be subjected to a public and interagency review of the need for the project, its environmental and community impacts, and alternatives to avoid and reduce adverse impacts. Projects of more limited scope also need a level of environmental review, either to support an FTA finding of no significant impact (FONSI) or to demonstrate that the action is categorically excluded (*i.e.,* CE) from the more rigorous level of NEPA review. FTA's regulation titled ''Environmental Impact and Related Procedures,'' at 23 CFR part 771 states that the costs incurred by a grant applicant for the preparation of environmental documents requested by FTA are eligible for FTA financial assistance (23 CFR 771.105(e)). Accordingly, FTA extends pre-award authority for costs incurred to comply with NEPA regulations and to conduct NEPA-related activities, effective as of the earlier of the following two dates: (1) The date of the Federal approval of the relevant STIP or STIP amendment that includes the project or any phase of the project, or that includes a project grouping under 23 CFR 450.216(j) that includes the project; or (2) the date that FTA approves the project into the project development phase of the CIG program. The grant applicant must notify the FTA Regional Office upon initiation of the Federal environmental review process in accordance with the ''Dear Colleague'' letter from the FTA Administrator dated February 24, 2011. NEPA-related activities include, but are not limited to, public involvement activities, historic preservation reviews, section 4(f) evaluations, wetlands evaluations, endangered species consultations, and biological assessments. This pre-award authority is strictly limited to costs incurred to conduct the NEPA process and associated engineering, and to prepare environmental, historic preservation and related documents. When a New Starts, Small Starts, or Core Capacity project is granted pre-award authority for the environmental review process, the reimbursement for NEPA activities conducted under pre-award authority may be sought at any time through section 5307 (Urbanized Area Formula Program) or the flexible highway programs (STP and CMAQ). Reimbursement from the section 5309 CIG program for NEPA activities conducted under pre-award authority is provided only for expenses incurred after entry into the project development phase and only once a construction grant agreement is signed. As with any pre-award authority, FTA reimbursement for costs incurred is not guaranteed.

d. Other New and Small Starts and Core Capacity Project Activities Requiring Letter of No Prejudice (LONP)

Except as discussed in paragraphs i through iii above, a CIG project sponsor must obtain a written LONP from FTA before incurring costs for any activity not covered by pre-award authority. To obtain an LONP, an applicant must submit a written request accompanied by adequate information and justification to the appropriate FTA Regional Office, as described in B below.

B. Letter of No Prejudice (LONP) Policy

1. Policy

LONP authority allows an applicant to incur costs on a project utilizing non-Federal resources, with the understanding that the costs incurred subsequent to the issuance of the LONP may be reimbursable as eligible expenses or eligible for credit toward the local match should FTA approve the project at a later date. LONPs are applicable to projects and project activities not covered by automatic pre-

award authority. The majority of LONPs will be for section 5309 Capital Investment Grant program projects (New or Small Starts or Core Capacity) undertaking activities not covered under automatic pre-award authority. LONPs may be issued for formula and discretionary funds beyond the life of the current authorization or FTA's extension of automatic pre-award authority; however, the LONP is limited to a five-year period, unless otherwise authorized in the LONP. Receipt of Federal funding under any program is not implied or guaranteed by an LONP.

2. Conditions and Federal Requirements

The conditions and requirements for pre-award authority specified in section V.4.ii and V.4.iii above apply to all LONPs. Because project implementation activities may not be initiated before completion of the environmental review process, FTA will not issue an LONP for such activities until the environmental review process has been completed with a ROD, FONSI, or CE determination.

3. Request for LONP

Before incurring costs for project activities not covered by automatic pre-award authority, the project sponsor must first submit a written request for an LONP, accompanied by adequate information and justification, to the appropriate regional office and obtain written approval from FTA. FTA approval of an LONP is determined on a case-by-case basis.

C. FY 2016 Annual List of Certifications and Assurances

The FY 2016 Certifications and Assurances and Master Agreement must be used for all grants and cooperative agreements awarded in FY 2016, once available. All recipients with active projects will be required to sign the FY 2016 Certifications and Assurances within 90 days of the FY 2016 Certifications and Assurances being made available in TrAMS.

D. Civil Rights Requirements

1. Disadvantaged Business Enterprise (DBE)

The DOT Disadvantaged Business Enterprise (DBE) program is an affirmative action program designed to combat discrimination and its continuing effects by providing contracting opportunities on federally-funded highway, transit, and airport projects for small businesses owned and controlled by socially and economically disadvantaged individuals. Recipients are required to report to FTA their transit vehicle manufacturer awards. Recipients must do this within thirty (30) days of making the award and must submit: (1) The name of the successful bidder; and (2) the total dollar value of the contract. Recipients must report this information at the time the purchase is finalized. In other words, report the award when the recipient knows who the vehicle manufacturer will be and the exact amount of the contract award. Please remember that only certified transit vehicle manufacturers (TVM) can bid and receive FTA-funded vehicle procurements. Recipients may check the list of certified TVMs by visiting the FTA TVM Web page at *http://www.fta.dot.gov/12326_5626.html* or checking with a regional civil rights officer. In addition, for joint and cooperative procurements, each FTA recipient must separately report the information when they or a subrecipient execute a purchase order for the specific number of vehicles being purchased. This required information must be submitted to FTA on agency letterhead to the regional civil rights officer. FTA will work to develop an electronic process for tracking transit vehicle purchases in FY 2016.

2. Title VI of the Civil Rights Act of 1964

The U.S. DOT's Title VI implementing regulations are found in 49 CFR part 21. FTA's Title VI Circular (4702.1B) provides guidance on carrying out the regulatory requirements. For recipients in urbanized areas of 200,000 or more in population and with 50 or more fixed-route vehicles in peak service, the recipient must conduct a service equity analysis for all service changes that meet the recipient's definition of ''major service change'' prior to implementing the service change. Recipients also must conduct a fare equity analysis for all fare increases or decreases prior to implementing a fare change. Furthermore, an environmental justice analysis is not a substitute for a Title VI service equity analysis triggered by a major service change or fare change. As recipients prepare their budgets, it is vitally important that an appropriate major service change or fare change analysis is completed prior to taking the proposed action. Should you have any questions, please refer to 4702.1B, utilize the webinars posted on FTA's Title VI Web page, and contact your Regional Civil Rights Officer.

3. Americans with Disabilities Act (ADA)

Effective July 13, 2015, DOT revised it rules under the ADA and section 504 of the Rehabilitation Act of 1973, as amended, specifically to provide that transportation entities are required to make reasonable modifications to policies, practices, and procedures to avoid discrimination and ensure that their programs are accessible to individuals with disabilities. Recipients must have a process in place for making decisions and providing reasonable modifications under the ADA to their policies and practices, as set forth in 49 CFR 37.169. Recipients are reminded that this rulemaking also revised the longstanding local complaint process requirements in 49 CFR 27.13, adding additional elements that must be part of the local process. For example, recipients must now sufficiently advertise to the public the process for filing a disability-related complaint (such as on their Web sites) and communicate their response to the complainant. On November 4, 2015, FTA issued ADA Circular 4710.1, which provides guidance to recipients on carrying out the existing provisions of the ADA and section 504, including those involving reasonable modification and local complaint processing.

4. Equal Employment Opportunity

FTA's nondiscrimination statute found at 49 U.S.C. 5332 prohibits discrimination on the basis of sex. Other Federal statutes such as Title VI and Title VII of the Civil Rights Act of 1964 have been interpreted to prohibit discrimination on the basis of gender identity, including transgender status and nonconformity with gender stereotypes. Therefore, FTA interprets section 5332 to also include gender-identity discrimination.

E. Consolidated Planning Grants (CPG)

FTA and FHWA planning funds under both the Metropolitan Planning and State Planning and Research Programs can be consolidated into a single consolidated planning grant, awarded by either FTA or FHWA. The CPG eliminates the need to monitor individual fund sources, if several have been used, and ensures that the oldest funds will always be used first. Under the CPG, States can report metropolitan planning program expenditures (to comply with the Single Audit Act) for both FTA and FHWA under the Catalogue of Federal Domestic Assistance number for FTA's Metropolitan Planning Program (20.505). Additionally, for States with an FHWA Metropolitan Planning (PL) fund-matching ratio greater than 80 percent, the State can waive the 20 percent local share requirement, with FTA's concurrence, to allow FTA funds used for metropolitan planning in a CPG to be granted at the higher FHWA rate.

For some States, this Federal match rate can exceed 90 percent.

States interested in transferring planning funds between FTA and FHWA should contact the FTA Regional Office or FHWA Division Office for more detailed procedures. Current guidelines are included in Federal Highway Administration Memorandum dated July 12, 2007, ''Information: Final Transfers to Other Agencies that Administer Title 23 Programs.''

For further information on CPGs, contact Ann Souvandara, Office of Budget and Policy, FTA, at (202)366–0649.

1. Grant Application Procedures

All applications for FTA funds should be submitted to the appropriate FTA Regional Office. All applications are filed electronically. As noted in Section III of this notice, beginning on February 16, 2016, FTA will use the TrAMS system as a replacement for TEAM. FTA regional staff is responsible for working with grantees to review and process grant applications. In order for an application to be considered complete and for FTA to assign a Federal Award Identification Number (FAIN), enabling submission in TrAMS, and submission to the Department of Labor (when applicable), the following requirements must be met:

i. Recipient has registered in the System for Award Management (SAM) and its registration is current. If your agency is not registered or needs to ensure it is current, visit the SAM Web site at (*https://www.sam.gov*).

ii. Recipient's contact information, including Dun and Bradstreet Data Universal Numbering System (DUNS), is correct and up-to-date. If requested by phone (1–866–705–5711), DUNS is provided immediately. If your organization does not have an DUNS, you will need to go to the Dun & Bradstreet Web site at *http://fedgov.dnb.com/webform* to obtain the number.

iii. Recipient has properly submitted its annual certifications and assurances.

iv. Recipient's Civil Rights submissions are current and approved.

v. Documentation is on file to support recipient's status as either a designated recipient (for the program and area) or a direct recipient.

vi. Funding is available, including any flexible funds included in the budget, and split letters or suballocation letters on file (where applicable) to support amount being applied for in grant application.

vii. The project is listed in a currently approved Transportation Improvement Program (TIP); Statewide Transportation Improvement Program (STIP), or Unified Planning Work Program (UPWP).

viii. All eligibility issues are resolved.

ix. Required environmental findings are made.

x. The application contains a well-defined scope of work including at least one project with accompanying project narratives, budget scope and activity line item information, Federal and non-Federal funding amounts, and milestones.

xi. Major Capital Projects as defined by 49 CFR 633 Project Management oversight must document FTA has reviewed the project management plan and provided approval.

xii. Milestone information is complete, or FTA determines that milestone information can be finalized before the grant is ready for award. FTA will also review status of other open grants' reports to confirm financial and milestone information is current on other open grants and projects.

Before FTA can award grants for discretionary projects and activities, notification must be provided to the House and Senate authorizing and appropriations committees. Other important issues that impact FTA grant processing activities are discussed below.

a. System for Award Management (SAM) Registration and Dun and Bradstreet Universal Numbering System (DUNS) Number

Each applicant or recipient of Federal Funds is required to: (1) Be registered in SAM before submitting its application; (2) provide a valid DUNS number in its application; and (3) continue to maintain an active SAM registration with current information at all times during which it has an active award or an application or plan under consideration by the Federal Transit Administration (FTA). FTA will not make an award to an applicant until the applicant has complied with all applicable DUNS and SAM requirements and, if an applicant has not fully complied with the requirements by the time the FTA is ready to make a Federal award, FTA may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

The System for Award Management (SAM) *https://www.sam.gov/portal/SAM/* is the Official U.S. Government system that consolidated the capabilities of many systems, including the CCR, ORCA, and EPLS. There is no fee to register or use this site. Entities may register and update their information at no cost directly from the above site. SAM registration (formerly CCR registration) needs to be renewed at least annually.

b. Award Budgets—Scope Codes and Activity Line Items (ALI) Codes; Financial Purpose Codes

FTA uses the Scope and Activity Line Item (ALI) Codes in the award budgets to track program trends, to report to Congress, and to respond to requests from the Inspector General and the Government Accountability Office (GAO), as well as to manage grants. The accuracy of the data is dependent on the careful and correct use of codes.

c. Designated and Direct Recipients Documentation

For its formula programs, FTA primarily apportions funds to the Designated recipient in the large UZAs (areas over 200,000), or for areas under 200,000 (small UZAs and rural areas), it apportions the funds to the Governor, or its designee (*e.g.,* State DOT). Depending on the program and as described in the individual program sections found in Section IV of this notice, further suballocation of funds may be permitted to eligible recipients who can then apply directly to FTA for the funding (direct recipients), so long as the required documentation is on file.

For the programs in which FTA can make grants to eligible direct recipients, other than the designated recipient(s), recipients are reminded that documentation must be on file to support the (1) status of the recipient either as a designated recipient or direct recipient; and (2) the allocation of funds to the direct recipient.

Documentation to support existing designated recipients for the UZA must also be on file at the time of the first application in FY 2016. Further, split letters and/or suballocation letters (Governor's Apportionment letters), must also be on file to support grant applications from direct recipients. If this information has been uploaded to a recipient's profile in TEAM, it will be migrated into TrAMS. Once suballocation letters for FY 2016 funding are finalized they should also be uploaded into TrAMS.

2. Payments

Once a grant has been awarded and executed, requests for payment can be processed. To process payments FTA uses ECHO-Web, an Internet accessible system that provides grantees the capability to submit payment requests on-line, as well as receive user-IDs and passwords via email. New applicants

should contact the appropriate FTA Regional Office to obtain and submit the registration package necessary for set-up under ECHO-Web.

3. Oversight

FTA is responsible for conducting oversight activities to help ensure that grants recipients use FTA Federal financial assistance in a manner consistent with their intended purpose and in compliance with regulatory and statutory requirements. FTA conducts periodic oversight reviews to assess grantee compliance with applicable Federal requirements. Each Urbanized Area Formula Program recipient is reviewed every three years, (also known as FTA's Triennial Review); and States and state-wide public transportation agencies are reviewed periodically to assess the management practices and program implementation of FTA state-wide programs (*e.g.,* Planning, Rural Areas, Enhanced Mobility of Seniors and Individuals with Disabilities Programs). Other more detailed reviews are scheduled based on an annual grantee oversight assessment. Important objectives of FTA's oversight program include, but are not limited to: Determining grantee compliance with Federal requirements; identifying technical assistance needs, and delivering technical assistance to meet those needs; spotting emerging issues with grantees in a forward-looking fashion; recognizing when there is a need for more in-depth reviews in the areas of procurement, financial management, and civil rights; and identifying grantees with recurring or systemic issues.

4. Technical Assistance

As noted throughout the notice, FTA continues to rely on several of the existing program circulars for general program guidance. FTA is continuing to update the program circulars, with an opportunity for notice and comment (where warranted), to reflect amendments to chapter 53 of title 49, U.S.C. made by the FAST Act. In the meantime, if you have any questions, please do not hesitate to contact FTA. FTA headquarters and regional staff will be pleased to answer your questions and provide any technical assistance you may need to apply for FTA program funds and manage the grants you receive. At its discretion, FTA may also use program oversight consultants to provide technical assistance to grantees on a case by case basis. This notice and the program guidance circulars previously identified in this document may be accessed via the FTA Web site at *www.fta.dot.gov*.

G. Grant Management

1. Formula Apportionment Data and Methodology

FTA is publishing apportionment tables on its Web site for each program that reflects the full year appropriations less oversight take-downs, as applicable. Tables displaying the funds available to eligible states, tribes, and urbanized areas have been posted to *http://www.fta.dot.gov/apportionments*. This Web site contains a page listing the apportionment and allocation tables for FY 2016 as well as links to prior year formula apportionment notices and tables and the NTD and Census data used to calculate the FY 2016 apportionments.

2. National Transit Database and Census Data Used in the FY 2016 Apportionments

Consistent with past practices, the calculations for sections 5307, 5311, including 5311(j) (Tribal Transit), 5329, 5337, and 5339 programs rely on the most-recent transit service data reported to the National Transit Database (NTD), which in this case is the 2014 report year. In some cases where an apportionment is based on the age of the system, the age is calculated as of September 30, 2015, which was the last day before FY 2016 began. Any recipient or beneficiary of either the section 5307 or section 5311 program funds is required to report to the NTD. Additionally, a number of transit operators report to the NTD on a voluntary basis. For the 2014 report year, the NTD includes data from 864 reporters in urbanized areas, 825 of which reported operating transit service. The NTD also includes data from 1,420 providers of rural transit service, which includes 130 Indian Tribes providing transit service.

2010 Census data is used to determine population and population density for sections 5303, 5305, 5307 and 5339 as well as rural population and rural land area for Section 5311. The formulas for sections 5307, 5311, and 5311(j) include tiers where funding is allocated on the basis of the number of persons living in poverty, and the section 5310 formula program allocates funding on the basis of the population of older adults and people with disabilities. The Census Bureau no longer publishes decennial census data on persons living in poverty and persons with disabilities. As a result, since FY 13, FTA has been using the data for these populations available via the Census' American Community Survey (ACS). The NTD and census data that FTA used to calculate the apportionments associated with this notice can be found on FTA's Web site: *www.fta.dot.gov/apportionments*.

The FY 2016 apportionments use data on low-income persons, persons with disabilities, and older adults from the 2009–2013 ACS five-year data set, which was published in December 2014. This data represent the most recent five-year ACS estimates that are available as of October 1st for the year being apportioned. As was the case in prior years, data on low-income persons comes from ACS Table B17024, ''Age by Ratio of Income to Poverty in the Last Twelve Months,'' and data on people with disabilities under 65 years old comes from ACS Table S1810, ''Disability Characteristics.'' For the FY 2016 apportionments, FTA is using data on older adults (over 65 years old) from ACS Table B01001, ''Sex by Age'' after determining that the ACS table used in prior fiscal years (ACS Table S.0103, ''People over 65 in the United States'') did not include data for all urbanized areas.

3. Grant Reporting

Recipients of FTA funds are reminded that all FTA grantees are required to report on their grants and that it is critical to ensure reports demonstrate that reasonable progress is being made on the project. At a minimum, all awards require a Federal Financial Report (FFR) and a Milestone Progress Report (MPR) on an annual basis, with some reports required quarterly or monthly depending on the recipient and the type of projects funded under the grant. The requirements for these reports and other reporting requirements can be found in FTA Circular 5010.1D, Grant Management Requirements, dated August 27, 2012. FTA staff, auditors, and contractors rely on the information provided in the FFR and MPR to review and report on the status of both financial and project-level activities contained in the grant. It is critical that recipients provide accurate and complete information in these reports and submit them by the required due date. Failure to report and/or demonstrate reasonable progress on projects can result in suspension or premature close-out of a grant.

4. Inactive Grants and Grant Closeout

In FY 2016, FTA will continue to focus on inactive grants and grants that do not comply with reporting requirements. If appropriate, FTA will take action to close out and deobligate funds from these grants if reasonable progress is not being made. The efficient use of funds will further FTA's fulfillment of its mission to provide efficient and effective public

transportation systems for the nation. As inactive grants continue to be an audit finding within the DOT, FTA must take action to ensure its grants do not impact the DOT from receiving a ''clean audit'' opinion on its annual financial statement.

In October of 2015, FTA identified a list of grants that were awarded on or prior to September 30, 2012 and have had no funds disbursed since September 30, 2014 or have never had a disbursement. FTA Regional Offices will be contacting grant recipients with grants that meet this criteria to notify them that FTA intends to close the grant and deobligate any remaining funds unless the grantee can provide information that demonstrates that the projects funded by the grant remain active and the grantee has a realistic schedule to expedite completion of the projects funded in the grant.

5. American Recovery and Reinvestment Act (ARRA) Transportation Investments Generating Economic Recovery (TIGER) Grants

Recipients of open ARRA TIGER grants should be aware that, as a matter of law, all remaining ARRA funds MUST be disbursed from grants by the end of the 5th FY after funds were obligated. (See 31 U.S.C. 1552.) For FTA ARRA TIGER projects, that requirement takes effect at the end of FY 2016. Accordingly, once ECHO closes for disbursements in late September 2016, all remaining funds within FTA ARRA TIGER funded grants will no longer be available to the grantee. These undisbursed funds will be deobligated from the grant. Even if a grantee has incurred costs or disbursed funds prior to the close of ECHO, if the grantee has not actually drawn down the funds by the time ECHO closes, FTA will be unable to reimburse the grantee. Therefore, grantees with open ARRA TIGER grants must ensure project activities are completed and all funds are drawn down before ECHO closes by late September 2016. This deadline does not apply to TIGER grants that are not funded by ARRA.

Therese W. McMillan,

Acting Administrator.

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Part III

Securities and Exchange Commission

Public Company Accounting Oversight Board; Notice of Filing of Proposed Rules on Improving the Transparency of Audits: Rules To Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards; Notice

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77082; File No. PCAOB–2016–01]

Public Company Accounting Oversight Board; Notice of Filing of Proposed Rules on Improving the Transparency of Audits: Rules To Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards

February 8, 2016.

Pursuant to Section 107(b) of the Sarbanes-Oxley Act of 2002 (the ''Act'' or ''Sarbanes-Oxley Act''), notice is hereby given that on January 29, 2016, the Public Company Accounting Oversight Board (the ''Board'' or ''PCAOB'') filed with the Securities and Exchange Commission (the ''Commission'' or ''SEC'') the proposed rules described in Items I and II below, which items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rules from interested persons.

I. Board's Statement of the Terms of Substance of the Proposed Rules

On December 15, 2015, the Board adopted new rules, a new form, and amendments to auditing standards (collectively, the ''proposed rules'') to improve transparency regarding the engagement partner and other accounting firms that participate in issuer audits. The text of the proposed rules is set out below.

Rules of the Board and Amendments to Auditing Standards

The Board adopts: (i) New Rule 3210, Amendments, and Rule 3211, Auditor Reporting of Certain Audit Participants; (ii) new Form AP, Auditor Reporting of Certain Audit Participants; and (iii) amendments to AS 3101 (currently AU sec. 508), Reports on Audited Financial Statements, and AS 1205 (currently AU sec. 543), Part of the Audit Performed by Other Independent Auditors. The text of these rules, form, and amendments is set forth below.

Rules of the Board

Section 3. Auditing and Related Professional Practice Standards

Rule 3210. Amendments

The provisions of Rule 2205 concerning amendments shall apply to any Form AP filed pursuant to Rule 3211 as if the submission were a report on Form 3.

Rule 3211. Auditor Reporting of Certain Audit Participants

(a) For each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form.

Note 1: A Form AP filing is not required for an audit report of a registered public accounting firm that is referred to by the principal auditor in accordance with AS 1205, Part of the Audit Performed by Other Independent Auditors.

Note 2: Rule 3211 requires the filing of a report on Form AP regarding an audit report only the first time the audit report is included in a document filed with the Commission. Subsequent inclusion of precisely the same audit report in other documents filed with the Commission does not give rise to a requirement to file another Form AP. In the event of any change to the audit report, including any change in the dating of the report, Rule 3211 requires the filing of a new Form AP the first time the revised audit report is included in a document filed with the Commission.

(b) Form AP is deemed to be timely filed if—

1. The form is filed by the 35th day after the date the audit report is first included in a document filed with the Commission; provided, however, that

2. If such document is a registration statement under the Securities Act, the form is filed by the 10th day after the date the audit report is first included in a document filed with the Commission.

(c) Unless directed otherwise by the Board, a registered public accounting firm must file such report electronically with the Board through the Board's Web-based system.

(d) Form AP shall be deemed to be filed on the date that the registered public accounting firm submits a Form AP in accordance with this rule that includes the certification in Part VI of Form AP.

Amendments to Board Forms

Form AP—Auditor Reporting of Certain Audit Participants

General Instructions

1. *Submission of this Report.* Effective [insert effective date of Rule 3211], a registered public accounting firm must use this Form to file with the Board reports required by Rule 3211 and to file any amendments to such reports. Unless otherwise directed by the Board, the registered public accounting firm must file this Form electronically with the Board through the Board's Web-based system.

2. *Defined Terms.* The definitions in the Board's rules apply to this Form. Italicized terms in the instructions to this Form are defined in the Board's rules. In addition, as used in the instructions to this Form, the term ''the Firm'' means the registered public accounting firm that is filing this Form with the Board; and the term, ''other accounting firm'' means: (i) A registered public accounting firm other than the Firm or (ii) any other person or entity that opines on the compliance of any entity's financial statements with an applicable financial reporting framework.

3. *When this Report is Considered Filed.* A report on Form AP is considered filed on the date the Firm submits to the Board a Form AP in accordance with Rule 3211 that includes the certification required by Part VI of Form AP.

Note 1: A Form AP filing is not required for an audit report of a registered public accounting firm that is referred to by the Firm in accordance with AS 1205, Part of the Audit Performed by Other Independent Auditors.

Note 2: Rule 3211 requires the filing of a report on Form AP regarding an audit report only the first time the audit report is included in a document filed with the Commission. Subsequent inclusion of precisely the same audit report in other documents filed with the Commission does not give rise to a requirement to file another Form AP. In the event of any change to the audit report, including any change in the dating of the report, Rule 3211 requires the filing of a new Form AP the first time the revised audit report is included in a document filed with the Commission.

4. *Amendments to this Report.* Amendments to Form AP are required to correct information that was incorrect at the time the Form was filed or to provide information that was omitted from the Form and was required to be provided at the time the Form was filed. When filing a Form AP to amend an earlier filed Form AP, the Firm must supply not only the corrected or supplemental information, but it must include in the amended Form AP all information and certifications that were required to be included in the original Form AP. The Firm may access the originally filed Form AP through the Board's Web-based system and make the appropriate amendments without needing to re-enter all other information.

Note: The Board will designate an amendment to a report on Form AP as a report on ''Form AP/A.''

5. *Rules Governing this Report.* In addition to these instructions, Rules 3210 and 3211 govern this Form. Read these rules and the instructions carefully before completing this Form.

6. *Language.* Information submitted as part of this Form must be in the English language.

7. *Partner ID.* For purposes of responding to Item 3.1.a.6, the Firm must assign each engagement partner that is responsible for the Firm's issuance of an issuer audit report a 10-digit Partner ID number. The Firm must assign a unique Partner ID number to each such engagement partner and must use the same Partner ID for that engagement partner in every Form AP filed by the Firm that identifies that engagement partner. The Partner ID must begin with the Firm ID—a unique five-digit identifier based on the number assigned to the Firm by the PCAOB—and be followed by a unique series of five digits assigned by the Firm. When an engagement partner is no longer associated with the Firm, his/her Partner ID must be retired and not reassigned.

If the engagement partner was previously associated with a different registered public accounting firm and had a Partner ID at that previous firm, the Firm must assign a new Partner ID in accordance with the instructions above. The new Firm must report, in Item 3.1.a.6, the new Partner ID and all Partner IDs previously associated with the engagement partner.

Note: The Firm ID can be found by viewing the firm's summary page on the PCAOB Web site, where it is displayed parenthetically next to the name of the firm—firm name (XXXXX). For firms that have PCAOB-assigned identifiers with fewer than 5 digits, leading zeroes should be added before the number to make 5 digits, *e.g.,* 99 should be presented as 00099.

Part I—Identity of the Firm

In Part I, the Firm should provide information that is current as of the date of the certification in Part VI.

Item 1.1 Name of the Firm

a. State the legal name of the Firm.

b. If different than its legal name, state the name under which the Firm issued this audit report.

Part II—Amendments

Item 2.1 Amendments

If this is an amendment to a report previously filed with the Board:

a. Indicate, by checking the box corresponding to this item, that this is an amendment.

b. Identify the specific Part or Item number(s) in this Form (other than this Item 2.1) as to which the Firm's response has changed from that provided in the most recent Form AP or amended Form AP filed by the Firm with respect to an audit report related to the issuer named in Item 3.1.a.1.

Part III—Audit Client and Audit Report

Item 3.1 Audit Report

a. Provide the following information concerning the issuer for which the Firm issued the audit report—

1. Indicate, by checking the box corresponding to this item, whether the audit client is an issuer other than an employee benefit plan or investment company; an employee benefit plan; or an investment company;

2. The Central Index Key (CIK) number, if any, and Series identifier, if any;

3. The name of the issuer whose financial statements were audited;

4. The date of the audit report;

5. The end date of the most recent period's financial statements identified in the audit report;

6. The name (that is, first and last name, all middle names and suffix, if any) of the engagement partner on the most recent period's audit, his/her Partner ID, and any other Partner IDs by which he/she has been identified on a Form AP filed by a different registered public accounting firm or on a Form AP filed by the Firm at the time when it had a different Firm ID; and

7. The city and state (or, if outside the United States, city and country) of the office of the Firm issuing the audit report.

b. Indicate, by checking the box corresponding to this item, if the most recent period and one or more other periods presented in the financial statements identified in Item 3.1.a.5 were audited during a single audit engagement.

c. In the event of an affirmative response to Item 3.1.b, indicate the periods audited during the single audit engagement for which the individual named in Item 3.1.a.6 served as engagement partner (for example, as of December 31, 20XX and 20X1 and for the two years ended December 31, 20XX).

d. Indicate, by checking the box corresponding to this item, if the audit report was dual-dated pursuant to AS 3110, Dating of the Independent Auditor's Report.

e. In the event of an affirmative response to Item 3.1.d, indicate the date of the dual-dated information and if different from the engagement partner named in Item 3.1.a.6, information about the engagement partner who audited the information within the financial statements to which the dual-dated opinion applies in the same detail as required by Item 3.1.a.6.

Note: In responding to Item 3.1.e, the Firm should provide each date of any dual-dated audit report.

Item 3.2 Other Accounting Firms

Indicate, by checking the box corresponding to this item, if one or more other accounting firms participated in the Firm's audit. If this item is checked, complete Part IV. By checking this box, the Firm is stating that it is responsible for the audits or audit procedures performed by the other accounting firm(s) identified in Part IV and has supervised or performed procedures to assume responsibility for their work in accordance with PCAOB standards.

Note: For purposes of Item 3.2, an other accounting firm participated in the Firm's audit if (1) the Firm assumes responsibility for the work and report of the other accounting firm as described in paragraphs .03-.05 of AS 1205, Part of the Audit Performed by Other Independent Auditors, or (2) the other accounting firm or any of its principals or professional employees was subject to supervision under AS 1201, Supervision of the Audit Engagement.

Item 3.3 Divided Responsibility

Indicate, by checking the box corresponding to this item, if the Firm divided responsibility for the audit in accordance with AS 1205, Part of the Audit Performed by Other Independent Auditors, with one or more other public accounting firm(s). If this item is checked, complete Part V.

Part IV—Responsibility for the Audit Is Not Divided

In responding to Part IV, total audit hours in the most recent period's audit should be comprised of hours attributable to: (1) the financial statement audit; (2) reviews pursuant to AS 4105, Reviews of Interim Financial Information; and (3) the audit of internal control over financial reporting pursuant to AS 2201, An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements. Excluded from disclosure and from total audit hours in the most recent period's audit are, respectively, the identity and hours incurred by: (1) the engagement quality reviewer; (2) the person who performed the review pursuant to SEC Practice Section 1000.45 Appendix K; (3) specialists engaged, not employed, by

the Firm; (4) an accounting firm performing the audit of the entities in which the issuer has an investment that is accounted for using the equity method; (5) internal auditors, other company personnel, or third parties working under the direction of management or the audit committee who provided direct assistance in the audit of internal control over financial reporting; and (6) internal auditors who provided direct assistance in the audit of the financial statements. Hours incurred in the audit by entities other than other accounting firms are included in the calculation of total audit hours and should be allocated among the Firm and the other accounting firms participating in the audit on the basis of which accounting firm commissioned and directed the applicable work.

Actual audit hours should be used if available. If actual audit hours are unavailable, the Firm may use a reasonable method to estimate the components of this calculation. The Firm should document in its files the method used to estimate hours when actual audit hours are unavailable and the computation of total audit hours on a basis consistent with AS 1215, Audit Documentation. Under AS 1215, the documentation should be in sufficient detail to enable an experienced auditor, having no previous connection with the engagement, to understand the computation of total audit hours and the method used to estimate hours when actual hours were unavailable.

In responding to Part IV, if the financial statements for the most recent period and one or more other periods covered by the audit report identified in Item 3.1.a.4 were audited during a single audit engagement (for example, in a reaudit of a prior period(s)), the calculation should be based on the percentage of audit hours attributed to such firms in relation to the total audit hours for the periods identified in Item 3.1.c.

Indicate, by checking the box, if the percentage of total audit hours will be presented within ranges in Part IV.

Item 4.1 Other Accounting Firm(s) Individually 5% or Greater of Total Audit Hours

a. State the legal name of other accounting firms and the extent of participation in the audit—as a single number or within the appropriate range of the percentage of hours, according to the following list—attributable to the audits or audit procedures performed by such accounting firm in relation to the total hours in the most recent period's audit.

90%-or-more of total audit hours;

80% to less than 90% of total audit hours;

70% to less than 80% of total audit hours;

60% to less than 70% of total audit hours;

50% to less than 60% of total audit hours;

40% to less than 50% of total audit hours;

30% to less than 40% of total audit hours;

20% to less than 30% of total audit hours;

10% to less than 20% of total audit hours; and

5% to less than 10% of total audit hours.

b. For each other accounting firm named, state the city and state (or, if outside the United States, city and country) of the headquarters' office and, if applicable, the other accounting firm's Firm ID.

Note 1: In responding to Items 4.1 and 4.2, the percentage of hours attributable to other accounting firms should be calculated individually for each firm. If the individual participation of one or more other accounting firm(s) is less than 5%, the Firm should complete Item 4.2.

Note 2: In responding to Item 4.1.b, the Firm ID represents a unique five-digit identifier for firms that have a publicly available PCAOB-assigned number.

Item 4.2 Other Accounting Firm(s) Individually Less Than 5% of Total Audit Hours

a. State the number of other accounting firm(s) individually representing less than 5% of total audit hours.

b. Indicate the aggregate percentage of participation of the other accounting firm(s) that individually represented less than 5% of total audit hours by filling in a single number or by selecting the appropriate range as follows:

90%-or-more of total audit hours;

80% to less than 90% of total audit hours;

70% to less than 80% of total audit hours;

60% to less than 70% of total audit hours;

50% to less than 60% of total audit hours;

40% to less than 50% of total audit hours;

30% to less than 40% of total audit hours;

20% to less than 30% of total audit hours;

10% to less than 20% of total audit hours;

5% to less than 10% of total audit hours; and

Less-than-5% of total audit hours.

Part V—Responsibility for the Audit Is Divided

Item 5.1 Identity of the Other Public Accounting Firm(s) to Which the Firm Makes Reference

a. Provide the following information concerning each other public accounting firm the Firm divided responsibility with in the audit—

1. State the legal name of the other public accounting firm and when applicable, the other public accounting firm's Firm ID.

2. State the city and state (or, if outside the United States, city and country) of the office of the other public accounting firm that issued the other audit report.

3. State the magnitude of the portion of the financial statements audited by the other public accounting firm.

Note: In responding to Item 5.1.a.3, the Firm should state the dollar amounts or percentages of one or more of the following: total assets, total revenues, or other appropriate criteria, as it is described in the audit report in accordance with AS 1205.

Part VI—Certification of the Firm

Item 6.1 Signature of Partner or Authorized Officer

This Form must be signed on behalf of the Firm by an authorized partner or officer of the Firm by typing the name of the signatory in the electronic submission. The signer must certify that:

a. The signer is authorized to sign this Form on behalf of the Firm;

b. The signer has reviewed this Form;

c. Based on the signer's knowledge, this Form does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading; and

d. Based on the signer's knowledge, the Firm has not failed to include in this Form any information that is required by the instructions to this Form.

The signature must be accompanied by the signer's title, the capacity in which the signer signed the Form, the date of signature, and the signer's business telephone number and business email address.

* * * * *

Amendments to PCAOB Auditing Standards for Optional Disclosure of Certain Audit Participants in the Auditor's Report

The amendments below are adopted to PCAOB auditing standards.

AS 3101 (Currently AU Sec. 508), Reports on Audited Financial Statements

AS 3101 (Currently AU Sec. 508), *Reports on Audited Financial Statements,* Is Amended as Follows:

a. Paragraph .09A is added, as follows:

The auditor may include in the auditor's report information regarding the engagement partner and/or other accounting firms participating in the audit that is required to be reported on PCAOB Form AP, *Auditor Reporting of Certain Audit Participants.* If the auditor decides to provide information about the engagement partner, other accounting firms participating in the audit, or both, the auditor must disclose the following:

a. Engagement partner—the engagement partner's full name as required on Form AP; or

b. Other accounting firms participating in the audit—

i. A statement that the auditor is responsible for the audits or audit procedures performed by the other public accounting firms and has supervised or performed procedures to assume responsibility for their work in accordance with PCAOB standards;

ii. Other accounting firms individually contributing 5% or more of total audit hours—for each firm, (1) the firm's legal name, (2) the city and state (or, if outside the United States, city and country) of headquarters' office, and (3) percentage of total audit hours as a single number or within an appropriate range, as is required to be reported on Form AP; and

iii. Other accounting firms individually contributing less than 5% of total audit hours—(1) the number of other accounting firms individually representing less than 5% of total audit hours and (2) the aggregate percentage of total audit hours of such firms as a single number or within an appropriate range, as is required to be reported on Form AP.

AS 1205 (Currently AU Sec. 543), Part of the Audit Performed by Other Independent Auditors

AS 1205 (Currently AU Sec. 543), Part of the Audit Performed by Other Independent Auditors, Is Amended as Follows:

a. In paragraph .03, the following phrase is added to the end of the second sentence, '', except as provided in paragraph .04.''

b. In paragraph .04, the last sentence is deleted and replaced with the following:

If the principal auditor decides to take this position, the auditor may include information about the other auditor in the auditor's report pursuant to paragraph .09A of AS 3101, Reports on Audited Financial Statements, but otherwise should not state in its report that part of the audit was made by another auditor.

c. In paragraph .07:

- The last sentence is deleted.
- Footnote 3 is deleted.

* * * * *

II. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rules

In its filing with the Commission, the Board included statements concerning the purpose of, and basis for, the proposed rules and discussed any comments it received on the proposed rules. The text of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements. In addition, the Board is requesting that the Commission approve the proposed rules, pursuant to Section 103(a)(3)(C) of the Sarbanes-Oxley Act, for application to audits of emerging growth companies (''EGCs''), as that term is defined in Section 3(a)(80) of the Securities Exchange Act of 1934 (''Exchange Act''). The Board's request is set forth in section D.

A. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rules

(a) Purpose

Introduction

The Board has adopted new rules and related amendments to its auditing standards that will provide investors and other financial statement users with information about engagement partners and accounting firms that participate in audits of issuers. Under the final rules, firms will be required to file a new PCAOB form for each issuer audit, disclosing: the name of the engagement partner; the name, location, and extent of participation of each other accounting firm that took part in the audit whose work constituted at least 5% of total audit hours; and the number and aggregate extent of participation of all other accounting firms participating in the audit whose individual participation was less than 5% of total audit hours. The information will be filed on Form AP, *Auditor Reporting of Certain Audit Participants,* and will be available in a searchable database on the Board's Web site.

Audits serve a crucial public function in the capital markets. However, investors have had very little ability to evaluate the quality of particular audits. Generally, in the United States, investor decisions about how much credence to give to an auditor's report have been based on proxies of audit quality, such as the size and reputation of the firm that issues the auditor's report. Investors and other financial statement users know the name of the accounting firm signing the auditor's report and may have other information related to the reputation and quality of services of the firm, but they are generally unable to readily identify the engagement partner leading the audit. They are also unlikely to know the extent of the role played by other accounting firms participating in the audit.

The Board has adopted these rules and amendments after considering four rounds of public comment, as well as comments from members of the Board's Standing Advisory Group (''SAG'') and Investor Advisory Group (''IAG''). The Board has received consistent comments from investors throughout this rulemaking that stress the importance and value to them of increased transparency and accountability in relation to certain participants in the audit. These commenters indicated that access to such information would be relevant to their decision making, for example, in the context of voting to ratify the company's choice of auditor.[1] The Board believes that its approach to providing information about the engagement partner and the other accounting firms that participated in the audit will achieve the objectives of enhanced transparency and accountability for the audit while appropriately addressing concerns raised by commenters.

In the Board's own experience, gained through more than ten years of overseeing public company audits, information about the engagement partner and other accounting firms participating in the audit can be used along with other information, such as history on other issuer audits or disciplinary proceedings, in order to provide insights into audit quality. The rules the Board adopted will add more

[1] *See, e.g.,* Letter from Jeff Mahoney, General Counsel, Council of Institutional Investors, to the Office of the Secretary, PCAOB (Aug. 15, 2014), (''[I]nformation about engagement partners' track record compiled as the result of requiring disclosure of the partner's name in the auditor's report would be relevant to our members as long-term shareowners in overseeing audit committees and determining how to cast votes on the more than two thousand proposals that are presented annually to shareowners on whether to ratify the board's choice of outside auditor.'').

specific data points to the mix of information that can be used when evaluating audit quality.[2] Since audit quality is a component of financial reporting quality, high audit quality increases the credibility of financial reporting.

For example, the name of the engagement partner could, when combined with additional information about the experience and reputation of that partner, provide more information about audit quality than solely the name of the firm.[3] Through its oversight activities, the Board has observed that the quality of individual audit engagements varies within firms, notwithstanding firmwide or networkwide quality control systems. Although such variations may be due to a number of factors, the Board's staff uses engagement partner history as one factor in making risk-based selections of audit engagements for inspection. Some firms closely monitor engagement partner quality history themselves, utilizing this information to manage risk to the firm and to comply with quality control standards.

Under the final rules, investors and other financial statement users will have access, in one location, to the names of engagement partners on all issuer audits.[4] As this information accumulates and is aggregated with other publicly available information, investors will be able to take into account not just the firm issuing the auditor's report but also the specific partner in charge of the audit and his or her history as an engagement partner on issuer audits. This will allow interested parties to compile information about the engagement partner, such as whether the partner is associated with restatements of financial statements or has been the subject of public disciplinary proceedings, as well as whether he or she has experience as an engagement partner auditing issuers of a particular size or in a particular industry. While this information may not be useful in every instance or meaningful to every investor, the Board believes that, overall, it will contribute to the mix of information available to investors.

The final rules requiring disclosures about other accounting firms that participate in issuer audits should also provide benefits to investors and other financial statement users. In many audit engagements, especially audits of public companies operating in multiple locations internationally, the firm signing the auditor's report performs only a portion of the audit. The remaining work is performed by other (often affiliated) accounting firms that are generally located in other jurisdictions. The accounting firm issuing the auditor's report assumes responsibility for the procedures performed by other accounting firms participating in the audit[5] or supervises the work of other accounting and nonaccounting firm participants in the audit.[6] However, under current requirements, the auditor's report generally provides no information about these arrangements, even though other accounting firms may perform a significant portion of the audit work. As a result, the auditor's report may give the impression that the work was performed solely by one firm—the firm issuing the auditor's report—and investors have no way of knowing whether the firm expressing the opinion did all of the work or only a portion of it.

Information provided on Form AP is intended to help investors understand how much of the audit was performed by the accounting firm signing the auditor's report and how much was performed by other accounting firms. Investors will also be able to research publicly available information about the firms identified in the form, such as whether a participating firm is registered with the PCAOB, whether it has been inspected and, if so, what the results were and whether it has any publicly available disciplinary history. Investors will also have a better sense of how much of the audit was performed by firms in other jurisdictions, including jurisdictions in which the PCAOB cannot currently conduct inspections. As with disclosure of the name of the engagement partner, these additional data points will add to the mix of information that investors can use.

In addition to the informational value of the disclosures required under the final rules, the Board believes the transparency created by public disclosure should promote increased accountability in the audit process. As Justice Brandeis famously observed, ''Sunlight is said to be the best of disinfectants; electric light the most efficient policeman.'' [7] Although auditors already have incentives to maintain a good reputation, such as internal performance reviews, regulatory oversight, and litigation risk, public disclosure will create an additional reputation risk, which should provide an incremental incentive for auditors to maintain a good reputation, or at least avoid a bad one. While this additional incentive will not affect all engagement partners in the same way, in the Board's view, it should provide an overall benefit.

The Board believes additional transparency should also increase accountability at the firm level. The Board has observed that some auditors allowed other accounting firms that did not possess the requisite expertise or qualifications to play significant roles in audits. Firms similarly have not always given the critical task of engagement partner assignment the care it deserves. For example, the Board's inspections have found instances in which accounting firms lacked independence because they failed to rotate the engagement partner, as required by the Act and the rules of the Commission. The Board has also imposed sanctions

[2] The Board's project on the auditor's reporting model, *Proposed Auditing Standards—The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion; The Auditor's Responsibilities Regarding Other Information in Certain Documents Containing Audited Financial Statements and the Related Auditor's Report; and Related Amendments to PCAOB Standards,* PCAOB Release No. 2013–005 (Aug. 13, 2013), is also focused on providing the market with additional information about the audit. In addition, the Board has issued a concept release, Concept Release on Audit Quality Indicators, PCAOB Release No. 2015–005 (July 1, 2015), regarding the content and possible uses of ''audit quality indicators,'' a potential portfolio of quantitative measures that may provide new insights into how to evaluate the quality of audits and how high-quality audits are achieved.

[3] Most non-US jurisdictions with highly developed capital markets require transparency regarding the engagement partner responsible for the audit.

[4] At this time, the Board is not extending the Form AP requirements to audits of brokers and dealers pursuant to Rule 17a–5 under the Exchange Act. If a broker or dealer were an issuer required to file audited financial statements under Section 13 or 15(d) of the Exchange Act, the requirements would apply.

[5] *See* AS 1205 (currently AU sec. 543), *Part of the Audit Performed by Other Independent Auditors.* On March 31, 2015, the PCAOB adopted the reorganization of its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules,* PCAOB Release No. 2015–002 (Mar. 31, 2015). On September 17, 2015, the SEC approved the PCAOB's adoption of the reorganization. *See Public Company Accounting Oversight Board; Order Granting Approval of Proposed Rules to Implement the Reorganization of PCAOB Auditing Standards and Related Changes to PCAOB Rules and Attestation, Quality Control, and Ethics and Independence Standards,* Exchange Act Release No. 34–75935 (Sept. 17, 2015), 80 FR 57263 (Sept. 22, 2015). The reorganized amendments will be effective as of December 31, 2016, and nothing precludes auditors and others from using and referencing the reorganized standards before the effective date. *See* PCAOB Release No. 2015–002, at 21.

[6] *See* AS 1201 (currently Auditing Standard No. 10), *Supervision of the Audit Engagement.*

[7] Louis Brandeis, *Other People's Money and How the Bankers Use It* 92 (1914).

on firms that staffed a public company audit with an engagement partner who lacked the necessary competencies.[8] Making firms publicly accountable in a way they have not been previously for their selections of engagement partners and other accounting firms participating in the audit should provide additional discipline on the process and discourage such lapses.

The requirement to provide disclosure on Form AP, rather than in the auditor's report as previously proposed, is primarily a response to concerns raised by some commenters about potential liability and practical concerns about the potential need to obtain consents for identified parties in connection with registered securities offerings. Investors commenting in the rulemaking process have generally stated a preference for disclosure in the auditor's report. Under the final rules, in addition to filing Form AP, firms will also have the ability to identify the engagement partner and/or provide disclosure about other accounting firms participating in the audit in the auditor's report. This is not required, but firms may choose to do so voluntarily. The Board believes that providing information about the engagement partner and the other accounting firms that participated in the audit on Form AP, coupled with allowing voluntary reporting in the auditor's report, will achieve the objectives of enhanced transparency and accountability for the audit while appropriately addressing concerns raised by commenters.

In response to commenter suggestions, the Board adopted a phased effective date to give firms additional time to develop systems necessary to implement the new rules. Subject to approval of the new rules and amendments by the Commission, Form AP disclosure regarding the engagement partner will be required for audit reports issued on or after the later of three months after Commission approval of the final rules or January 31, 2017. Disclosure regarding other accounting firms will be required for audit reports issued on or after June 30, 2017.

The Board adopted two new rules (Rules 3210 and 3211) and one new form (Form AP). These are disclosure requirements and do not change the performance obligations of the auditor in conducting the audit. The Board also adopted amendments to AS 3101 (currently AU sec. 508), *Reports on Audited Financial Statements,* and AS 1205 (currently AU sec. 543) related to voluntary disclosure in the auditor's report.

In the Board's view, the final rules and amendments to its auditing standards, which the Board adopted pursuant to its authority under the Sarbanes-Oxley Act, will further the Board's mission of protecting the interests of investors and furthering the public interest in the preparation of informative, accurate, and independent audit reports.

(b) Statutory Basis

The statutory basis for the proposed rules is Title I of the Act.

B. Board's Statement on Burden on Competition

Not applicable.

C. Board's Statement on Comments on the Proposed Rules Received From Members, Participants or Others

The Board released the proposed rule amendment for public comment in *Concept Release on Requiring the Engagement Partner to Sign the Audit Report,* PCAOB Release No. 2009–005 (July 28, 2009) (''2009 Release''), *Improving the Transparency of Audits: Proposed Amendments to PCAOB Auditing Standards and Form 2,* PCAOB Release No. 2011–007 (October 11, 2011) (''2011 Release''), *Improving the Transparency of Audits: Proposed Amendments to PCAOB Auditing Standards to Provide Disclosure in the Auditor's Report of Certain Participants in the Audit,* PCAOB Release No. 2013–009 (December 4, 2013) (''2013 Release''), and *Supplemental Request for Comment: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form,* PCAOB Release No. 2015–004 (June 30, 2015) (''2015 Supplemental Request''). *See* Exhibit 2(a)(A). A copy of Release Nos. 2009–005, 2011–007, 2013–009, and 2015–004 and the comment letters received in response to the PCAOB's requests for comment are available on the PCAOB's Web site at *http://www.pcaobus.org/Rules/Rulemaking/Pages/Docket029.aspx.* The Board received 184 written comment letters (including one letter which was withdrawn). The Board's response to the comments it received and the changes made to the rules in response to the comments received are discussed below.

Discussion of the Final Rules

The required disclosures under the final rules principally include:

- The name of the engagement partner; and
- For other accounting firms[9] participating in the audit:

5% or greater participation: The name, city and state (or, if outside the United States, the city and country), and the percentage of total audit hours attributable to each other accounting firm whose participation in the audit was at least 5% of total audit hours;

Less than 5% participation: The number of other accounting firms that participated in the audit whose individual participation was less than 5% of total audit hours, and the aggregate percentage of total audit hours of such firms.

The final rules require this information to be filed on Form AP. In addition to filing the form, the firm signing the auditor's report may voluntarily provide information about the engagement partner, other accounting firms, or both in the auditor's report.

Form AP—Auditor Reporting of Certain Audit Participants

Introduction

Under the final rules, firms will be required to provide specified disclosures regarding the engagement partner and other accounting firms participating in the audit on a new PCAOB form, Form AP. Most commenters supported Form AP as a vehicle for disclosures about the engagement partner and other participants in the audit. However, some commenters criticized the Form AP approach generally because they disputed the net value of the information to be disclosed, regardless of the means of disclosure, or believed that the information was more appropriately presented elsewhere, such as in the auditor's report, the issuer's proxy statement, or PCAOB Form 2. Investors and investor groups generally preferred auditor signature or disclosure in the auditor's report and characterized Form AP as an acceptable second-best approach. Most other commenters, on the other hand, preferred Form AP, generally on the basis that it would help mitigate legal and practical issues associated with disclosure in the auditor's report.

As noted in the 2015 Supplemental Request, Form AP serves the same purpose as disclosure in the auditor's report. Its intended audience is the same as the audience for the auditor's report—investors and other financial

[8] *See, e.g.,* Order Instituting Disciplinary Proceedings, *Making Findings, and Imposing Sanctions, In the Matter of Deloitte & Touche, LLP,* PCAOB Release No. 105–2007–005 (Dec. 10, 2007).

[9] For purposes of Form AP, ''other accounting firm'' means (i) a registered public accounting firm other than the firm filing Form AP or (ii) any other person or entity that opines on the compliance of any entity's financial statements with an applicable financial reporting framework.

statement users—and its filing is tied to the issuance of an auditor's report. In that respect, it differs from the PCAOB's existing forms,[10] which are intended primarily to elicit information for the Board's use in connection with its oversight activities, with a secondary benefit of making as much reported information as possible available to the public as soon as possible after filing with the Board.[11] Form AP is primarily intended as a vehicle for public disclosure, much like the auditor's report itself.[12] While information on Form AP could also benefit the Board's oversight activities, that is ancillary to the primary goal of public disclosure.

Disclosures About the Engagement Partner

Since the inception of this rulemaking, the Board has explored a variety of means of providing public disclosure of the name of the engagement partner, including engagement partner signature on the auditor's report, identification of the engagement partner in the auditor's report, and identification of the name of the engagement partner on Form 2. The 2013 Release contemplated identifying the engagement partner in the auditor's report. The 2015 Supplemental Request solicited comment on the potential use of Form AP, with optional additional disclosure in the auditor's report.

Commenters on the 2013 Release and on the 2015 Supplemental Request expressed divergent views on a requirement to disclose the name of the engagement partner. Commenters that supported the disclosure requirement argued that it would provide information that would be useful to investors and other financial statement users (for example, in connection with a vote on ratification of auditors), or could improve audit quality by increasing the sense of accountability of engagement partners. Commenters that opposed the requirement generally claimed that identification of the engagement partner would give rise to unintended negative consequences, particularly with respect to liability; would not be useful information for investors and other financial statement users; could incentivize engagement partners to act in ways that protect their reputations but potentially conflict with the audit quality goals of their audit firms or with broader indicators of audit quality; and could mislead or confuse users about the role of the engagement partner, in particular by overemphasizing the role of the engagement partner as compared to the role of the firm. Several of the commenters that previously opposed disclosure in the auditor's report were more supportive of disclosure in a PCAOB form, if the Board determined to mandate disclosure.

The Board believes that disclosure of the name of the engagement partner will, overall, be useful to investors and other financial statement users. Although the disclosure of the name of the engagement partner might provide limited information initially, it is reasonable to expect that, over time, the disclosures will allow investors and other financial statement users to consider a number of other data points about the engagement partner, such as the number and names of other issuer audit engagements in which the partner is the engagement partner and other publicly available data. Such bodies of information have developed in some other jurisdictions, such as Taiwan, where public companies are required to disclose the names of the engagement partners,[13] and some commenters believe that, in the United States, third-party vendors will supply information in addition to what is provided by Form AP.

Some commenters on the 2015 Supplemental Request suggested that disclosure regarding a number of these matters, such as industry experience, partner tenure, restatements and disciplinary actions, be added to Form AP or linked to Form AP data. One of these commenters pointed out that the academic literature supports the potential usefulness of metrics, such as the number of years the individual has served as the engagement partner or the engagement partner for prior years as signals of audit quality, and that, by requesting additional background information in the first year of implementation, the PCAOB could accelerate the usefulness of Form AP data. In striking a balance between the anticipated benefits of the rule and its anticipated costs, including the costs and timing of initial implementation, the Board has determined not to expand the disclosures required on Form AP at this time.

Some commenters raised concerns that public identification of the engagement partner could lead to a rating, or ''star,'' system resulting in particular individuals being in high demand, to the unfair disadvantage of other equally qualified engagement partners. These commenters also suggested that, if such a system were created, engagement partners may not be willing to accept the most challenging audit engagements. The Board is aware that, as a consequence of the required disclosures, certain individuals may develop public reputations based on their industry specializations, audit history, and track records. The Board does not believe that such information would necessarily be harmful and could, to the contrary, be useful to investors and other financial statement users. In recent years, detailed information about the backgrounds, expertise, and reputations among clients and peers has become commonly available regarding other skilled professionals and such information is widely available to consumers of those services. The role of an auditor, including an engagement partner, differs from that of other professions, but the underlying principle that consumers of professional services could make better decisions with more information still applies. Further, investors generally commented that they would benefit from information about the identity of those who perform audits.

Some commenters were concerned that identification of the engagement partner may confuse investors by putting a misleading emphasis on a single individual when an audit, particularly a large audit, is in fact a

[10] Existing PCAOB reporting forms have been developed for the principal purpose of registration with the Board and reporting to the Board about a registered public accounting firm's issuer, broker, and dealer audit practice. These forms are: (1) Form 1, *Application for Registration;* (2) Form 1–WD, *Request for Leave to Withdraw from Registration;* (3) Form 2, *Annual Report;* (4) Form 3, *Special Report;* and (5) Form 4, *Succeeding to Registration Status of Predecessor.*

[11] Rules on Periodic Reporting by Registered Public Accounting Firms, PCAOB Release No. 2008–004 (June 10, 2008), at 28.

[12] The Board has authority under Section 103 of the Sarbanes-Oxley Act to adopt, by rule, audit standards ''to be used by registered public accounting firms in the preparation and issuance of audit reports . . . as may be necessary or appropriate in the public interest or for the protection of investors.'' In addition, under Section 102 of the Sarbanes-Oxley Act, the Board has authority to require registered public accounting firms to submit periodic and special reports, which are publicly available unless certain conditions are met. If a firm requests confidential treatment of information under Section 102(e) of the Sarbanes-Oxley Act, the information is not publicly disclosed unless there is a final determination that it does not meet the conditions for confidentiality. Because of the intended purpose of Form AP and the Board's related authority under Section 103 of the Sarbanes-Oxley Act, confidential treatment of the information filed on Form AP will not be available.

[13] As described in Daniel Aobdia, Chan-Jane Lin, and Reining Petacchi, *Capital Market Consequences of Audit Partner Quality,* 90 The Accounting Review 2143 (2015), the Taiwan Economic Journal collects data that covers all public companies in Taiwan and includes, among other things, the names of the engagement partners, the accounting firm issuing the auditor's report, the regulatory sanction history of the partners, and the audit opinions. Professor Aobdia is a research fellow at the PCAOB. His research cited above was undertaken prior to joining the PCAOB.

group effort. One commenter suggested that the disclosure should be expanded to include members of firm leadership to help clarify the responsibility for the audit; other commenters suggested adding context, such as disclosure of the proportion of total audit hours attributable to the engagement partner; identification of other parties that play a role in the engagement; identification of the engagement quality reviewer; or a sentence that explains the roles of the engagement partner and the firm signing the auditor's report in the performance of the audit.

It is true that an audit is often a group effort and that a large audit of a multinational company generally involves a very large team with more than one partner involved. Nevertheless, the engagement partner, who is the ''member of the engagement team with primary responsibility for the audit,'' [14] plays a unique and critical role in the audit. It is not unusual in audits of large companies for audit committees to interview several candidates for their engagement partner when a new engagement partner is to be chosen because the qualifications and personal characteristics of the engagement partner are viewed by the audit committee and senior management as particularly important. Because of the engagement partner's key role in the audit, it is appropriate when shareholders are asked to ratify the company's choice of the registered firm as its auditor to be well informed about the leader of the team that conducted the most recently completed audit. Public identification of the name of the engagement partner will help serve that end. The role played in the audit by others such as the engagement quality reviewer, while important, is not comparable and, in the Board's view, does not warrant separate identification at this time.

Some commenters on the 2013 and 2011 Releases expressed concerns that public identification of engagement partners may make them susceptible to threats of violence and suggested adding an exception to the disclosure requirement analogous to that in the EU's Eighth Company Law Directive, which allows for an exception ''if such disclosure could lead to an imminent and significant threat to the personal security of any person.'' [15] However, other commenters on the 2011 Release indicated that auditors should not be treated differently, for security purposes, than other individuals involved in the financial reporting process who are publicly associated with a company in its SEC filings. The Board notes that a requirement to disclose the names of financial executives, board members, and audit committee members has been in place in the U.S. for quite some time, yet there is no indication that personal security risks have increased for these individuals. Therefore, the final rules do not include an exception to the required disclosure.

Many commenters have also suggested that the simple act of naming the engagement partner will increase the engagement partner's sense of accountability. Some of these commenters argued that increased accountability would lead to changes in behavior that would enhance audit quality. In their view, the availability of information about engagement partner history, and the potential that individuals may develop public reputations based on their industry specializations, audit history, and track records could be a powerful antidote to internal pressures or may foster improved compliance with existing auditing standards. Many accounting firms, associations of accountants, and others disputed this argument, claiming that engagement partners are already accountable as a result of internal performance reviews, regulatory oversight, and litigation risk. The Board believes allowing investors and other financial statement users to distinguish not just among firms, but also among partners, should enhance the incentive for engagement partners to develop a reputation for performing high-quality audits.

Public disclosure of the engagement partner's name could also have a beneficial effect on the engagement partner assignment process at some firms. In many public companies, particularly larger ones, the choice of an engagement partner is determined by both the firm and the audit committee. As discussed above, firms would be publicly accountable for these assignments in a way that they have not been previously. Some commenters noted that audit committees are currently able to obtain non-public information about engagement partners. These commenters suggested that mandated disclosure would not be useful to audit committees, since audit committees already know the information being disclosed. However, as noted by another commenter, disclosure would lead to more information becoming publicly available about all engagement partners on audits of issuers conducted under PCAOB standards, which should provide audit committees with additional context and benchmarking information when participating in the assignment process.

Some commenters suggested that, because the financial statements and the auditor's report are retrospective, the disclosure required under the proposed amendments would not be useful for shareholders deciding whether to ratify the audit committee's choice of auditor. Under the final rules, shareholders will be able to find the identity of the engagement partner for the most recently completed audit but not for the next period. Other commenters, however, claimed that historical information would provide insight into the audit process and would enable investors to better evaluate the audit, which would assist them in making the ratification decision.

For the reasons discussed above, the Board believes that disclosure of the name of the engagement partner will benefit investors and other financial statement users by providing more specific data points in the mix of information that can be used when evaluating audit quality and hence credibility of financial reporting. At the same time, the disclosure should, at least in some circumstances, enhance the accountability of both engagement partners and accounting firms.

In commenting on the 2015 Supplemental Request, some academics noted potential uncertainty or ambiguity that could arise if engagement partners' names were not presented consistently in Form AP, if an engagement partner changed his or her name or changed firms, or if two engagement partners had the same name. Some commenters suggested that the PCAOB include a unique partner identifying number to ensure that partners could be unambiguously identified over time. Evidence available to PCAOB staff indicates that the problem of partner name confusion among the largest audit firms would be quite limited.[16] However, because it may improve the usability of the data, Form AP includes a field for such a partner identifying

[14] *See* Appendix A of AS 2101 (currently Auditing Standard No. 9), *Audit Planning,* and Appendix A of AS 1201 (currently Auditing Standard No. 10).

[15] Directive 2006/43/EC of the European Parliament and of the Council, Article 28, Audit Reporting (May 17, 2006).

[16] In order to evaluate the potential extent of confusion about partner names, staff researched six years of partner name data for the largest four accounting firms. Three scenarios of potential name confusion were constructed and quantitatively evaluated. The first scenario was two partners in a firm sharing the exact same name. The second scenario was a lead engagement partner changing audit firms. The final scenario was a partner changing last names. The total incidence of such scenarios appeared to affect less than 0.5% of the partner population in the sample.

number, and the final rules require each registered accounting firm to assign a 10-digit partner identifying number—Partner ID—to each of its partners serving as the engagement partner on audits of issuers.[17] The number will be identified to a particular partner and will not be reassigned if the partner retires or otherwise ceases serving as engagement partner on issuer audits conducted by that firm. If an engagement partner changes firms, the new firm must assign a new Partner ID to the engagement partner. The new firm will be responsible for reporting on Form AP the engagement partner with his or her new Partner ID and all Partner IDs previously associated with the engagement partner. The Board believes that the ability to unambiguously identify each engagement partner with his or her issuer audit history may improve the usability of the data gathered on Form AP and the overall cost of implementation should be low.

Disclosure About Other Participants in the Audit

Introduction

In the 2013 Release, the Board proposed disclosure in the auditor's report of: (1) The names, locations, and extent of participation of other independent public accounting firms that took part in the audit and (2) the locations and extent of participation, on an aggregate basis by country, of certain other persons not employed by the auditor that took part in the audit. Extent of participation would have been determined as a percentage of total audit hours, excluding hours attributable to the engagement quality reviewer, Appendix K [18] review and internal audit. Extent of participation would have been disclosed as a number or within a range (less than 5%, 5% to less than 10%, 10% to less than 20%, and so on in 10% increments) and would have been based on estimates of audit hours. Other accounting firms whose participation was less than 5% of total audit hours were not required to be individually identified; rather, the number of such other accounting firms and their aggregate participation would have been disclosed. Similarly, for nonaccounting firm participants in the same country whose aggregate participation was less than 5%, disclosure of the number of such countries and the aggregate participation of nonaccounting firm participants in such countries would have been required.

The 2015 Supplemental Request solicited comment on limiting disclosures with respect to nonaccounting firm participants, including the possibility of eliminating such disclosures altogether or tailoring the requirements so that disclosure would only be provided with respect to nonaccounting firms that were not entities controlled by or under common control with the auditor or employees of such entities. In addition, unlike the 2013 Release (but aligned with the 2011 Release), the disclosure requirements and computation of total audit hours presented in the 2015 Supplemental Request excluded specialists engaged, not employed, by the auditor.

Some commenters generally supported the requirements in the 2013 Release and asserted that disclosure of the other accounting firms involved in the audit would provide useful information to investors. Other commenters opposed the requirement, because of potential consent requirements and liability under the Securities Act of 1933 (''Securities Act''), or based on the belief that disclosures were not useful information, could confuse financial statement users about the degree of responsibility for the audit assumed by the accounting firm signing the auditor's report, or could contribute to information overload. Others suggested that the current auditing standards (for example, AS 1205 (currently, AU sec. 543)) in this area are adequate. Many commenters on the 2015 Supplemental Request supported other accounting firm disclosures on Form AP (even some who disagreed with engagement partner disclosure requirements). Most commenters supported having no required disclosure of nonaccounting firm participants.

The Board believes that information about other accounting firms participating in the audit is of increasing importance as companies become more global.[19] Many companies with substantial operations outside the United States are audited by U.S.-based, PCAOB-registered public accounting firms.[20] The Board's inspection process has revealed that the extent of participation by firms other than the one that signs the auditor's report ranges from none to most of the audit work (or, in extreme cases, substantially all of the work).[21] In many situations, the accounting firm signing the auditor's report uses another accounting firm in a foreign country to audit the financial statements of a subsidiary in that country. These arrangements are often used in auditing today's multinational corporations. At the same time, the quality of the audit is dependent, to some degree, on the competence and integrity of the participating accounting firms. This is especially true when the firm signing the auditor's report has reviewed only a portion of the work done by the other accounting firm, as is permitted under AS 1205 (currently AU

[17] *See* general instruction 7 and Item 3.1.a.6 of Form AP. The firm is required to assign a 10-digit Partner ID number, beginning with the Firm ID (a unique five-digit number based on the number assigned to the firm by the PCAOB) followed by a unique series of five digits assigned by the firm. The unique series element can be any series of numbers of the firm's choosing that is unique to each engagement partner associated with the firm. For example, the unique series element could be sequential numbers, numbers based on the year the partner was admitted into the partnership, or random numbers.

[18] *See* SEC Practice Section (''SECPS'') Section 1000.45 Appendix K, *SECPS Member Firms With Foreign Associated Firms That Audit SEC Registrants.* The Board adopted Appendix K as part of its interim standards. *See* Rule 3400T(b), *Interim Quality Control Standards;* SECPS Section 1000.08(n). Appendix K requires accounting firms associated with international firms to seek the adoption of policies and procedures consistent with certain objectives, including having policies and procedures for certain filings of SEC registrants which are the clients of foreign associated firms to be reviewed by persons knowledgeable in PCAOB standards.

[19] For example, in their most recent audited financial statements filed as of May 15, 2015, approximately 51% and 41% of the population of companies in the Russell 3000 Index reported segment sales and assets, respectively, in geographic areas outside the country or region of the accounting firm issuing the auditor's report. For the population of companies in the Russell 3000 Index that reported segment sales or assets in geographic areas outside the country or region of the accounting firm issuing the auditor's report, approximately 40% and 35% of those segment sales and assets, respectively, were in geographic areas outside the country or region of the accounting firm issuing the auditor's report.

[20] *See Auditor Considerations Regarding Using the Work of Other Auditors and Engaging Assistants from Outside the Firm,* PCAOB's Staff Audit Practice Alert No. 6 (July 12, 2010) (discussing the trend of smaller U.S. firms' auditing companies with operations in emerging markets and reminding auditors of their responsibilities in such audits). Staff Audit Practice Alert No. 6, at 2, noted that ''in a 27-month period ending March 31, 2010, at least 40 U.S. registered public accounting firms with fewer than five partners and fewer than ten professional staff issued audit reports on financial statements filed with the SEC by companies whose operations were substantially all in the China region.'' *See also Activity Summary and Audit Implications for Reverse Mergers Involving Companies from the China Region: January 1, 2007 through March 31, 2010,* PCAOB Research Note No. 2011–P1 (Mar. 14, 2011) (discussing available information on the role of registered public accounting firms in auditing issuers in the China region).

[21] AS 1205.02 (currently AU sec. 543.02) requires the auditor to decide whether his own participation is sufficient to enable him to serve as the principal auditor and to report as such on the financial statements. Current auditing standards state that the firm may serve as principal auditor even when ''significant parts of the audit may have been performed by other auditors.'' AS 1205.02. The PCAOB has a project on its agenda to improve the auditing standards that govern the planning, supervision, and performance of audits involving other auditors. *See Standard-Setting Agenda, Office of the Chief Auditor* (Dec. 31, 2015).

sec. 543).[22] The Board and its staff previously conveyed their concern about some practices they have seen in these arrangements.[23] In addition to providing potentially valuable information to investors and other financial statement users about who actually performed the audit, the disclosure of other accounting firms participating in the audit could provide other potentially valuable information, such as the extent of participation in the audit by other accounting firms in jurisdictions in which the PCAOB cannot conduct inspections.

Some commenters expressed concern that including information in the auditor's report about other participants in the audit might confuse financial statement users as to who has overall responsibility for the audit or appear to dilute the responsibility of the firm signing the auditor's report. Other commenters, including investors and other financial statement users, expressed support for the disclosure and indicated that investors and other financial statement users are able to distinguish and evaluate many disclosures made by management. These commenters have also asserted that they would be able to consider the information appropriately. To address concerns about potential confusion regarding who has overall responsibility for the audit or potential dilution of the responsibility of the signing firm, the final rules provide that if disclosure regarding other accounting firms is voluntarily included in the auditor's report, the auditor's report must also include a statement that the firm signing the auditor's report is responsible for the audits and audit procedures performed by the other accounting firms and has supervised or performed procedures to assume responsibility for the work in accordance with PCAOB standards.

Participants for Which Disclosure Is Required

Other Accounting Firms

Under the final rules, disclosure is required with respect to all other accounting firms that participated in the audit. The final rules define an ''other accounting firm'' as (i) a registered public accounting firm other than the firm filing Form AP, or (ii) any other person or entity that opines on the compliance of any entity's financial statements with an applicable financial reporting framework.

For purposes of Form AP, an other accounting firm participated in the audit if (i) the firm filing Form AP assumed responsibility for the work and report of the other accounting firm as described in paragraphs .03–.05 of AS 1205 (currently AU sec. 543), or (ii) the other accounting firm or any of its principals or professional employees was subject to supervision under AS 1201 (currently Auditing Standard No. 10).

As noted above, the 2013 Release contemplated that disclosure would be required with respect to other ''public accounting firms'' that took part in the audit. Under the Board's rules, ''public accounting firm'' means ''a proprietorship, partnership, incorporated association, corporation, limited liability company, limited liability partnership, or other legal entity that is engaged in the practice of public accounting or preparing or issuing audit reports.'' [24] The change in the definition is intended to facilitate compliance and avoid potential uncertainty about the entities for which disclosure must be provided on Form AP.

The amount of disclosure required varies with the level of participation in the audit. For each other accounting firm whose participation accounted for at least 5% of total audit hours, the following information must be provided: Legal name; a unique five-digit identifier (''Firm ID'') for firms that have a publicly available PCAOB-assigned number; [25] headquarters office location (city and state (or, if outside the US, city and country)); and extent of participation, expressed as a percentage (either as a single number or within a range) of total audit hours.

Form AP includes a new requirement to provide the Firm ID for all currently-registered firms as well as other accounting firms that have a publicly available PCAOB-assigned number. Although commenters did not raise a concern about needing unique identifiers for firms as they did for engagement partners, the staff is aware that some accounting firms in the same country may have the same or very similar names. To alleviate possible confusion among accounting firm names and to ensure that firms that have a publicly available PCAOB-assigned number can be more easily linked to other PCAOB registration and inspection data, Form AP requires disclosure of the Firm ID.

Some commenters expressed concern that disclosure of other accounting firms participating in the audit may provide information about the issuer's operations that would not otherwise be required to be disclosed (for example, countries in which the issuer operates). Given that the reporting provides information about where the audit was conducted and not necessarily where the issuer's business operations are located and that the names and locations of other accounting firms are only identified if their work constitutes at least 5% of total audit hours, the Board has not revised the proposed requirements to address this concern.

For other accounting firms that participated in the audit but whose individual participation accounted for less than 5% of total audit hours, the following aggregated information is required: The number of such other accounting firms; and the aggregate extent of participation of such other accounting firms, expressed as a percentage of total audit hours.

Similar to comments received on the 2011 Release, a few commenters on the 2013 Release suggested that the Board should consider requiring disclosure regarding the nature of the work of or areas audited by other accounting firms. Further, some commenters suggested that the Board require the addition of clarifying language regarding the structure of the firm, the firm's system of quality controls, and the work performed by the firm signing the auditor's report over the work of other accounting firms participating in the audit.

After considering comments on the 2011 and 2013 Releases, no requirement was added for additional clarifying language because the Board does not believe that requiring the disclosure of this more detailed information is

[22] *See* AS 1205 (currently AU sec. 543) for a list of matters the auditor is required to review.

[23] *See Audit Risk in Certain Emerging Markets,* PCAOB's Staff Audit Practice Alert No. 8, at 19 (Oct. 3, 2011) (''Through the Board's oversight activities, the Board's staff has observed instances in certain audits of companies in emerging markets in which the auditor did not properly coordinate the audit with another auditor.''); *see also Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions, In the Matter of Clancy and Co., P.L.L.C. et al.,* PCAOB Release No. 105–2009–001 (Mar. 31, 2009) (imposing sanctions in a case in which a U.S. firm used a significant amount of audit work performed by a Hong Kong firm without adequately coordinating its work with that of the Hong Kong firm).

[24] PCAOB Rule 1001(p)(iii), Definition of Terms Employed in Rules.

[25] This number can be found by viewing the firm's summary page on the PCAOB Web site, where it is displayed parenthetically next to the name of the firm—firm name (XXXXX). If the number assigned to the firm by the PCAOB has fewer than five digits, leading zeroes should be added before the number to make the five digit Firm ID, for example, 99 should be presented as 00099. For example, all currently-registered firms have a number assigned by the PCAOB.

necessary to meet the Board's overall objective of this rulemaking. Moreover, the final rules require the firm preparing Form AP to acknowledge its responsibility for the audits or audit procedures performed by other accounting firms that participated in the audit.

Referred-To Auditors

In situations in which the auditor makes reference to another accounting firm in the auditor's report,[26] the 2015 Supplemental Request suggested that the auditor would also disclose the name of the other public accounting firm (''referred-to auditor''), the city and state (or, if outside the United States, city and country) of the office of the other public accounting firm that issued the other audit report, and the magnitude of the portion of the financial statements audited by the referred-to auditor on Form AP. The Board adopted these requirements substantially as described in the 2015 Supplemental Request.[27] The requirement to file Form AP does not apply to referred-to auditors, since the referred-to auditor may not be required to register with the PCAOB [28] and would not generally be conducting the audit of an issuer, but rather a subsidiary or business unit of an issuer.

Unlike the disclosures for other accounting firm participants, which are based on the percentage of total audit hours, Form AP disclosures for referred-to auditors effectively incorporate the existing requirements for disclosure of the magnitude of the portion of the financial statements audited by the referred-to auditor.[29] In addition, Form AP requires the name, the city and state (or, if outside the United States, city and country) of headquarters' office location, and Firm ID, if any, of the referred-to auditor.

Nonaccounting Firm Participants

Under the 2013 Release, disclosure would have been required with respect to all ''persons not employed by the auditor'' [30] that the auditor was required to supervise pursuant to AS 1201 (currently Auditing Standard No. 10). Such nonaccounting firm participants would not have been identified by name. Rather, these participants would have been identified in the auditor's report as ''persons in [country] not employed by our firm.'' These disclosures would have permitted investors to determine how much of the audit was performed by nonaccounting firm participants in a particular jurisdiction but not the nature of the work performed by those nonaccounting firm participants or whether they were, for example, offshore service centers, consultants, or another type of entity.

Commenters' reactions to the reproposed disclosure requirements were mixed. Some commenters argued for uniform treatment of accounting firm participants and nonaccounting firm participants, either to make disclosure easier to understand or to avoid the creation of incentives to engage nonaccounting firm participants rather than other accounting firms. Some of these commenters suggested that the nature of services performed by persons not employed by the auditor should also be disclosed. Other commenters questioned the value of the disclosures or suggested that the disclosures could be confusing or subject to misinterpretation. Some commenters were particularly critical of requiring disclosures regarding ''offshored'' work [31] and work performed by leased personnel (often in firms that have an alternative practice structure [32]). These commenters asserted that work performed by nonaccounting firm participants under the direct supervision and review of the firm signing the auditor's report should not be required to be separately identified, regardless of who performed the work and where the work was performed. One commenter further asserted that disclosure should not be required regarding subsidiaries of, or other entities controlled by, the registered firm issuing the auditor's report or entities that are subject to common control (for example, sister entities that perform tax, valuation, or other assistance to the registered firm), arguing that the manner in which a registered firm is structured should not trigger a disclosure requirement.

The 2015 Supplemental Request solicited comment on eliminating disclosures regarding nonaccounting firm participants or tailoring them to eliminate disclosure for entities that are controlled by or under common control with the auditor, and the employees of such entities. While some commenters supported the disclosure requirements, most argued that disclosure would not be useful and may be confusing or inconsistent, given the differences in legal structures and practice arrangements across global networks.

After considering the comments and the intention of the disclosure, the requirement to disclose the location and extent of participation of nonaccounting firm participants has been eliminated from the final rule.[33] The Board recognizes that, while nonaccounting firms may participate in the audit, the Board's intent is to provide information about the participation of accounting firms. Accounting firms are responsible for supervising the work of nonaccounting firm participants. In addition, the Board's Web site includes names of registered accounting firms and inspection reports, as well as disciplinary actions with respect to registered public accounting firms. Information about nonaccounting firm audit participants may not be as meaningful to users since similar information is not available for these participants. The Board can monitor trends in the use of nonaccounting firms, which could have an effect on audit quality, and analyze whether such trends are related to the requirements of Form AP.

Nonaccounting firm participants participate in audits at the request of and in support of the audit work of

[26] *See* AS 1205.03, .06–.09 (currently AU sec. 543.03, .06–.09).

[27] Additionally, the amendments to AS 1205 (currently AU sec. 543) remove, as unnecessary, the requirement to obtain express permission of the other accounting firm when deciding to disclose the firm's name in the auditor's report because, as discussed below, the SEC rules already include a requirement that the auditor's report of the referred-to auditor be filed with the SEC.

[28] Under PCAOB Rule 2100, *Registration Requirements for Public Accounting Firms,* each public accounting firm that ''plays a substantial role in the preparation or furnishing of an audit report with respect to any issuer, broker, or dealer must be registered with the Board.''

[29] *See* AS 1205.07 (currently AU sec. 543.07). Existing PCAOB standards require that the auditor disclose the magnitude of the portion of the financial statements audited by the referred-to accounting firm by stating the dollar amount or percentages of one or more of the following: total assets, total revenues, or other appropriate criteria, whichever most clearly reveals the portion of the financial statements audited by the referred-to accounting firm.

[30] PCAOB Release No. 2011–007, at 18.

[31] The 2011 Release noted that some accounting firms had begun a practice, known as offshoring, whereby certain portions of the audit are performed by offices in a country different than the country where the firm is headquartered. The Board understands that offshored work may be performed by another office of or by entities that are distinct from, but that may be affiliated with, the registered firm that signs the auditor's report. The Board notes that the practice of sending some audit work to offshore service centers, typically in countries where labor is inexpensive, has been increasing in recent years.

[32] The Board's standards describe alternative practice structures as ''nontraditional structures'' whereby a substantial (the nonattest) portion of an accounting firm's practice is conducted under public or private ownership, and the attest portion of the practice is conducted through the accounting firm. ET section 101.16, 101–14—*The effect of alternative practice structures on the applicability of independence rules.*

[33] Unless the context dictates otherwise, ''nonaccounting firm participant'' as used in this release means any person or entity other than the principal auditor or any other accounting firm that participates in an audit.

accounting firms participating in the audit. For that reason, unless expressly excluded from the computation of total audit hours, hours incurred by nonaccounting firm participants in the audit are included in the calculation of total audit hours and should be allocated among the other accounting firms that participated in the audit on the basis of which accounting firm commissioned and directed the applicable work of the nonaccounting firm.

Exclusions From Disclosure and Computation of Total Audit Hours

The 2015 Supplemental Request indicated that the following persons would be excluded from the disclosures and from the computation of total audit hours: the engagement quality reviewer; [34] persons performing a review pursuant to Appendix K; specialists engaged, not employed, by the auditor; [35] internal auditors, other company personnel, or third parties working under the direction of management or the audit committee, who provided direct assistance in the audit of internal control over financial reporting; [36] or internal auditors who provided direct assistance in the audit of the financial statements.[37] While some commenters on the 2015 Supplemental Request suggested that excluding the engagement quality reviewer and Appendix K review from calculation of audit hours would add administrative effort, commenters at earlier stages of the rulemaking were supportive of these exclusions. The Board continues to believe that the exclusion of the engagement quality reviewer is appropriate because he or she is not under the supervision of the engagement partner.[38] Similarly, the Appendix K review is excluded because the engagement partner does not supervise or assume responsibility for that work.

The hours incurred by persons employed or engaged by the company who provided direct assistance to the auditor are excluded because determining the extent of their participation in the audit may be impractical. Such persons also may perform other tasks for the company not related to providing direct assistance to the auditor or may not track time spent on providing the direct assistance.

Under the 2013 Release, the hours of persons with specialized skill or knowledge (''specialists'') engaged by the auditor were included in the calculation of audit hours. This was a change from the 2011 Release, under which engaged specialists were excluded from total audit hours. One commenter on the 2013 Release suggested that including specialists in the calculation of audit hours and disclosure of persons not employed by the auditor may put firms that engage specialists at a competitive disadvantage compared to firms that employ specialists. Some commenters also expressed concerns that it may be challenging to obtain hours incurred by the specialists, especially in cases where the engagement is on a fixed-fee basis. After considering comments, the Board determined to exclude specialists engaged, not employed, by the auditor from disclosure and the computation of total audit hours.

Some commenters requested clarification regarding the treatment of audit hours related to investments accounted for using the equity method of accounting.[39] The final rules have been revised to clarify that hours incurred in the audit of entities in which the issuer has such an investment are not part of total audit hours.

Extent of Participation in the Audit—Percentage of Total Audit Hours

Audit Hours as a Metric for Participation in the Audit

Under the 2013 Release, the extent of participation in the audit would have been determined using the percentage of total audit hours as the metric.

Most commenters agreed with measurement based on the percentage of audit hours. Some commenters suggested using other metrics, including audit fees, the percentage of assets or revenue that the auditor and other participants were responsible for auditing, and the magnitude of the company's segment or subsidiary audited by the other participants.

After consideration of the comments received, the Board believes that percentage of total hours in the most recent period's audit is an appropriate and practical metric for the extent of other accounting firms' participation in the audit, for the purpose of disclosure on Form AP. Audit fees may not fairly represent the extent of other accounting firms' participation in the audit. Audit fees in the proxy disclosure may include fees for other services (for example, other regulatory and statutory filings) and may exclude fees paid directly to other accounting firms rather than to the auditor. Further, because labor rates vary widely around the world, audit fees would result in an inconsistent metric compared to audit hours. The use of revenue or assets tested may not be suitable in all circumstances, particularly when other accounting firms and the auditor perform audit procedures on the same location, business unit, or financial statement line item.

The firm should document in its files the computation of total audit hours on a basis consistent with AS 1215 (currently Auditing Standard No. 3), *Audit Documentation*.[40]

Elements of Total Audit Hours

In general, total audit hours will be comprised of the hours of the principal auditor, nonaccounting firm participants that assist the principal auditor or other accounting firms, and other accounting firms participating in the audit. Total audit hours exclude hours incurred by the engagement quality reviewer, Appendix K reviewer, specialists engaged by the auditor, internal audit, among others.

Disclosure Threshold

The 2013 Release set 5% of total audit hours as the threshold for identification of other participants in the audit. Many commenters supported the 5% threshold. Other commenters suggested various other thresholds, such as 3%,

[34] *See* AS 1220 (currently Auditing Standard No. 7), *Engagement Quality Review*.

[35] AS 1210 (currently AU sec. 336), *Using the Work of a Specialist,* describes a specialist as ''a person (or firm) possessing special skill or knowledge in a particular field other than accounting or auditing.'' Examples of specialists include, but are not limited to, actuaries, appraisers, engineers, environmental consultants, and geologists. Income taxes and information technology are specialized areas of accounting and auditing and, therefore, persons or firms possessing such skills are not considered specialists. AS 1210.01.

[36] See paragraph 17 of AS 2201 (currently Auditing Standard No. 5), *An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements*.

[37] See paragraph .27 of AS 2605, *Consideration of the Internal Audit Function* (currently AU sec. 322, *The Auditor's Consideration of the Internal Audit Function in an Audit of Financial Statements*).

[38] Nonetheless, the engagement quality reviewer has an important role in the audit. The engagement quality reviewer performs an evaluation of the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report, if a report is to be issued, in order to determine whether to provide concurring approval of issuance. *See* AS 1220 (currently Auditing Standard No. 7).

[39] *See* Financial Accounting Standards Board (''FASB'') Accounting Standards Codification (''ASC'') Topic 323, *Investments—Equity Method and Joint Ventures*.

[40] Under AS 1215 (currently Auditing Standard No. 3), the audit documentation should be in sufficient detail to enable an experienced auditor, having no previous connection with the engagement, to understand the computation of total audit hours and the method used to estimate hours when actual hours were unavailable.

10%,[41] or the PCAOB's substantial role threshold of 20%.[42]

The Board's intention is to provide meaningful information to investors and other financial statement users about participants in the audit, without imposing an undue compliance burden on auditors. Based on PCAOB staff analysis of available data about the participation of other accounting firms in the audit, the Board believes using a 5% threshold would, in most cases, result in disclosing the names of other accounting firms that collectively make up most of the audit effort (measured by hours) beyond that of the firm signing the auditor's report, and would result in identification of one or two other participant(s) on average.[43] The final rule therefore retains the threshold at 5% of total audit hours. The final rule also requires firms to disclose the total number of other accounting firms that were individually less than 5% and their total extent of participation to provide investors and others with a complete picture of the effort by participating firms.

Presentation as a Single Number or Within a Range

The 2013 Release would have required firms to disclose the percentage of total audit hours of other participants either as a single number or within a series of ranges. Commenters supported the ability to present the disclosure of other participants in ranges or as a single number. This requirement was adopted in Form AP as reproposed to provide firms flexibility in completing the disclosures while providing investors and other financial statement users meaningful information about the relative extent of participation of other accounting firms and to allow firms flexibility to choose the method of presentation, *i.e.,* as a single number or within a range, that best suits their circumstances, for all other accounting firms required to be identified.

Use of Estimates

The 2013 Release stated that auditors would be able to use estimates of audit hours when actual hours were not available. Many commenters on the 2015 Supplemental Request requested clarification that estimation of audit hours would be permitted. To respond to commenters' concerns, the instructions to Form AP provide that firms may use a reasonable method to estimate audit hours when actual hours have not been reported or are otherwise unavailable. The firm should document in its files the method used to estimate hours when actual audit hours are unavailable on a basis consistent with AS 1215 (currently Auditing Standard No. 3).

Liability Considerations

Throughout the Board's rulemaking process, commenters have expressed concern about the impact that public identification of key audit participants, particularly in the auditor's report, could have on the potential liability or litigation risks of those participants under the federal securities laws. The Board takes these concerns seriously and has sought comment throughout this rulemaking on various means of disclosure—from engagement partner signature on the auditor's report, to disclosure in the auditor's report, to disclosure on Form AP—in part to respond to them. The Board believes the final rule accomplishes its disclosure goals while appropriately addressing these concerns by commenters.

As noted in the 2015 Supplemental Request, some commenters on the 2013 Release suggested that identifying the engagement partner and the other participants in the audit in the auditor's report could create both legal and practical issues under the federal securities laws by increasing the named parties' potential liability and could require their consent if the auditors' reports naming them were included in, or incorporated by reference into, registration statements under the Securities Act.[44] In addition, some commenters expressed concerns about the possible effects of the engagement partner's name appearing in the auditor's report on liability and litigation risk under Section 10(b) of the Exchange Act and Rule 10b–5 thereunder. In their view, identification in the auditor's report could make it more likely that identified persons would be named in a lawsuit or could affect their liability position. Many commenters on the 2013 Release urged the Board to proceed with the new disclosure requirements, if it determined to do so, by mandating disclosure on an amended PCAOB Form 2, firm's annual report, or on a newly created PCAOB form as a means of responding to such concerns.

Other commenters stated that, in view of the PCAOB's investor protection mission, the 2013 Release gave too much weight to commenters' concerns about liability. These commenters asserted that naming the engagement partner, in itself, would not affect the basis on which liability could be founded.

The 2015 Supplemental Request solicited comment on whether disclosure on Form AP would mitigate commenters' concerns about liability-related consequences under federal or state law. While some commenters asserted that requiring disclosure on Form AP would not reduce litigation risk, others argued that there was no risk that Form AP disclosure would give rise to additional liability. Most accounting firms that commented on the issue agreed that Form AP would address some or all of their liability concerns. Several commenters asserted that the use of Form AP would eliminate the need to obtain consents under Section 7 of the Securities Act and mitigate or eliminate concerns about potential liability under Section 11 of the Securities Act. Commenter views on the impact of Form AP on potential liability under Exchange Act Section 10(b) and Rule 10b–5 were less uniform, with some saying that disclosures on Form AP would not have an impact on potential liability under Section 10(b) and Rule 10b–5, some suggesting the disclosures on Form AP would increase potential liability, and others saying that the impact would be uncertain because

[41] On the 2011 Release, commenters suggested 10% to be consistent with certain requirements in accounting standards, such as the 10% of revenue threshold for disclosing sales to a single customer under FASB pronouncements. *See* FASB ASC, Topic 280, *Segment Reporting,* subparagraph 10–50–42.

[42] According to paragraph (p)(ii), ''Play a Substantial Role in the Preparation or Furnishing of an Audit Report,'' of PCAOB Rule 1001, ''[t]he phrase 'play a substantial role in the preparation or furnishing of an audit report' means—(1) to perform material services that a public accounting firm uses or relies on in issuing all or part of its audit report, or (2) to perform the majority of the audit procedures with respect to a subsidiary or component of any issuer, broker, or dealer the assets or revenues of which constitute 20% or more of the consolidated assets or revenues of such issuer, broker, or dealer necessary for the principal auditor to issue an audit report [on the issuer].'' Under Rule 2100, each public accounting firm that ''plays a substantial role in the preparation or furnishing of an audit report with respect to any issuer, broker, or dealer must be registered with the Board.''

[43] PCAOB staff analyzed information provided by auditors of more than 100 larger issuers with respect to audit engagements conducted in 2013 and 2014. The selected information included the names of other accounting firms that participated in the audit and their individual extent of participation as a percentage of the total audit hours, without using a threshold. The Board's staff used this information to determine the approximate number of other accounting firm participants in larger audit engagements that would be required to be disclosed individually using 3%, 5%, and 10% thresholds.

[44] Section 11 of the Securities Act imposes liability on certain participants in a securities offering, including every accountant who, with his or her consent, has been named as having prepared or certified any part of the registration statement or any report used in connection with the registration statement. Section 7 of the Securities Act requires that the consent of every accountant so named in a registration statement must be filed with the registration statement.

of continued development of the law in the area.

The Board believes that disclosure on Form AP appropriately addresses concerns raised by commenters about liability. As commenters suggested, disclosure on Form AP should not raise potential liability concerns under Section 11 of the Securities Act or trigger the consent requirement of Section 7 of that Act because the engagement partner and other accounting firms would not be named in a registration statement or in any document incorporated by reference into one.[45] While the Board recognizes that commenters expressed mixed views on the potential for liability under Exchange Act Section 10(b) and Rule 10b–5 and the ultimate resolution of Section 10(b) liability is outside of its control, the Board nevertheless does not believe any such risks warrant not proceeding with the Form AP approach.

Finally, one commenter asserted that the Board should not pursue disclosure requirements for the engagement partner and other participants in the audit unless it can be done in a ''liability neutral'' way. The Board's purpose in this project is not to expose auditors to additional liability, and, consistent with that, it has endeavored to reduce any such liability consequences. The Board does not agree, however, that it should not seek to achieve the anticipated benefits of a new rule—here, increased transparency and accountability for key participants in the audit—unless it can somehow be certain that its actions will not affect liability in any way. On the whole, the Board believes it has appropriately addressed the concerns regarding liability consequences of its proposal in a manner compatible with the objectives of this rulemaking, and in view of the rulemaking's anticipated benefits.

Voluntary Disclosure in the Auditor's Report

The 2015 Supplemental Request solicited comment on whether, in addition to filing Form AP, auditors could voluntarily provide the same information in the auditor's report. Comments on this issue were mixed. Several commenters noted that they preferred disclosure of this information in the auditor's report, although they were willing to accept Form AP as a compromise. Another commenter stated that optionality about whether to provide disclosure in the auditor's report could also provide a signal for differentiation.

Other commenters, including almost all the accounting firms that commented, suggested that the Board should prohibit or not encourage voluntary disclosure in the auditor's report. They stated that voluntary disclosure in the auditor's report would give rise to the same legal and practical challenges as the previously proposed required auditor's report disclosure. Some of these commenters suggested that if the auditor chose to add disclosures in the auditor's report then related costs would also increase. Some other commenters were concerned that information in some, but not all, auditors' reports may confuse financial statement users about where to obtain the information.

The amendments will permit voluntary disclosure in the auditor's report. AS 3101 (currently AU sec. 508) is amended to permit voluntary disclosure in the auditor's report of the engagement partner and other accounting firms. AS 1205 (currently AU sec. 543) is amended to permit firms to disclose in certain circumstances that other accounting firms participated in the audit, which had been previously prohibited. Under these amendments, auditors can provide information in the auditor's report about the engagement partner, other accounting firms, or both, choosing if any information is disclosed in the auditor's report. However, Form AP will provide investors and financial statement users with all of the required disclosures.

If disclosure is made in the auditor's report about other accounting firms, the disclosure must include information about all of the other accounting firms required on Form AP, so that auditors cannot choose to include some other accounting firms and exclude others. The auditor's report must also include a statement confirming the principal auditor's responsibility for the work of other auditors and that it has supervised or performed procedures to assume responsibility for their work in accordance with PCAOB standards, to avoid potential confusion about the respective responsibilities of the principal auditor and the other accounting firms. When making these disclosures in the auditor's report, the language should be consistent with PCAOB standards. In particular, any additional language that could be viewed as disclaiming, qualifying, restricting, or minimizing the auditor's responsibility for the audit or the audit opinion on the financial statements is not appropriate and may not be used.

The Board also adopted amendments to AS 1205 (currently AU sec. 543) to remove, as unnecessary, the requirement to obtain express permission of the other accounting firm when deciding to disclose the firm's name in the auditor's report when responsibility for the audit is divided with another firm.[46] Because the Commission rules already include a requirement that the auditor's report of the referred-to firm should be filed with the Commission, the name of the firm is already made public.[47]

Allowing voluntary disclosure in the auditor's report responds to some investors' preference regarding location and timing for disclosures. Some auditors may choose to make the disclosures in the auditor's report, and this might provide auditors a way to differentiate themselves. Auditors are not required to include anything in the auditor's report and would presumably do so only if they choose, taking into account, for example, any costs associated with disclosure in the auditor's report, such as obtaining consents pursuant to the Securities Act, if required, and the resulting potential for liability. Inconsistency across auditor's reports should not be a source of concern because complete data will be available on the PCAOB's Web site as a result of mandatory disclosures on Form AP for all issuer audits.

Filing Requirements

Filing Deadline

The 2015 Supplemental Request contemplated a filing deadline for Form AP of 30 days after the date the auditor's report is first included in a document filed with the SEC, with a shorter deadline of 10 days for initial public offerings (''IPOs''). This period was intended to balance the time needed to compile the required information, particularly for firms that submit multiple forms at the same time, with investor preference that the information be made available promptly.

Comments on the filing deadline were mixed. Some commenters preferred a shorter filing deadline, suggesting that the form should be filed concurrently with the issuance of the auditor's report or within 10 days of initial SEC filing, similar to the deadline for IPOs. In their view a shorter deadline would make it more likely that the information would be available for investors to consider in connection with their voting and investment decisions.

[45] While the requirement to file Form AP is triggered by the issuance of an auditor's report, the form would not automatically be incorporated by reference into or otherwise made part of the auditor's report.

[46] *See* AU sec. 1205.03, .06–.09 (currently AU sec. 543.03, .06–.09).

[47] *See* Rule 2–05 of Regulation S–X, 17 CFR 210.2–05.

Other commenters suggested a longer filing deadline, which would provide firms with additional time to gather the information. Some of these commenters also indicated that with a longer deadline the information regarding the extent of participation of other accounting firms would be more accurate, requiring less estimation. These commenters suggested several alternative deadlines, including: 45 days after the report issuance, to coincide with the documentation completion date;[48] 60 days after report issuance, which would include the 45-day documentation completion date plus extra time to gather the information; monthly filings, due, for example, at the end of the month subsequent to inclusion in an SEC filing; and quarterly or annual filings.

There were very few comments on the IPO deadline. Of those that commented, most considered the 10-day filing deadline to be appropriate, while some other commenters suggested the deadline be extended, for example to 14 days.

After considering comments, the Board believes the information on Form AP should be made available so that it is useful to investors, while also affording firms sufficient time to compile the necessary information. For audits of non-IPOs, a key consideration is making the identity of the engagement partner publicly available before the shareholder vote to ratify the appointment of the auditor. For audits of IPOs, a key consideration regarding timing is ensuring that the information is available before any IPO roadshow, if applicable.

Taking into account investors' preference for timely access to the information together with commenter suggestions to provide firms with sufficient time to file Form AP, the Board has modified the deadline for filing Form AP to be 35 days after the date the auditor's report is first included in a document filed with the Commission. Based on PCAOB staff's analysis of available data regarding the timing of annual shareholders' meetings, the Board believes that this filing deadline would likely allow information to be provided to investors prior to the annual shareholders' meeting in most cases, thus making the information available in time to inform voting decisions.[49] Filing deadlines of 45 days or greater may not achieve the intended benefits of providing investors with timely information. Firms have the ability to file Form APs in batches, so that firms that prefer to file periodically (for example, every month or twice a month) will be able to do so.

The deadline for filing Form AP in an IPO situation is adopted as contemplated in the 2015 Supplemental Request, as 10 days after the auditor's report is first included in a document filed with the Commission. This deadline is intended to facilitate making the information available prior to the IPO roadshow, if applicable. The text of the rule has been simplified and clarified.

Other Filing Considerations

Many firms commenting on the 2015 Supplemental Request requested additional clarification or guidance about how Form AP requirements would apply in particular circumstances, such as filing requirements for reissued auditor's reports and reporting on mutual fund families, the allocation of audit hours between audits of consolidated financial statements and statutory audits of issuer subsidiaries, and batch filing of Form APs. Some commenters recommended Form AP include other information, such as notification of a change in the engagement partner.

Form AP provides information only about completed audits, so there is no requirement to file in connection with interim reviews (although the hours incurred for interim reviews are included in total audit hours).[50] Form AP is required to be amended only when there was an error or omission in the original submission. Changes from one year to the next (for example, a change in engagement partner from the one assigned in the prior year) do not necessitate an amendment and are reflected on a Form AP that will be filed when the next auditor's report is issued.

If the auditor's report is reissued and dual-dated, a new Form AP is required even when no information on the form, other than the date of the report, changes.[51] If the auditor's report date in Form AP matches the date on the auditor's report, users will be able to match the auditor's report with the related Form AP. To clarify the filing requirements for reissued reports, a note has been added to Rule 3211. The note provides that the filing of a report on Form AP regarding an audit report is required only the first time the audit report is included in a document filed with the Commission. Subsequent inclusion of precisely the same audit report in other documents filed with the Commission does not give rise to a requirement to file another Form AP. In the event of any change to the audit report, including any change in the dating of the report, Rule 3211 requires the filing of a new Form AP the first time the revised audit report is included in a document filed with the Commission.

For audits of mutual funds, Form AP permits one form to be filed in cases where multiple audit opinions are included in the same auditor's report—such as in the case for mutual fund families. If multiple audit opinions included on the same auditor's report involved different engagement partners, a Form AP would be filed for each engagement partner, covering the audit opinions for the funds for which he or she served as engagement partner.

When actual hours are not available, auditors may estimate audit hours for purposes of calculating the extent of participation of other accounting firms. This situation may arise, for example, in the context of statutory audits. Accounting firms that participate in audits of multinational issuers often perform local statutory audits of subsidiaries in addition to their participation in the issuer's audit. The materiality threshold and legal requirements for the statutory audit may necessitate a different level of work than would have been required for the issuer's audit. In these cases, it may be difficult for the auditor to determine how much work performed at the subsidiary relates solely to the participation in the issuer's audit. The auditor may use a reasonable method to estimate the components of this calculation, such as 100% of actual hours incurred by other accounting firms during the issuer's audit or estimating the hours incurred by the other accounting firm participating to perform work necessary for the issuer's audit.

To ease compliance, firms must, unless otherwise directed by the Board, should consider if any other information should be changed, including information regarding the participation of other accounting firms.

[48] AS 1215 (currently Auditing Standard No. 3) requires that a complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date.

[49] While there is no requirement under federal securities laws for an issuer to have an annual meeting of shareholders and therefore no uniform deadline for such a meeting, PCAOB staff review indicates that approximately 98% of annual meetings are held 35 days or later after the date of the auditor's report.

[50] In addition, Form AP would not be required to be filed in connection with attestation engagements, for example, compliance with servicing criteria pursuant to SEC Rule 13a-18—*Regulation AB.*

[51] For example, if a previously issued audit report is reissued and dual-dated to refer to the addition of a subsequent events note in the financial statements, a new Form AP filing would be required. When completing the new form, the firm

file Form AP through the PCAOB's existing web-based Registration, Annual, and Special Reporting system (''RASR'') using the username and password they were issued in connection with the registration process.[52] The system requirements for filing Form AP are similar to the system requirements for filing annual and special reports with the PCAOB.

Some accounting firms commented that they would like the ability to file Form APs in batches to reduce their administrative burden. Some of these firms also stated that they would like the ability to file information about more than one audit report on a single Form AP. As described in the 2015 Supplemental Request, the Board has developed a template, also known as a schema, that will allow firms to submit multiple forms simultaneously using an extensible markup language (''XML''). Firms will be able to submit multiple forms simultaneously in a batch when utilizing the schema provided by the Board. Unlike other PCAOB forms, the schema for Form AP will enable firms to complete the entire form using XML rather than only portions of it. After considering commenters' concerns and the technological constraints of RASR, no changes were made regarding to the ability to file information about more than one audit report on a single Form AP.

Form APs filed with the Board will be available on the Board's Web site. The Board's Web site will allow users to search Form APs by engagement partner, to find the audits of issuers that he or she led, and by issuer, to find the engagement partner and other accounting firms that worked on its audit. Over time, the PCAOB anticipates enhancing the search functionality and plans to allow users to download search results. The information filed on Form AP is anticipated to be available on the Board's Web site indefinitely.

A commenter noted that there would be a potential redundancy between Form AP and the list of audit clients and audit reports required on Form 2, and suggested that the Board consider eliminating the Form 2 requirement. After considering the commenter's concern and evaluating the potential redundancies, the Board has determined not to amend Form 2 at this time. While some information on Form 2 does overlap with Form AP, more information is collected on Form 2 than would be filed on Form AP; for example, Form 2 also requires the dates of any consents to an issuer's use of an auditor's report previously issued.

One commenter suggested that Form AP allow a firm to assert that it cannot provide information called for by Form AP without violating non-U.S. laws, which would make Form AP consistent with other forms filed with the Board. The Board is committed to cooperation and reasonable accommodation in its oversight of registered non-U.S. firms, and has provided non-U.S. firms the opportunity to at least preliminarily withhold some information from required PCAOB forms on the basis of an asserted conflict with non-U.S. laws. Generally, the Board has not provided for firms to assert such a conflict with respect to all information required by PCAOB forms. In considering whether to allow the opportunity to assert conflicts, the Board has considered both whether it is realistically foreseeable that any law would prohibit providing the information and, even if it were realistically foreseeable, whether allowing a firm preliminarily to withhold the information is consistent with the Board's broader responsibilities and the particular regulatory objective.[53] In addition, even where the Board has allowed registered firms to assert legal conflicts in connection with Forms 2, 3, and 4, that accommodation does not entail a right for a firm to continue to withhold the information if it is ''sufficiently important.'' [54] In this case, nothing has been brought to the Board's attention indicating a realistic possibility that any law would prohibit a firm from providing the information, and the information is categorically of sufficient importance that the Board sees no reason to allow a firm to withhold it on the basis of an asserted conflict.

The 2015 Supplemental Request proposed to apply PCAOB Rule 2204, *Signatures,* to Form AP. Application of the rule would have required firms to electronically sign and certify and retain manually signed copies of Form APs filed with the Board. Some commenters identified the manual signature requirement as an administrative burden that would be time consuming and costly. After considering these views, the Board determined to simplify the requirements for Form AP. Firms will be required to have each Form AP signed on behalf of the Firm by typing the name of the signatory in the electronic submission, but there is no requirement for manual signature or retention of manually signed or record copies.

Audit of Brokers and Dealers Under Exchange Act Rule 17a–5

Pursuant to Exchange Act Rule 17a–5, brokers and dealers are generally required to file annual reports with the Commission and other regulators.[55] The annual report includes a financial report, either a compliance report or exemption report, and reports by the auditor covering the financial report and the compliance report or exemption report. The annual report is public, except that, if the statement of financial condition in the financial report is bound separately from the balance of the annual report, the balance of the annual report is deemed confidential and nonpublic.[56] Therefore, in situations in which the broker or dealer binds the statement of financial condition separately from the balance of the annual report, the auditor generally would issue two separate auditor's reports that would have different content: (1) An auditor's report on the statement of financial condition that would be available to the public and (2) an auditor's report on the complete annual report that, except as provided in paragraph (c)(2)(iv) of Exchange Act Rule 17a–5, would be confidential and not available to the public.[57]

As discussed in the 2013 Release, ownership of brokers and dealers is primarily private, with individual owners generally being part of the management team. The 2015 Supplemental Request sought comment about whether Form AP posed specific issues with respect to brokers and dealers. Some commenters asserted that the disclosure requirements should apply to all audits conducted under PCAOB standards. However, others asserted that the value of the disclosures for brokers and dealers would be significantly limited because of the closely held nature of brokers and dealers. These commenters suggested that the engagement partner and other participants in the audit would be known to the management team, who are the owners in many instances.

While economic theory suggests that there are benefits resulting from enhanced transparency, commenters suggested that the benefits may be relatively less for brokers and dealers.

[52] Form AP is not required to be filed for audit reports issued in connection with non-issuer audits, even when those audits are conducted in accordance with PCAOB standards.

[53] *See, e.g.,* Rules on Periodic Reporting by Registered Public Accounting Firms, PCAOB Release No. 2008–004 (June 10, 2008), at 36–38.

[54] *See id.* at 37–38 n.38.

[55] *See* Exchange Act Rule 17a–5, 17 CFR 240.17a–5.

[56] *See* Exchange Act Rule 17a–5(e)(3), 17 CFR 240.17a–5(e)(3).

[57] *See also* Exchange Act Rule 17a–5(c)(2), 17 CFR 240.17a–5(c)(2), regarding audited statements required to be provided to customers.

There is likely a lesser degree of information asymmetry between owners and managers for entities that are mostly private, closely-held, and small. However, information regarding the auditor may benefit those who are not part of management of the broker or dealer, such as customers. Although these benefits should be considered when determining whether to apply the new rules to brokers and dealers, they must be assessed relative to the potential costs of the required disclosures, which could be disproportionately high for smaller accounting firms that audit brokers and dealers. Overall, it appears likely that the net benefit of the required disclosures would be less for brokers and dealers than for issuers.

Accordingly, at this time, the Board is not extending the Form AP filing requirements to brokers and dealers.[58] The Form AP filing requirements are therefore limited to issuer audits. As the PCAOB and registered public accounting firms gain experience in filing and administering Form AP, and as more information is gathered on broker and dealer audits through the PCAOB's inspections and other oversight functions, the Board will continue to consider whether to make the Form AP requirement applicable to broker and dealer audits and could revisit its decision to limit the Form AP filing requirements to issuer audits.

Audits of Employee Stock Purchase Plans

One commenter on the 2013 Release recommended that the reproposed amendments not apply to the audits of employee stock purchase, savings, and similar plans that file annual reports on Form 11–K. This commenter did not believe that disclosure of the name of the engagement partner or information about other participants in the audit would be meaningful for participants in an employee benefit plan that is subject to PCAOB auditing standards.

The Board believes similar transparency and accountability rationales apply to employee stock purchase, savings and similar plans that file annual reports on Form 11–K. For example, disclosing the name of the engagement partner and other accounting firms that participated in the audit on Form AP could increase audit quality by increasing auditors' sense of accountability. In the Board's view, increasing the audit quality in audits of employee stock purchase, savings and similar plans is important for the protection of employee benefit plan participants. Disclosure of the engagement partner's name for the audits of employee benefit plans will provide additional information about an engagement partner's experience for those engagement partners that also audit other issuers.

Effective Date

The 2015 Supplemental Request suggested making the requirements effective for auditors' reports issued or reissued on or after June 30, 2016 or three months after approval by the SEC, whichever occurs later. Many commenters generally advocated a later effective date, although some suggested a phased approach, with disclosure of the engagement partner implemented first and disclosure of other participants delayed for six months to a year after that to provide time for firms to develop data gathering systems and processes. Commenters that suggested a phased approach said that since the engagement partner was already known by the firm, a June 30, 2016 effective date would be appropriate. Some commenters suggested not linking the effective date to a calendar year-end to allow firms to test and implement new systems at a less busy time of year.

After considering comments, the Board has chosen a phased effective date. If approved by the Commission, the new rules of the Board and amendments to auditing standards will take effect as set forth below:

- Engagement partner: Auditors' reports issued on or after January 31, 2017, or three months after SEC approval of the final rules, whichever is later
- Other accounting firms: Auditors' reports issued on or after June 30, 2017.

A phased effective date will provide investors with the engagement partner's name as soon as reasonably practicable. Providing a later effective date for the other accounting firms' disclosure allows firms time to develop a methodology to gather information regarding the other accounting firms' participation.

D. Economic Considerations and Application to Audits of Emerging Growth Companies

Economic Considerations

The Board is mindful of the economic impacts of its standard setting. The following discussion addresses in detail the potential economic impacts, including potential benefits and costs, most recently considered by the Board. The Board has requested input from commenters several times over the course of the rulemaking. Commenters provided views on a wide range of issues pertinent to economic considerations, including potential benefits and costs, but did not provide empirical data. The potential benefits and costs considered by the Board are inherently difficult to quantify, therefore the Board's economic discussion is qualitative in nature.

Commenters who commented specifically on the economic analysis in the Board's 2015 Supplemental Request provided a wide range of views. Some commenters provided academic research in support of their views for the Board to consider. Some commenters expressed concern that the economic analysis in the Board's 2015 Supplemental Request was unpersuasive or incomplete. Other commenters said that the Board's economic analysis carefully reviewed the relevant evidence on the potential costs and benefits attributable to the disclosures. The Board has considered all comments received and has sought to develop an economic analysis that evaluates the potential benefits and costs of mandating the disclosures in Form AP, as well as facilitates comparisons to alternative approaches.

Need for Mandatory Disclosure

There exists an information asymmetry[59] between users of the financial statements and management about the company's performance, and high quality financial information can help mitigate this information asymmetry. Audit quality matters to users of the financial statements, because audit quality is a component of financial reporting quality, in that high audit quality increases the credibility of financial reports. Thus, better knowledge of audit quality can help mitigate the information asymmetry between users of the financial statements and management about company performance.

Users of financial statements are generally not in a position to observe the quality of the audit of a public company or the factors that drive audit quality. In addition to relying on the audit committee, which, at least for listed companies, is charged with overseeing the external auditor, users of financial statements may rely on proxies such as the reputation of the accounting firm issuing the auditor's report, aggregated measures of auditor expertise

[58] If a broker or dealer were an issuer required to file audited financial statements under Section 13 or 15(d) of the Exchange Act, the requirements would apply.

[59] Economists often describe information asymmetry as an imbalance, where one party has more or better information than another party.

(for example, dollar value of issuer market capitalization audited or audit fees charged), or information about the geographic location of the office where the auditor's report was signed as a signal for audit quality.[60] Users of financial statements could seek to reduce the degree of information asymmetry between them and management by gathering information about the skills, expertise, and independence of the engagement partner and firms that participate in the audit.

The Board is considering a number of ways to provide more information related to audit quality. In addition to the disclosures of the engagement partner and certain audit participants mandated in Form AP, these efforts include formulation of a series of audit quality indicators, a portfolio of quantitative measures that may provide new insights into how quality audits are achieved.[61] The Board is also considering a standard that would update the form and content of the auditor's report to make it more relevant and informative by, among other things, including communication of critical audit matters.[62] The Board intends that, over time, these and other efforts will provide investors and other financial statement users with additional information they can use when evaluating audit quality. When used in conjunction with other publicly available data (including any audit quality indicators that are made publicly available), the name of the engagement partner and information about other participants in the audit, collectively, could provide more information about audit quality.

PCAOB oversight activities have revealed that audit quality varies among engagement partners within the same firm. PCAOB oversight activities also reveal variations in audit quality among firms, including variations among firms in the global networks established by large accounting firms. In addition to a number of other factors, the PCAOB uses information about engagement partners and other participants in the audit to identify audit engagements for risk-based selections in its inspections program. Academic research also analyzes variations in audit quality at both the firm and engagement partner levels.[63] These findings suggest that firm reputation is an imprecise signal [64] of audit quality because engagement partners and other audit participants differ in the quality of their audit work.

The difficulty that investors and other financial statement users have in evaluating audit quality may have important effects for accounting firms and the functioning of the audit profession and capital markets.[65] The capacity to differentiate between alternative products is a fundamental requirement of competitive markets.[66] One way to improve the functioning of a market is to provide mechanisms that enable market participants to better evaluate quality, thereby reducing the degree of information asymmetry.

Mandating public disclosure of the name of the engagement partner and other accounting firms that participated in an audit provides financial markets with information that may have otherwise been more costly or difficult to obtain. It enables the development of a standardized and comprehensive source of data that can facilitate comparison and analysis, which would be more valuable than a potentially piecemeal data source that could develop under a voluntary disclosure regime. Mandating public disclosure also assures that the information is accessible to all market participants, so that any value-relevant information can more readily be incorporated into market prices.

This information may influence investors' decisions and allow them to make better informed investment decisions. The disclosure of information may also lead the identified parties to change their behavior because they know their performance can be more broadly and easily observed by investors and other financial statement users. In general, an important feature of accountability is identifiability.[67] In the context of the audit, transparency will allow market participants to separately identify auditors from the accounting firm signing the auditor's report. This disclosure will impose incremental reputation risk, which should, at least in some circumstances, lead to increased accountability because the ability for investors and other financial statement users to identify and evaluate the performance of engagement partners and other accounting firms may induce changes in behavior.

Because of the influence that engagement partners and other accounting firms participating in the audit can exert over the audit process, information about the people and entities who actually performed the audit of a particular company will be a useful addition to the mix of information related to the audit that investors can use to assess audit quality and hence credibility of financial reporting. As identifying information becomes publicly available, it could also provide a further incentive to engagement partners and other accounting firms that participate in the audit to develop and enhance a reputation for providing reliable audits

[60] *See, e.g.,* Linda Elizabeth DeAngelo, *Auditor Size and Audit Quality,* 3 Journal of Accounting and Economics 183 *passim* (1981); and Jere R. Francis, *What Do We Know About Audit Quality?,* 36 The British Accounting Review 345 *passim* (2004).

[61] *See* PCAOB Release No. 2015–005.

[62] *See* PCAOB Release No. 2013–005.

[63] *See, e.g.,* W. Robert Knechel, Ann Vanstraelen, and Mikko Zerni, *Does the Identity of Engagement Partners Matter? An Analysis of Audit Partner Reporting Decisions,* 32 Contemporary Accounting Research 1443 (2015); Daniel Aobdia, Chan-Jane Lin, and Reining Petacchi, *Capital Market Consequences of Audit Partner Quality,* 90 The Accounting Review 2143 (2015); and Carol Callaway Dee, Ayalew Lulseged, and Tianming Zhang, *Who Did the Audit? Audit Quality and Disclosures of Other Audit Participants in PCAOB Filings,* 90 The Accounting Review 1939 (2015). Professors Dee and Aobdia are former and current research fellows at the PCAOB. Their research cited above was undertaken prior to joining the PCAOB. On the point of whether audit quality varies within accounting firms, a commenter suggested additional research to consider. *See* Steven F. Cahan and Jerry Sun, *The Effect of Audit Experience on Audit Fees and Audit Quality,* 30 Journal of Accounting, Auditing and Finance 78 (2015) (clients of more experienced CPAs have lower absolute discretionary accruals than clients of less experienced CPAs); Kim Ittonen, Karla Johnstone, and Emma-Riikka Myllymäki, *Audit Partner Public-Client Specialisation and Client Abnormal Accruals,* 24 European Accounting Review 607 (2015) (a significant negative association between greater public-client specialization and absolute abnormal accruals); and Ferdinand A. Gul, Donghui Wu, and Zhifeng Yang, *Do Individual Auditors Affect Audit Quality? Evidence from Archival Data,* 88 The Accounting Review 1993 *passim* (2013) (individual audit partners affect audit quality in ways that are both economically and statistically significant).

[64] Information economics frequently treats information as consisting of two components: a signal that conveys information and noise which inhibits the interpretation of the signal. Precision is the inverse of noise so that decreased noise results in increased precision and a more readily interpretable signal. *See, e.g.,* Robert E. Verrecchia, *The Use of Mathematical Models in Financial Accounting,* 20 Journal of Accounting Research 1 *passim* (1982).

[65] There is a long stream of research regarding the effects that information asymmetry about product features, such as quality, and disclosure have on markets. *See, e.g.,* George A. Akerlof, *The Market for ''Lemons'': Quality Uncertainty and the Market Mechanism,* 84 The Quarterly Journal of Economics 488 *passim* (1970); and Robert E. Verrecchia, *Essays on Disclosure,* 32 Journal of Accounting and Economics 97 (2001).

[66] *See, e.g.,* George J. Stigler, *Perfect Competition, Historically Contemplated,* 65 The Journal of Political Economy 1 *passim* (1957).

[67] Academic research finds that accountability is a complex phenomenon and is affected by numerous factors. *See, e.g.,* Jennifer Lerner and Philip Tetlock, *Accounting for the Effects of Accountability,* 125 Psychological Bulletin 255 *passim* (1999). *See also* Todd DeZoort, Paul Harrison, and Mark Taylor, *Accountability and Auditors' Materiality Judgments: The Effects of Differential Pressure Strength on Conservatism, Variability, and Effort,* 31 Accounting, Organizations and Society 373 (2006).

and to avoid being associated with adverse audit outcomes that could be attributed to deficiencies in their audit work.[68]

Under the disclosures adopted by the Board, investors would gain additional information that could help them assess the reputation of not only the firm, but also of the engagement partner on the audits of companies in which they invest, which they can use as a signal for audit quality. Likewise, investors will have visibility into the extent of the audit work being performed by other accounting firms that participated in the audit, including accounting firms in jurisdictions where the PCAOB has been unable to conduct inspections. Collectively, the disclosures, when used in conjunction with other publicly available data, can facilitate investors' ability to assess audit quality and hence credibility of financial reporting by providing investors with information about who conducted the audit and the extent to which the accounting firm signing the auditor's report used the audit work performed by other accounting firms.

Although the disclosure of the name of the engagement partner might provide limited information initially, experience in other countries suggests that over time the disclosures would enable databases to be developed that would allow investors and other financial statement users to evaluate a number of data points about the engagement partner,[69] including:

- Number and names of other issuer audits for which the partner is the engagement partner;
- Industry experience of the engagement partner;
- Number and nature of restatements of financial statements for which he or she was the engagement partner;
- Number and nature of going concern report modifications on financial statements for which he or she was the engagement partner;
- Number of auditors' reports citing a material weakness in internal control over financial reporting where he or she was the engagement partner;
- Number of years as the engagement partner of a particular company;
- Disciplinary proceedings and litigation in which the engagement partner was involved; and
- Other information about the engagement partner in the public domain, such as education, professional titles and qualifications, and association memberships.

Additional databases may also develop about other accounting firms that participate in public company audits, and additional data points should contribute to the mix of information that investors would be able to use, such as:

- The extent of the audit performed by the firm signing the auditor's report;
- The extent of participation in the audit by other accounting firms in other jurisdictions, including jurisdictions in which the PCAOB cannot currently conduct inspections; [70]
- Whether the other accounting firms are registered with the PCAOB, have been inspected, and the inspection results, if any;
- Industry experience of the other accounting firms;
- Whether the other accounting firms belong to a global network;
- Trends and changes in the level of participation of other accounting firms in the audit work; and
- Disciplinary proceedings and litigation involving the other accounting firms.

These data points, when analyzed together with the audited financial statements, potential audit quality indicators, and information provided on Form AP, should provide investors with more information about the audit and, therefore, the reliability of the financial statements. As a result, this should reduce the degree of information asymmetry about financial reporting quality between investors and company management.

Providing investors with data at this level of specificity will add to the mix of information that they can use. This could induce changes in the market dynamics for audit services because investors would have additional information about the identity of engagement partners and other accounting firms participating in the audit. If investors are able to identify certain engagement partners and other accounting firms that participated in the audit who consistently perform high-quality audit work, the companies audited by these engagement partners and other accounting firms should benefit from a lower cost of capital relative to those companies whose auditor's performance record suggests a higher risk.[71]

As some engagement partners and other accounting firms that participated in the audit develop a reputation for performing reliable audits, a further incentive may develop for others to attract similarly favorable attention. Conversely, as some engagement partners and other accounting firms are associated with adverse audit outcomes that could be attributed to deficiencies in their audit work, others may have additional incentives to perform audits that comply with applicable standards in order to avoid similar association.[72] The disclosures may also create additional incentives for audit committees to engage auditors with a reputation for performing reliable audits. As a result, the disclosures may also promote increased competition based on audit quality.

Baseline

Current PCAOB rules and standards do not require registered firms to publicly disclose the name of the engagement partner or information about other accounting firms participating in the audit. The identity of the engagement partner is known by people close to the financial reporting process, for example by company management and the audit committee, that interact directly with the engagement partner. Additionally, auditors are required to communicate to the audit committee certain information about other accounting firms and other participants in the audit.[73]

Today, the name of the engagement partner is disclosed in auditors' reports filed with the SEC in only a small percentage of cases, such as when the audit is conducted by a firm having only one certified public accountant whose name appears in the firm's name or by

[68] Adverse audit outcomes may include financial statement restatements for errors, nontimely reporting of internal control weaknesses, and nontimely reporting of going concern issues, among others.

[69] For example, the Taiwan Economic Journal collects data that covers all public companies in Taiwan and includes, among other things, the names of the engagement partners, the accounting firms issuing auditors' reports, the regulatory sanction history of the partners, and the audit opinions.

[70] *See* Non-U.S. Firm Inspections on the PCAOB's Web site for information about firms in non-U.S. jurisdictions that deny PCAOB inspection access.

[71] There is an emerging body of academic research analyzing market reactions to disclosure of the engagement partner and the firms participating in audits. *See* Knechel et al., *Does the Identity of Engagement Partners Matter? An Analysis of Audit Partner Reporting Decisions;* Aobdia et al., *Capital Market Consequences of Audit Partner Quality;* and Dee et al., *Who Did the Audit? Audit Quality and Disclosures of Other Audit Participants in PCAOB Filings.*

[72] The unintended consequence of engagement partner disclosure creating an incentive for some engagement partners to avoid challenging an aggressive accounting treatment in an effort to protect their reputations is discussed below.

[73] For example, the auditor is required to communicate the names, locations, and planned responsibilities of other independent public accounting firms or other persons not employed by the auditor that perform audit procedures. *See* paragraph 10.d of AS 1301 (currently Auditing Standard No. 16), *Communications with Audit Committees.*

a foreign firm in a jurisdiction in which local requirements or practice norms dictate identification of the engagement partner. The identity of the engagement partner is also sometimes made available to investors attending an annual shareholders' meeting in person. It is possible that engagement partners could be identified in other ways; for example, an academic study inferred that in instances where accounting firm personnel are copied on issuers' correspondence with the SEC's Division of Corporation Finance, the copy party is the engagement partner.[74] However, because there is no current requirement to disclose information about engagement partners, the process of acquiring this information may be costly and the information may be less useful relative to a database that covers audits across time and is available to all interested users.

With respect to other accounting firms participating in the audit, AS 1205.04 (currently AU sec. 543.04) has prohibited principal auditors from disclosing in the auditor's report the involvement of other accounting firms that participated in the audit unless responsibility for the audit has been divided.[75] However, investors and other financial statement users have been able to obtain information about a limited subset of other accounting firms from PCAOB Form 2.[76]

There are no other current requirements under which the identity of other accounting firms participating in the audit would be publicly disclosed and, to the Board's knowledge, firms generally do not make such information public.[77]

The Impact of Disclosure

The final rules adopted by the Board impact certain participants in the audit, financial statement users, and companies to the extent that this information is currently not publicly available and affects participants' decision making. As discussed below, not all of these market participants are affected in the same ways or to the same degree.

The Benefits of Disclosure

The final rules adopted by the Board aim to improve the transparency and accountability of issuer audits by adding to the mix of information available to investors. Among other things, the disclosures would allow investors to research whether engagement partners have been associated with adverse audit outcomes that could be attributed to deficiencies in their audit work or have been sanctioned by the PCAOB or SEC. The disclosures could also allow financial statement users to understand how much of the audit was performed by the firm issuing the report and how much was performed by other accounting firms, including those in jurisdictions where the PCAOB has been unable to conduct inspections. Moreover, as the disclosed information accumulates and is aggregated and analyzed in conjunction with other publicly available information, investors and financial intermediaries (for example, research analysts and credit rating agencies) would have a basis to evaluate additional data points, together with the information disclosed on Form AP, that may give them insight into individual audits. While this information may not be useful in every instance or meaningful to every investor, as discussed in more detail below, academic research suggests that, overall, the disclosures add to the mix of information used by investors.[78]

Disclosures regarding the engagement partner and the other accounting firms that participated in the audit would allow investors and other financial statement users to supplement the accounting firm's name with more granular information when assessing audit quality and hence the credibility of financial reporting. The disclosed information will provide investors and other financial statement users with more information about individual audits in accounting firms that conduct a large number of issuer audits. This information should be particularly valuable to investors where there is a greater degree of information asymmetry, as may be the case for smaller and less seasoned public companies.

The new disclosures should, at least in some circumstances, also increase accountability for auditors through Justice Brandeis' ''disinfectant'' effect: disclosure of their names, when accompanied by other information about their history, should create incentives for the engagement partner and other accounting firms to take voluntary steps that could result in improved audit quality. The additional incentives likely will be a result of Form AP disclosures imposing additional reputation risk on engagement partners and other accounting firms. The effect on accountability is not expected to be uniform across all engagement partners and other accounting firms.

Transparency

The PCAOB uses various data, including information about engagement partners and other accounting firms, to identify audit engagements for its risk-based inspections program. Over time, financial statement users would be able to combine the disclosed information with other financial information, such as any previous adverse audit outcomes that could be attributed to deficient audit work, which would allow them to better assess the quality of individual audits. For example, investors and other financial statement users would be able to observe whether financial statements audited by the engagement partner have been restated or whether the engagement partner has been sanctioned by the PCAOB or SEC, and investors and other financial statement users could also research other publicly available information about the engagement partner.

Commenters provided mixed views regarding the usefulness of the disclosures. While some commenters argued that the information would not be useful or could be confusing,[79] other commenters indicated that this information may be useful for investment decisions and decisions about whether to ratify the appointment of an accounting firm. On the point of whether investors may misunderstand the role of engagement partners, for

[74] *See* Henry Laurion, Alastair Lawrence, and James Ryans, *U.S. Audit Partner Rotations* (Sept. 14, 2015) (working paper, available in Social Science Research Network (''SSRN'')).

[75] The sentence in AS 1205.04 (currently AU sec. 543.04) that states that if the principal auditor decides not to make reference to the work of other auditors, the principal auditor ''should not state in his report that part of the audit was made by another auditor because to do so may cause a reader to misinterpret the degree of responsibility being assumed'' is deleted under the amendments. In the Board's view, the language included on Form AP clearly states the auditor's responsibility regarding the work of other participants in the audit and should not cause financial statement users to misinterpret or be confused about the degree of responsibility being assumed by the accounting firm signing the auditor's report.

[76] PCAOB Form 2 requires independent public accounting firms that audited no issuers during the applicable reporting period to provide information on each issuer for which they ''play[ed] a substantial role in the preparation or furnishing of an audit report,'' as defined by PCAOB Rule 1001(p)(ii).

[77] Item 9(e)(6) of Schedule 14A (17 CFR 240.14a-101) requires disclosure of the percentage of hours expended on the audit of the financial statements for the most recent fiscal year by persons other than the principal accountant's full-time, permanent employees, if greater than 50% of total hours, but does not require identification of such persons.

[78] See, *e.g.,* Knechel et al., *Does the Identity of Engagement Partners Matter? An Analysis of Audit Partner Reporting Decisions;* Aobdia et al., *Capital Market Consequences of Audit Partner Quality;* and Dee et al., *Who Did the Audit? Audit Quality and Disclosures of Other Audit Participants in PCAOB Filings.*

[79] *See* above for a discussion of commenter reactions to the disclosure requirements.

example, a commenter cited academic research suggesting that, ''. . . investors process public information in a sophisticated manner and investor responses to public disclosures cause relevant information to be reflected in security prices.'' [80]

Disclosure Regarding the Engagement Partner

Other countries have adopted or may soon adopt requirements to disclose the name of the engagement partner. Experiences from countries that have already adopted similar disclosure requirements are important in assessing possible consequences, intended or not, of any changes in this area. Recent academic research conducted using data from those jurisdictions has studied how investors and other financial statement users use the information to assess audit quality, and hence credibility of financial reporting. Disclosures of this type have been found to have informative value in other settings, and empirical studies using data from the jurisdictions where the disclosures are available, discussed below, suggest that these disclosures would be useful to investors and other financial statement users. However, in considering the implications of these studies for the audits under the Board's jurisdiction, the Board has been mindful, as some commenters suggested, of the specific characteristics of the U.S.-issuer audit market, which may make it difficult to generalize observations made in other markets. For example, results from non-U.S. studies may depend on different baseline conditions (for example, market efficiency, affected parties, policy choices, legal environment, or regulatory oversight) than prevail in the United States.

Several studies have examined whether engagement partner disclosure requirements affect the price of securities and promote a more efficient allocation of capital. Knechel et al. found ''considerable evidence that similar audit reporting failures persist for individual partners over time'' and that, in Sweden, where engagement partners' names are disclosed, ''the market recognizes and prices differences in audit reporting style among engagement partners'' of public companies.[81]

In a critique that will be published alongside the original manuscript, Kinney described several issues that challenge the validity of the results from the Knechel et al. paper.[82] In particular, Kinney argued that it may be difficult to generalize the results from the Knechel et al. paper because many of the results from the original paper were obtained using data on private companies that undergo statutory audits under Swedish law. In addition, Kinney argued that the accuracy of going concern evaluations is a relatively poor measure of audit quality compared to financial statement misstatements. Kinney also noted that the Knechel et al. paper does not attempt to control for the effects of the mechanism by which audit partners are assigned to specific engagements. Kinney argued that if accounting firms assign high-quality audit partners to risky audit engagements, then the results from the Knechel et al. paper would have the opposite interpretation. Ultimately, Kinney argued that it may be inappropriate to conclude that engagement partner names would provide useful information to U.S. financial markets based on evidence obtained from the available studies.[83]

Other papers using data from foreign jurisdictions also analyze whether capital markets react to data on engagement partner quality and experience. For example, Aobdia et al. used data from Taiwan and found that both debt and equity markets priced engagement partners' quality, where higher quality is measured by the companies' lower level of discretionary accruals.[84] Results are similar when the authors used regulatory sanctions history as an alternate measure of engagement partner quality, which they argue is less subject to measurement error than estimates of discretionary accruals. This result partially addresses the concerns raised in Kinney's discussion paper about using discretionary accruals as a measure of audit quality.[85] Evidence from another study using data from Taiwan is consistent with these results.[86]

Another paper using data from Taiwan found that recent financial statement restatements disclosed by an engagement partner's client are associated with a higher likelihood of that engagement partner's other clients misstating in the current year.[87] However, the authors find that this effect was mitigated by the engagement partner's experience. Although these results are based on evidence from a non-U.S. jurisdiction, they suggest that the disclosures could provide investors with useful information about the reliability of other financial statements audited by individual engagement partners who have been associated with a recent financial statement restatement.

The limited research on engagement partner identification in the United States provides some support that the name of the engagement partner may be used as a signal of audit quality. Using data collected from SEC comment letters, Laurion et al. find substantial increases in the number of material restatements of previously issued

[80] *See* Letter from Maureen McNichols, Marriner S. Eccles Professor of Public and Private Management and Accounting, Stanford University Graduate School of Business, to the Office of the Secretary, PCAOB (Aug. 31, 2015). The commenter references several academic papers in support of the argument that investors are able to incorporate information into security prices. *See* Maureen McNichols, *Evidence of Informational Asymmetries from Management Earnings Forecasts and Stock Returns,* 64 The Accounting Review 1 (1989) (The differential response to forecasts which are ex post too high or too low indicates that, in the aggregate, investors do not take management forecasts at face value.), or Maureen F. McNichols and Stephen Stubben, *The Effect of Target-Firm Accounting Quality on Valuation in Acquisitions,* 20 Review of Accounting Studies 110 (2015) (accounting information helps mitigate information asymmetry between acquirers and target firms).

[81] *See* Knechel et al., *Does the Identity of Engagement Partners Matter? An Analysis of Audit Partner Reporting Decisions.*

[82] *See* William R. Kinney, *Discussion of ''Does the Identity of Engagement Partners Matter? An Analysis of Audit Partner Reporting Decisions,''* 32 Contemporary Accounting Research 1479 (2015).

[83] Kinney suggests that other papers referenced in the Board's 2013 release could benefit from additional effort to bolster the validity of the research methodologies. For example, Kinney suggested that the authors of these papers could work with accounting firms to compare the proxies for audit quality used in academic research, such as discretionary accruals or the accuracy of going concern evaluations, with the accounting firms' proprietary assessment of engagement partner quality. The Board recognizes that discretionary accruals and the accuracy of going concern evaluations are only proxies for audit quality. However, a recent academic study has assessed the validity of commonly used proxies for audit quality by analyzing their associations with PCAOB inspection findings, which may be a more precise measure of audit quality. *See* Daniel Aobdia, *The Validity of Publicly Available Measures of Audit Quality: Evidence from the PCAOB Inspection Data* (June 30, 2015) (working paper, available in SSRN).

[84] *See* Aobdia et al., Capital Market Consequences of Audit Partner Quality.

[85] *See* Kinney, *Discussion of ''Does the Identity of Engagement Partners Matter? An Analysis of Audit Partner Reporting Decisions.*''

[86] *See* Wuchun Chi, Linda A. Myers, Thomas C. Omer, and Hong Xie, *The Effects of Audit Partner Pre-Client and Client-Specific Experience on Audit Quality and on Perceptions of Audit Quality* (Jan. 2015) (working paper, available in SSRN) (Auditor experience is an important factor in determining audit quality and the perceived level of audit quality as measured by the bank loan interest rate spread).

[87] *See* Wuchun Chi, Ling Lei Lisic, Linda A. Myers, and Mikhail Pevzner, *Information in Financial Statement Misstatements at the Engagement Partner Level: A Case for Engagement Partner Name Disclosure?* (Jan. 2015) (working paper, available in SSRN). There is an additional paper with similar results about the effects of engagement partner performance history and the likelihood of restatement. *See also* Yanyan Wang, Lisheng Yu, and Yuping Zhao, *The Association between Audit-Partner Quality and Engagement Quality: Evidence from Financial Report Misstatements,* 34 Auditing: A Journal of Practice and Theory 81 (2015).

financial statements and total valuation allowances after engagement partner rotations.[88] While the authors do not explicitly analyze potential benefits related to engagement partner disclosure, they argue that engagement partner disclosures would reveal partner rotations, thus providing meaningful information to investors, supporting the PCAOB's rulemaking initiative.

The Board believes that a requirement to disclose the name of the engagement partner may provide useful information to financial markets based on extensive public outreach and its own experience conducting its inspection program. The Board notes that it may not be possible to generalize results of academic studies, including those based on data in foreign jurisdictions. However, the papers discussed above typically find evidence consistent with a broad stream of academic literature demonstrating that markets benefit from more information associated with quality.

Disclosure Regarding Other Participants in the Audit

Empirical evidence also suggests that the market values information about other participants in the audit. Dee et al. examined the effect on issuers' stock prices[89] when investors learn (from participating auditors' Form 2 filings) that these issuers' audits included the substantial use of other accounting firms that do not audit other issuers. Using event study methodology, the authors find that, when accounting firms disclosed in Form 2 the identity of issuer audits in which they substantially participated, the stock prices of these issuers were negatively affected. The authors also find that earnings surprises for these issuers are less informative to the stock market after these disclosures in Form 2 are made, meaning that investors perceive earnings quality to be lower.[90] The authors concluded that the results of the study suggested ''that PCAOB mandated disclosures by auditors of their significant participation in the audits of issuers provides new information, and investors behave as if they perceive such audits in which other participating auditors are involved negatively.'' It should be noted that the negative market reaction in this instance may, at least to some extent, reflect the fact that the other participants in the study were auditors that have no issuer clients themselves but play a substantial role (*i.e.,* participate at least 20%) in an audit of an issuer. The disclosures being adopted would also apply to other accounting firms that take a smaller role in the audit and/or may have more experience in the application of PCAOB standards to audits of issuers. Market reaction to disclosures regarding these types of participants may differ.

To the extent that investors and other financial statement users are better able to assess the level of audit risk stemming from multi-location engagements, it should incent the accounting firm signing the auditor's report to use higher-quality, less risky firms as other audit participants. If investors react negatively to the use of an affiliated accounting firm that was previously associated with a failed audit, it may encourage the accounting firm signing the auditor's report to enhance their supervision and risk management practices.[91] It should also provide other accounting firms incentives to increase the quality of their audit work to help ensure that they can continue to receive referred audit work.

Accountability

Public disclosure of the name of the engagement partner and other accounting firms may create incentives for the engagement partner and other accounting firms to take voluntary steps that could result in improved audit quality. As discussed above, the Board expects that external sources would develop a body of information about the histories of engagement partners and other accounting firms. Although auditors already have incentives to maintain a good reputation, such as internal performance reviews, regulatory oversight, and litigation risk, such public disclosure likely will create an additional reputation risk, which should provide an incremental incentive for auditors to maintain a good reputation, or at least avoid a bad one. While this would not affect all engagement partners and all other accounting firms participating in audits to the same degree, as some already operate with a high sense of accountability, others may respond to the additional incentives to deliver high quality audits.

The additional incentives likely will be a result of Form AP disclosures imposing additional reputation risk on engagement partners and other accounting firms. As described in the economic literature, reputation risk is not imposed by regulators or courts, but rather by the market through actions such as the threat of termination of business relationships. Auditors and other accounting firms that participated in audits already face some degree of reputation risk. For example, auditors' names are known by their issuers' audit committees, within their audit firms, and to some extent in the audit industry; these parties can potentially alter or terminate current business relationships with the partners or reduce the probability of their being hired in the future, thereby imposing reputation risk on engagement partners. Form AP, by making names publicly available, will further increase reputation risk.

Disclosure Regarding the Engagement Partner

Form AP will make the names of engagement partners known to investors and audit committees of companies that have not worked with the engagement partner. To the extent such knowledge affects their current business relationships or future job market prospects, Form AP disclosures likely will impose additional reputation risk on engagement partners. For example, shareholders may express their discontent with an engagement partner though their voting decisions on the ratification of the audit firm, and to the extent that shareholder votes can affect the engagement partner's job market projects, the engagement partner would face increased reputation risk, hence higher accountability.

Many investors, as well as some other commenters, believe that public identification of the engagement partner may result in increased accountability, which could prompt voluntary changes in behavior. However, other commenters, primarily accounting firms, asserted that disclosure of engagement partners would not affect accountability. If engagement partner behavior were to change, such changes

[88] *See* Laurion et al., *U.S. Audit Partner Rotations.* Engagement partner rotation was inferred from changes in accounting firm personnel copied on issuer correspondence with the SEC's Division of Corporation Finance.

[89] *See* Dee et al., *Who Did the Audit? Audit Quality and Disclosures of Other Audit Participants in PCAOB Filings.*

[90] Academic research suggests that the financial markets' reaction to earnings surprises depends, among other things, upon the extent to which the disclosed earnings are perceived to be reliable. Thus, if markets react less to earnings surprises after an event, it could suggest that the earnings are perceived to be less reliable after the event. Academic research has tied this to perceived audit quality by investors. *See, e.g.,* Siew Hong Teoh and T.J. Wong, *Perceived Auditor Quality and the Earnings Response Coefficient,* 68 The Accounting Review 346 (1993).

[91] On whether reputational effects may incent global network firms to monitor audit work performed by an affiliate, there is a paper documenting that global audit firm networks have created a network-wide reputation that is susceptible not only to failures of the U.S. Big 4, but also to those of non-U.S. affiliates. *See* Yoshie Saito and Fumiko Takeda, *Global Audit Firm Networks and Their Reputation Risk,* 29 Journal of Accounting, Auditing and Finance 203 (2014).

could include increased professional skepticism, which could, in turn, result in better supervision of the engagement team and lower reliance on management's assertions. The auditor may have greater willingness to challenge management's assertions in the auditor's consideration of the substance and quality of management's financial statements and disclosures. In addition, public disclosure of the name of the engagement partner may make that person less willing to accept an inappropriate position accepted by a previous engagement partner because of the potential effects on his or her reputation.[92] The disclosures being adopted by the Board will reveal engagement partner rotations to investors, including instances where engagement partners left the engagement before rotation would have been required.

Academic research also analyzed whether engagement partner disclosures has an effect on accountability.[93] For example, a recent study examined the impact of the European Union's audit engagement partner signature requirement on audits in the United Kingdom and found improvements in several proxies for audit quality,[94] as well as a statistically significant increase in audit fees, after controlling for client and auditor characteristics.[95] It is worth highlighting that this study evaluated a policy alternative (a signature requirement) that some commenters have asserted would have a more pronounced effect than the rules being adopted. In addition, the authors note that there were several other audit and financial reporting requirements implemented in the United Kingdom contemporaneously with the signature requirement and, accordingly, it is not possible for the authors to rule out the possibility that these other requirements may have driven their results. Furthermore, the study was conducted using data from the period of the recent financial crisis, which may also have affected the results.

This contrasts with another study suggesting that disclosure requirements could produce limited or no observable improvement in audit quality.[96] Blay et al. analyzed data from the Netherlands and were unable to document any statistically significant changes in audit quality as measured by estimates of earnings quality. The authors speculated that the lack of findings may be attributable to sufficiently high levels of accountability and audit quality in the Netherlands.

As previously noted, the baseline conditions in other jurisdictions may differ from those in the United States, which could affect the extent to which these findings can be generalized to the United States.

Disclosure Regarding Other Participants in the Audit

While some commenters questioned the value of disclosures regarding other participants in the audit, others argued that the disclosure of the extent of the audit work performed by other participants in the audit could increase accountability for accounting firms that are named. Other commenters indicated that, as with disclosure of the name of the engagement partner, information sources would likely develop over time. This may increase scrutiny of the overall reputation of such firms. This increased reputational risk should incent other accounting firms participating in an audit to perform high-quality audits for all engagements. Further, if another accounting firm performs a substantial portion of the audit, then its reputation would be closely tied to the overall results of the audit. This may help further align the interests of the other accounting firms participating in the audit with investors and other financial statement users and thus enhance audit quality.

The final rules may also incent global network firms to increase accountability for all of the firms in their networks. The audit process for many multinational companies currently depends on the affiliated firms within a global network to audit company subsidiaries in their respective countries. This introduces vulnerabilities to the audit if quality varies across the network. To counter this risk, the global network firm may be further incented to increase its efforts to maintain uniform quality control standards and accountability across the global network. The global network firm may also improve its monitoring of other audit participants to ensure audit quality as well. This increased accountability of the other accounting firms that participated in the audit to the accounting firm signing the auditor's report could improve audit quality.

For principal auditors that are not part of a global network, disclosures regarding other accounting firms participating in the audit could provide an additional incentive for the principal auditor to choose firms that have a good reputation for quality.

The Costs and Other Possible Consequences of Disclosure

Over the course of the rulemaking, the Board was mindful of concerns voiced by commenters about potential compliance and other costs associated with public disclosure. In particular, many commenters on the 2013 Release argued that naming the engagement partner and other audit participants in the auditor's report, as contemplated by the 2013 Release, may create both legal and practical issues under the federal securities laws and therefore increase the cost of performing audits compared to the costs in the current environment. Some commenters suggested that an increase in costs would be passed on to companies through higher audit fees. Some commenters urged the Board to proceed with the new transparency requirements, if it determined to do so, by mandating disclosure in an amended PCAOB Form 2 or in a newly created PCAOB form. Some commenters suggested that disclosure on a form may not raise the same concerns about liability or consent requirements as disclosure in the auditor's report.

Direct Costs

Under the Form AP approach, the direct costs for auditors would include the costs of compiling information about the engagement partner and other participants in the audit and calculating the percentage of audit work completed by other participants in the audit. In general, costs should be lower for audits not involving other participants because

[92] As discussed previously, an academic study, analyzing instances where engagement partner rotation can be inferred, documents an increased rate of financial statement restatements following the rotation of engagement partners. *See* Laurion, et al., *U.S. Audit Partner Rotations.*

[93] *See, e.g.,* Joseph V. Carcello and Chan Li, *Costs and Benefits of Requiring an Engagement Partner Signature: Recent Experience in the United Kingdom,* 88 The Accounting Review 1511 *passim* (2013); Allen D. Blay, Matthew Notbohm, Caren Schelleman, and Adrian Valencia, *Audit Quality Effects of an Individual Audit Engagement Partner Signature Mandate,* 18 International Journal of Auditing 172 (2014); and Ronald R. King, Shawn M. Davis, and Natalia M. Mintchik, *Mandatory Disclosure of the Engagement Partner's Identity: Potential Benefits and Unintended Consequences,* 26 Accounting Horizons 533 *passim* (2012).

[94] Specifically, Carcello and Li found a significant decline in abnormal accruals, a decrease in the propensity to meet an earnings threshold, an increase in the incidence of qualified auditors' reports, and an increase in a measure of earnings informativeness. Some commenters criticized the use of one of these metrics, abnormal accruals, as a proxy for audit quality. While abnormal accruals are an imperfect proxy for audit quality, the results were corroborated using alternate proxies.

[95] Specifically, they find that the increase in audit fees from $475,900 to $477,000 between the pre- and post-signature requirement periods, was statistically significant, after controlling for client and auditor characteristics that could impact audit fees. Carcello and Li, *Costs and Benefits of Requiring an Engagement Partner Signature: Recent Experience in the United Kingdom,* at 1532.

[96] *See* Blay et al., *Audit Quality Effects of an Individual Audit Engagement Partner Signature Mandate.*

the only required disclosure would be the engagement partner's name and Partner ID. Compliance with the Form AP approach will entail initial costs of implementation—which could include creating systems to assign and track Partner ID numbers and to gather the required information from each engagement team—and ongoing costs associated with aggregating the information and filling out and filing Form AP.

A number of commenters observed that administrative effort would be required to compile data for, prepare, and review the required disclosures, both initially and on an ongoing basis. Accounting firms that commented on this issue asserted that the administrative efforts and related costs would not be significant.

Indirect Costs and Possible Unintended Consequences

In addition to the direct costs, there may be indirect costs and unintended consequences associated with the disclosures under consideration, some of which could be more significant than the direct compliance costs.

Differential Demand Based on Reputation

The disclosures aim to provide investors and other financial statement users with additional information they can consider in relation to audit quality at the engagement level, as opposed to the accounting firm level. This may result in some degree of differentiation in stature and reputation of individual auditors who serve as engagement partners and in other accounting firms that participate in audits.

Currently, investors and other financial statement users use proxies for quality, such as accounting firm size and industry experience, to differentiate accounting firms.[97] Some commenters suggested that the new requirements could be detrimental to smaller and less well-known accounting firms, even when they perform audit work in accordance with PCAOB standards. Others raised concerns that public identification of the engagement partner could lead to a rating, or ''star,'' system resulting in particular individuals and entities being in high demand, to the unfair disadvantage of other equally qualified engagement partners. It is also possible that engagement partners may be unfairly disadvantaged because of association with an adverse audit outcome, which could be particularly damaging to their professional development and future opportunities if it occurred at the outset of their career. Unwarranted attribution of an adverse audit outcome to an engagement partner could also adversely affect other public companies whose audits were led by the same engagement partner. While commenters did not raise similar concerns related to other accounting firms participating in audits, the implications of identification could be similar.

Differential demand based on reputation could be a cost of the disclosures under consideration to the extent the reputation (whether good or bad) was undeserved. It may be reasonable, however, to expect that financial markets would be discerning in considering information about the engagement partner and other accounting firms in the audit. As one commenter stated, ''investors are accustomed to weighing a variety of factors when assessing performance. . . . This approach can be seen in the careful analysis investors and proxy advisors do when they are asked to withhold support from directors standing for election. There is no reason to believe they will do otherwise with respect to auditors.'' [98] Academic research also suggests that financial markets do not treat all restatements and going concern modifications equally. Instead, financial markets respond to the facts and circumstances related to an individual restatement or going concern modification.[99] The results from this research suggest that financial markets may be similarly discerning when forming their opinion about an engagement partner or other participant in the audit.

Overauditing and Audit Fees

Some commenters have suggested that the increased reputational risk associated with public disclosure may lead to instances of overauditing, in which the engagement team undertakes more procedures than they otherwise might have performed, which do not contribute to forming an opinion on the financial statements. It should be noted that the final rules are not performance standards and do not mandate the performance of additional audit procedures. However, it is possible that some auditors may perform additional procedures as a result of the requirements (for example, because they want to obtain a higher level of confidence in some areas). This could result in unnecessary costs and an inefficient utilization of resources, and might cause undue delays in financial reporting. If and to the extent there are increased costs for auditors as a result of the new rules, however, such costs may be passed on—in whole, in part, or not at all—to companies and their investors in the form of higher audit fees.[100] Further, increased procedures may also require additional time from the company's management to deal with such procedures.

While the possibility of overauditing cannot be eliminated, competitive pressures to reduce the costs of conducting the audit should provide counterincentives that mitigate that risk.

Other Changes in Behavior of Engagement Partners

A recent study documents certain ways in which the disclosures could change the incentives of engagement partners resulting in changed behavior.[101] Under a purely theoretical model developed by Carcello and Santore that has not yet been empirically tested, potential reputation costs stemming from disclosure leads engagement partners to become more conservative and gather more evidence than the accounting firm finds to be optimal. Although the results of the study suggested that the disclosures lead to increased audit quality, the authors' analysis indicated that engagement partner identification likely leads to decreases in the welfare [102] of

[97] See DeAngelo, Auditor Size and Audit Quality, and Francis, What Do We Know About Audit Quality?

[98] *See* Letter from Denise L. Nappier, State Treasurer, State of Connecticut, to the Office of the Secretary, PCAOB (Mar. 17, 2014), at 3.

[99] Academic research documents differences in the market impact of restatements and going concern modifications based on the specific facts and circumstances of the events. *See, e.g.,* Susan Scholz, *The Changing Nature and Consequences of Public Company Financial Restatements 1997–2006, The Department of the Treasury* (Apr. 2008); and Krishnagopal Menon and David D. Williams, *Investor Reaction to Going Concern Audit Reports,* 85 The Accounting Review 2075 *passim* (2010).

[100] The Board is aware of public reports that have analyzed historical and aggregate data on audit fees and which suggest that audit fees generally have remained stable in recent years, notwithstanding the fact that the Board and other auditing standard setters have issued new performance standards during that period. *See, e.g.,* Audit Analytics, *Audit Fees and Non-Audit Fees: A Twelve Year Trend* (Sept. 30, 2014). In its 2013 Release, the Board sought data that might provide information or insight into such costs. As noted previously, commenters did not provide data regarding the extent of such costs.

[101] *See* Joseph V. Carcello and Rudy Santore, *Engagement Partner Identification: A Theoretical Analysis,* 29 Accounting Horizons 297 (2015).

[102] The term ''welfare'' can be thought of as overall well-being. In economic theory, welfare typically refers to the prosperity and living standards of individuals or groups. Some of the typical factors that are accounted for in welfare functions (or utility functions) include: compensation, leisure, effort, reputation, et cetera.

engagement partners and accounting firms. The authors argued that changes in the welfare of engagement partners and accounting firms may not be optimal within their theoretical analysis.

The Carcello and Santore analysis is limited since they do not explicitly analyze the effects of increased auditor conservatism and increased audit quality on investor utility. Therefore, their description of the ''society'' is missing a key participant, the investors. This limitation notwithstanding, they do note that increased conservatism at large accounting firms may actually be socially optimal as it could limit damages to market participants stemming from aggressive financial reporting at large issuers.

Disincentive To Perform Risky Audits

Some commenters have suggested that engagement partners and other accounting firms participating in audits may avoid complex and/or risky audits because of the potential negative consequences of an adverse audit outcome. It is also possible that accounting firms could increase audit fees or adjust their client acceptance and retention policies because of heightened concerns about liability, including the cost of insurance, or reputational risks. This could enhance auditors' performance of their gatekeeper function to the extent that it increases auditors' reluctance to take on clients at a high risk of fraudulent or otherwise materially misstated financial statements. But it would impose a cost if firms or partners become so risk averse that companies that do not pose such risk cannot obtain well-performed audits. This could effectively compel certain particularly risky companies to use engagement partners or accounting firms with substandard reputations or, in extreme circumstances, lead them to cease SEC reporting. If investors are better able to evaluate the quality of audit work performed by engagement partners and other accounting firms participating in the audit, companies that engage accounting firms with a reputation for substandard quality may experience an increased cost of capital.

Mismatch of Skills

Some commenters suggested that reputational concerns may lead audit committees not to select qualified engagement partners associated with prior restatements and to select a perceived ''star'' partner. It is, therefore, possible that, in some instances, high-demand auditors might be engaged when other auditors whose skills may be more relevant for a particular engagement are not selected. This could result in decreased audit quality. However, accounting firms have incentives to staff engagements appropriately, and high-demand engagement partners would also be incented to avoid performing audits for which they are not qualified in order to maintain that status or to mitigate any skill mismatch and maintain or enhance their reputation by consulting with others within their firm as necessary to ensure audit quality.

The ability to identify partners and other accounting firms involved in specific engagements could also facilitate the intentional selection of auditors with a reputation for substandard quality. Companies may do this for a variety of reasons, including the potential for lower audit fees or to identify auditors who are less likely to challenge management's assertions.

Possible Changes in Competitive Dynamics

Differentiation in stature and reputation of individual auditors who serve as engagement partners, and in other accounting firms that participate in audits, could have a number of competitive effects. One commenter suggested that transparency could create a permanent structural bias against smaller, less-known firms and partners as audit committees may be reluctant to engage firms or select partners that are not well-established or well-known. It appears that the disclosures under consideration could promote increased competition based on factors other than general firm reputation. In particular, if investors are better able to assess variations in audit quality, any resultant financial market effects should incent accounting firms to increase the extent to which they compete based on audit quality.

Moreover, the disclosures could result in changes to the market dynamics for the services of engagement partners and other accounting firms participating in audits. The ability to differentiate among engagement partners and among other accounting firms participating in audits could change external perceptions of particular partners and accounting firms, which may affect the demand for their services.

It should be noted, however, that a marked increase in the mobility of engagement partners and other accounting firms participating in audits seems unlikely due to high switching costs and contractual limitations. For example, partnership agreements, noncompete agreements, and compensation and retirement arrangements may affect partners' incentives and contractual ability to change firms. In addition, the costs to an issuer of replacing the global audit team and explaining the decision to change accounting firms to the market may affect companies' incentives to follow an engagement partner to a new firm. As a result, engagement partners may be reluctant to or contractually precluded from changing accounting firms, and those who elect to change firms may be unable to bring their clients with them. Additionally, the five-year partner rotation requirement would preclude an engagement partner from serving a company for more than five years, even if the engagement partner switched accounting firms.[103]

Potential Liability Consequences

The Board believes that disclosure on Form AP appropriately addresses concerns raised by commenters about liability. As commenters suggested, disclosure on Form AP should not raise potential liability concerns under Section 11 of the Securities Act or trigger the consent requirement of Section 7 of that Act because the engagement partner and other accounting firms would not be named in a registration statement or in any document incorporated by reference into one.[104] While the Board recognizes that commenters expressed mixed views on the potential for liability under Exchange Act Section 10(b) and Rule 10b-5 and the ultimate resolution of Section 10(b) liability is outside of its control, the Board nevertheless does not believe any such risks warrant not proceeding with the Form AP approach.

Alternatives Considered

After considering these factors and public comments, the Board adopted new rules and amendments to its standards that require the names of the engagement partner and certain other audit participants to be disclosed in a newly created PCAOB form, Form AP. Commenters have indicated that disclosure in Form AP could produce the intended benefits of transparency while addressing concerns related to auditor liability.

As described below, the Board has considered a number of alternative approaches to achieve the potential benefits of enhanced disclosure.

[103] Rule 2–01(c)(6) of Regulation S–X, 17 CFR 210.2–01(c)(6); *see also* Section 203 of the Sarbanes-Oxley Act.

[104] While the requirement to file Form AP is triggered by the issuance of an auditor's report, the form would not automatically be incorporated by reference into or otherwise made part of the auditor's report.

Alternatives Considered Previously

Over the past several years, the Board has considered a number of alternative approaches to the issue of transparency. Initially, the Board considered whether an approach short of rulemaking would be a less costly means of achieving the desired end. The Board's usual vehicles for informal guidance—such as staff audit practice alerts, answers to frequently asked questions, or reports under PCAOB Rule 4010, *Board Public Reports*—did not seem suitable. U.S. accounting firms have not voluntarily disclosed information about engagement partners. Also, even if some auditors disclosed more information under a voluntary regime, practices among auditors likely would vary widely. That would defeat one of the Board's goals of achieving widespread and consistent disclosures about the auditors that carry out PCAOB audits. Thus, the Board did not pursue an informal or voluntary approach.

In the 2009 Release, the Board considered a requirement for the engagement partner to sign the auditor's report in his or her own name in addition to the name of the accounting firm. A number of commenters supported and continue to support the signature requirement. However, many other commenters opposed it, mainly because including the signature in the auditor's report, in their view, would appear to minimize the role of the accounting firm in the audit and could increase the engagement partner's liability. Some commenters believed that this alternative would increase both transparency and the engagement partner's sense of accountability. Other commenters believed that engagement partners already have sufficient incentives to have a strong sense of accountability and that signing their own name on the audit opinion would not affect that.

In the 2011 Release, in addition to the requirement to disclose the name of the engagement partner in the auditor's report, the Board proposed to add to Form 2, the annual report, a requirement to disclose the name of the engagement partner for each audit required to be reported on the form. As originally proposed, disclosure on Form 2 would supplement more timely disclosures in the auditor's report by providing a convenient mechanism to retrieve information about all of a firm's engagement partners for all of its audits. The 2011 Release also proposed to require disclosure about other participants in the most recent period's audit in the auditor's report.

The Board also considered only requiring disclosure in Form 2. There are, however, a number of disadvantages to a Form 2-only approach, as discussed in the 2013 Release. It would delay the disclosure of information useful to investors and other financial statement users from 3 to 15 months.[105] It also would make the information more difficult to find by investors interested only in the name of the engagement partner for a particular audit, rather than an aggregation of all of the firm's engagement partners for a given year, because they would have to search for it in the midst of unrelated information in Form 2.

Some commenters on both the 2011 Release and 2013 Release suggested that the names of the engagement partner and the other participants in the audit should be included, if they were to be disclosed at all, not in the auditor's report but on an existing or newly created PCAOB form only. This would make the information publicly available, while responding to concerns expressed by commenters related to liability and related practical issues. Some commenters on the 2013 Release also suggested that these disclosures would be more appropriately made in the company's audit committee report.

In considering commenters' views, the Board also considered providing auditors the option of making disclosure either in the auditor's report or on a newly created PCAOB form. This alternative would have had the advantage of allowing auditors to decide how to comply with the disclosure requirements based on their particular circumstances, may have imposed lower compliance costs in some instances compared to mandatory form filing or mandatory auditor's report disclosure, and may have resulted in more disclosures in the auditor's report than a mandatory form because some auditors may have preferred to avoid the cost of filing the form by disclosing the information in the auditor's report. However, such an approach would have permitted disclosures in multiple locations, which could have caused confusion and increased search costs compared to either auditor's report disclosure or a mandatory form.

Disclosure in the Auditor's Report

Under the alternative proposed in the 2013 Release, auditors would have been required to disclose the name of the engagement partner and certain other participants in the audit in the auditor's report. This approach has certain benefits to market participants related to timing and visibility of the disclosures. For example, mandated disclosure in the auditor's report would reduce search costs for market participants in some instances. The required information would be disclosed in the primary vehicle by which the auditor communicates with investors and where other information about the audit is already found, and would be available immediately upon filing with the SEC of a document containing the auditor's report. However, market participants may incur costs to aggregate the information disclosed in separate auditors' reports.

Some commenters indicated that, compared to disclosure on Form AP, disclosing the information in the auditor's report may have an incrementally larger effect on the sense of accountability of identified participants in the audit because, for example, the engagement partner would be involved in the preparation of the auditor's report, but may not be involved in the preparation of the form. As discussed above, increased auditor accountability could have both positive and potentially some negative effects on the audit.

Mandating disclosure of the name of the engagement partner in the auditor's report would also create consistency between PCAOB auditing standards and requirements of other global standard setters regarding engagement partner disclosure.[106] For example, 16 out of the 20 countries with the largest market capitalization, including 7 E.U. member states, already require disclosure of the name of the engagement partner in the auditor's report.[107] However, it should be noted that baseline conditions, including those regarding auditor

[105] Form 2 must be filed no later than June 30 of each year—according to PCAOB Rule 2201, *Time for Filing of Annual Report*—and covers the preceding 12-month period from April 1 to March 31; *see* Form 2, General Instruction 4.

[106] In 2014, the IAASB adopted ISA 700 (Revised), *Forming an Opinion and Reporting on Financial Statements,* which generally requires disclosure of the name of the engagement partner in the auditor's report. Following this adoption, disclosure of the engagement partner's name in the auditor's report of a listed entity will become the norm in those jurisdictions that have adopted the ISAs as adopted by the IAASB. *See also* 2013 Release for further discussion of the requirements regarding engagement partner disclosure in other jurisdictions.

[107] Out of the 20 countries with the largest market capitalization (based on data obtained from the World Bank, World Development Indicators), the four that currently do not require the disclosure of the name of the engagement partner are the United States, Canada, Republic of Korea, and Hong Kong. The 16 countries that currently require disclosure of the name of the engagement partner are Japan, United Kingdom, France, Germany, Australia, India, Brazil, China, Switzerland, Spain, Russian Federation, the Netherlands, South Africa, Sweden, Mexico, and Italy.

liability, may differ among these jurisdictions.

As previously discussed, disclosure in the auditor's report could trigger the consent requirement of Section 7 and subject the identified parties to potential liability under Section 11 of the Securities Act. As a result, there could be additional indirect costs to engagement partners and other accounting firms participating in audits associated with defense of the litigation.

Disclosure on a New PCAOB Form

Under the final rules adopted by the Board, firms are be required to disclose the name of the engagement partner and certain other accounting firms that participated in the audit in a separate PCAOB form to be filed by the 35th day after the date the auditor's report is first included in a document filed with the SEC, with a shorter deadline of 10 days for initial public offerings.

The approach described in the 2015 Supplemental Request would allow auditors to decide whether to also provide disclosure in the auditor's report taking into account, for example, any costs associated with obtaining consents pursuant to the Securities Act and the potential for liability stemming from disclosure in the auditor's report. Although many auditors may prefer to avoid the potential legal and practical issues associated with disclosure in the auditor's report, some auditors may choose to also make the required disclosures in the auditor's report. Financial statement users could interpret an auditor's willingness to be personally associated with the audit in the auditor's report as a signal of audit quality or, more generally, as a means of differentiating among auditors.[108]

Requiring disclosure in a separate PCAOB form may decrease the chances that investors and other financial statement users would seek out the information. While disclosure in the auditor's report would make information available on the date of SEC filing of the document containing the auditor's report, disclosure on Form AP could occur up to 35 days later and information would only be included in the auditor's report when the auditor also chose to disclose in the auditor's report. Regardless of where it is disclosed, investors should be able to consider the information in developing their investment strategies.[109]

Applicability to Brokers and Dealers Under Exchange Act Rule 17a–5

For a discussion of the economic considerations relevant to the application of the final rules to audits of brokers and dealers, *see* above.

Considerations for Audits of Emerging Growth Companies

Pursuant to Section 104 of the Jumpstart Our Business Startups (''JOBS'') Act, any rules adopted by the Board subsequent to April 5, 2012, do not apply to the audits of EGCs (as defined in Section 3(a)(80) of the Exchange Act) unless the SEC ''determines that the application of such additional requirements is necessary or appropriate in the public interest, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation.'' [110] As a result of the JOBS Act, the rules and related amendments to PCAOB standards the Board is adopting are subject to a separate determination by the SEC regarding their applicability to audits of EGCs.

The 2015 Supplemental Request as well as the 2013 Release sought comment on the applicability of the proposed disclosure requirements to the audits of EGCs. Commenters generally supported requiring the same disclosures for audits of EGCs on the basis that EGCs have the same characteristics as other issuers and that the same benefits would be applicable to EGCs.

The data on EGCs outlined below in ''Characteristics of Self-Identified EGCs,'' remains consistent with the data discussed in the 2013 Release, although the number of EGCs has nearly doubled since the issuance of that release. A majority of EGCs continue to be smaller public companies that are generally new to the SEC reporting process. Overall, there is less information available in the market about smaller and newer companies than there is about larger and more established companies. The communication of the name of the engagement partner and information about other accounting firms in the audit could assist the market in assessing some risks associated with the audit and in valuing securities, which could make capital allocation more efficient. Disclosures about audits of EGCs could produce these effects no less than disclosures about audits of other companies. Because there is generally less information available to investors about EGCs, additional disclosures about audits of EGCs may be of greater benefit to investors in EGCs than to investors in established issuers with a longer reporting history.

As noted below, some EGCs operate in geographic segments that are outside the country or region of the accounting firm issuing the auditor's report, which may suggest involvement of participants in the audit other than the accounting firm issuing the auditor's report. While a smaller percentage of EGCs report such sales and assets than the companies in the Russell 3000 Index, for those EGCs that do, the amounts represent a larger portion of total sales and assets. The percentage of EGCs reporting segment sales (15%) and assets (17%) in geographic areas outside the country or region of the accounting firm issuing the auditor's report is smaller as compared to companies in the Russell 3000 Index (51% and 42%, respectively). However, for these EGCs, the average percentage of reported segment sales (58%) and assets (73%) in geographic areas outside the country or region of the accounting firm issuing the auditor's report is significantly higher than the analogous average segment sales (40%) and assets (35%) reported by companies in the Russell 3000 Index. Therefore, providing the disclosures regarding other accounting firms in the audit may be as relevant, or more relevant, to investors in EGCs and other financial statement users as it would be to investors in larger and more established companies.

One commenter asserted that costs to collect data about other participants in the audit will likely be more significant and probably more burdensome for auditors of EGCs than those of other issuers. Based on the characteristics of EGCs it is unlikely that the cost of collecting data will be disproportionately high for EGCs as a group because the percentage of EGCs that operate outside the country or region of the accounting firm issuing the auditor's report appears to be relatively

[108] Changes to the format of the auditor's report in the United Kingdom may have provided auditors with a mechanism to distinguish themselves from their peers. Some filings suggest that some auditors may be using the new format to showcase the rigor and quality of their audit work. *See* Citi Research, *New UK Auditor's Reports Update* (Sept. 3, 2014).

[109] There is an extensive body of academic literature demonstrating that financial markets are able to incorporate information into securities prices. Because securities prices can be viewed as public goods, investors are able to learn important information about a company by looking at the prices of its securities. *See, e.g.,* Eugene F. Fama, *Efficient Capital Markets: A Review of Theory and Empirical Work,* 25 The Journal of Finance 383 (1970); Sanford Grossman, *Further Results on the Informational Efficiency of Competitive Stock Markets,* 18 Journal of Economic Theory 81 (1978); John C. Coffee, Jr., *Market Failure and the Economic Case for a Mandatory Disclosure System,* 70 Virginia Law Review 717 (1984); and Verrecchia, *Essays on Disclosure.*

[110] *See* Jumpstart Our Business Startups (''JOBS'') Act, Pub. L. 112–106 (Apr. 5, 2012). *See also* Section 103(a)(3)(C) of the Sarbanes-Oxley Act, (15 U.S.C. 7213(a)(3)), as added by Section 104 of the JOBS Act.

low compared to companies in the Russell 3000 Index. Although for those EGCs that do, the percentage of sales and assets that may be subject to audit by other participants could be greater.

The costs associated with the final rules, which are discussed above, are equally applicable to all companies, including EGCs. To the extent compliance costs do not vary with the size of the company, they may have a disproportionately greater impact on audits of smaller companies, including audits of smaller EGCs. As previously noted, however, the Board does not believe that direct costs for auditors to comply with the final rule will be significant. Such costs would not, in any case, be borne by companies, including EGCs, except to the extent they are passed on in the form of higher audit fees.

As noted above, the Board was mindful of concerns voiced by commenters about compliance and other costs. The final rule responds to those concerns by requiring disclosure on Form AP, which should not raise the same concerns about potential liability or consent requirements as disclosure in the auditor's report.

Approximately 3% of EGCs were audited by firms having only one certified public accountant whose full name is included in the firm's name (for example, sole proprietor). For those EGCs, the name of the audit engagement partner is already disclosed through the required signature of the firm on the auditor's report. No companies in the Russell 3000 Index are audited by such firms.

The Board is providing this analysis and the information set forth below to assist the SEC in its consideration of whether it is ''necessary or appropriate in the public interest, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation,'' to apply the standard and amendments to audits of EGCs. This information includes data and analysis of EGCs identified by the Board's staff from public sources.

The final rules will provide investors and other financial statement users with improved transparency about those who conduct audits, adding more specific data points to the mix of information that can be used to make decisions about audit quality and evaluate the credibility of financial reporting. The information will also allow investors and other financial statement users to evaluate the reputations of engagement partners and other accounting firms, which should have an effect on their sense of accountability.

For the reasons explained above, the Board believes that the final rules are in the public interest and, after considering the protection of investors and the promotion of efficiency, competition, and capital formation, recommends that the final rules should apply to audits of EGCs. Accordingly, the Board recommends that the Commission determine that it is necessary or appropriate in the public interest, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation, to apply the final rules to audits of EGCs. The Board stands ready to assist the Commission in considering any comments the Commission receives on these matters during the Commission's public comment process.

Characteristics of Self-Identified EGCs

The PCAOB has been monitoring implementation of the JOBS Act in order to understand the characteristics of EGCs [111] and inform the Board's consideration of whether it should recommend that the SEC approve the application of the final rules to audits of EGCs. To assist the SEC, the Board is providing the following information regarding EGCs that it has compiled from public sources.[112]

As of May 15, 2015, based on the PCAOB's research, there were 1,972 SEC registrants that filed audited financial statements and identified themselves as EGCs in at least one public filing. Among the 1,972 EGCs, there were 171 that did not file audited financial statements within the 18 months preceding May 15, 2015.[113] Characteristics of the remaining 1,801 companies that filed audited financial statements in the 18 months preceding May 15, 2015 are discussed below.

These companies operate in diverse industries. The five most common SIC codes applicable to these companies are: (i) pharmaceutical preparations; (ii) blank check companies; (iii) real estate investment trusts; (iv) prepackaged software services; and (v) business services.

The five SIC codes with the highest total assets as a percentage of the total assets of the population of EGCs are codes for: (i) Real estate investment trusts; (ii) state commercial banks; (iii) crude petroleum or natural gas; (iv) national commercial banks; and (v) electric services. Total assets of EGCs in these five SIC codes represent approximately 46% of the total assets of the population of EGCs. EGCs in two of these five SIC codes (state commercial banks and national commercial banks) represent financial institutions, and the total assets for these two SIC codes represent approximately 17% of the total assets of the population of EGCs.

Approximately 13% of the EGCs identified themselves in registration statements and had not reported under the Exchange Act as of May 15, 2015. Approximately 74% of EGCs began reporting under the Exchange Act in 2012 or later. The remaining 13% of these companies have been reporting under the Exchange Act since 2011 or earlier. Accordingly, a majority of the companies that have identified themselves as EGCs have been reporting information under the securities laws since 2012.

Approximately 62% of the companies that have identified themselves as EGCs and filed an Exchange Act filing with information on smaller reporting

[111] Pursuant to the JOBS Act, an EGC is defined in Section 3(a)(80) of the Exchange Act. In general terms, an issuer qualifies as an EGC if it has total annual gross revenue of less than $1 billion during its most recently completed fiscal year (and its first sale of common equity securities pursuant to an effective Securities Act registration statement did not occur on or before Dec. 8, 2011). *See* JOBS Act Section 101(a), (b), and (d). Once an issuer is an EGC, the entity retains its EGC status until the earliest of: (i) the first year after it has total annual gross revenue of $1 billion or more (as indexed for inflation every five years by the SEC); (ii) the end of the fiscal year after the fifth anniversary of its first sale of common equity securities under an effective Securities Act registration statement; (iii) the date on which the company issues more than $1 billion in nonconvertible debt during the prior three year period; or (iv) the date on which it is deemed to be a ''large accelerated filer'' under the Exchange Act (generally, an entity that has been public for at least one year and has an equity float of at least $700 million).

[112] To obtain data regarding EGCs, the PCAOB's Office of Research and Analysis compiled data from Audit Analytics on self-identified EGCs and excluded companies that (i) have terminated their registration, (ii) had their registration revoked, or (iii) have withdrawn their registration statement prior to effectiveness and, in each case, have not subsequently filed audited financial statements. The PCAOB has not validated these entities' self-identification as EGCs. The information presented also does not include data for entities that have filed confidential registration statements and have not subsequently made a public filing.

[113] Approximately 28% of these 171 companies are blank check companies according to the Standard Industrial Classification (''SIC'') code. This is the most common SIC code among the 171 companies; the next most common SIC code (5%) is that for metal mining (the remaining SIC codes each represent less than 5%). Approximately 84% of these 171 companies had an explanatory paragraph included in the last auditor's report filed with the SEC stating that there is substantial doubt about the company's ability to continue as a going concern. Approximately 7% of these 171 companies were audited by firms that are annually inspected by the PCAOB, 2% were audited by firms that are affiliates of annually inspected firms, 2% were audited by other foreign firms, and the remaining 89% were audited by domestic firms that are triennially inspected by the PCAOB.

company status indicated that they were smaller reporting companies.[114]

Approximately 54% of the companies that have identified themselves as EGCs provided a management report on internal control over financial reporting.[115] Of those companies that provided a management report, approximately 50% stated in the report that the company's internal control over financial reporting was not effective.[116]

The most recent audited financial statements filed as of May 15, 2015, for those companies that identified as EGCs indicated the following:

- The reported assets ranged from zero to approximately $12.9 billion. The average and median reported assets were approximately $227.4 million and $3.1 million, respectively.[117]
- The reported revenue ranged from zero to approximately $926.4 million. The average and median reported revenue were approximately $53.7 million and $48 thousand, respectively.
- Approximately 43% reported zero revenue in their financial statements.
- The average and median reported assets among companies that reported revenue greater than zero were approximately $382.3 million and $71.1 million, respectively. The average and median reported revenue among these companies that reported revenue greater than zero were approximately $94.0 million and $13.5 million, respectively.
- Approximately 50% had an explanatory paragraph included in the auditor's report on their most recent audited financial statements describing that there is substantial doubt about the company's ability to continue as a going concern.[118]
- Approximately 44% were audited by firms that are annually inspected by the PCAOB (that is, firms that have issued auditor's reports for more than 100 public company audit clients in a given year) or are affiliates of annually inspected firms. Approximately 56% were audited by triennially inspected firms (that is, firms that have issued auditor's reports for 100 or fewer public company audit clients in a given year) that are not affiliates of annually inspected firms.
- Approximately 3% were audited by firms: (1) whose names contain the full name of an individual that is in a leadership role at the firm and (2) have disclosed only one certified public accountant.[119]
- Approximately 15% and 17% of the EGCs reported segment sales and assets,[120] respectively, in geographic areas outside the country or region of the accounting firm issuing the auditor's report.[121] For these EGCs, on average, 58% and 73% of the reported segment sales and assets, respectively, were in geographic areas outside the country or region of the accounting firm issuing the auditor's report.[122]

[114] The SEC adopted its current smaller reporting company rules in *Smaller Reporting Company Regulatory Relief and Simplification,* Securities Act Release No. 8876 (Dec. 19, 2007). Generally, companies qualify to be smaller reporting companies and, therefore, have scaled disclosure requirements if they have less than $75 million in public equity float. Companies without a calculable public equity float will qualify if their revenues were below $50 million in the previous year. Scaled disclosure requirements generally reduce the compliance burden of smaller reporting companies compared to other issuers.

[115] The management report on internal control over financial reporting is required only in annual reports, starting with the second annual report filed by the company. *See* Instruction 1 to Item 308(a) of Regulation S–K. EGCs that have not yet filed at least one annual report are therefore not required to provide it.

[116] For purposes of comparison, the PCAOB compared the data compiled with respect to the population of companies that identified themselves as EGCs with companies listed in the Russell 3000 Index in order to compare the EGC population with the broader issuer population. The Russell 3000 Index was chosen for comparative purposes because it is intended to measure the performance of the largest 3,000 U.S. companies representing approximately 98% of the investable U.S. equity market (as indicated on the Russell Web site). To contrast, approximately 98% of the companies in the Russell 3000 Index provided a management report on internal control over financial reporting. Of those companies that provided a management report, approximately 5% stated in the report that the company's internal control over financial reporting was not effective.

[117] For purposes of comparison, the PCAOB compared the data compiled with respect to the population of companies that identified themselves as EGCs with companies listed in the Russell 3000 Index in order to compare the EGC population with the broader issuer population. The average and median reported assets of issuers in the Russell 3000 Index were approximately $13.2 billion and approximately $1.9 billion, respectively. The average and median reported revenue from the most recent audited financial statements filed as of May 15, 2015, of issuers in the Russell 3000 were approximately $4.9 billion and $812.9 million, respectively.

[118] Less than 1% of companies in the Russell 3000 Index have an explanatory paragraph describing that there is substantial doubt about the company's ability to continue as a going concern.

[119] This data is based on firms' annual disclosures on PCAOB Form 2. No companies in the Russell 3000 Index were audited by such firms.

[120] *See* Financial Accounting Standards Board Accounting Standards Codification, Topic 280, *Segment Reporting.*

[121] Approximately 51% and 41% of the population of companies in the Russell 3000 Index reported segment sales and assets, respectively, in geographic areas outside the country or region of the accounting firm issuing the auditor's report.

[122] For the population of companies in the Russell 3000 Index that reported segment sales or assets in geographic areas outside the country or region of the accounting firm issuing the auditor's report, approximately 40% and 35% of those segment sales and assets, respectively, were in geographic areas outside the country or region of the accounting firm issuing the auditor's report.

III. Date of Effectiveness of the Proposed Rules and Timing for Commission Action

Pursuant to Section 19(b)(2)(A)(ii) of the Exchange Act, and based on its determination that an extension of the period set forth in Section 19(b)(2)(A)(i) of the Exchange Act is appropriate in light of the PCAOB's request that the Commission, pursuant to Section 103(a)(3)(C) of the Sarbanes-Oxley Act, determine that the proposed rules apply to audits of emerging growth companies, as defined in Section 3(a)(80) of the Exchange Act, the Commission has determined to extend to May 16, 2016 the date by which the Commission should take action on the proposed rules.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rules are consistent with the requirements of Title I of 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/pcaob.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number PCAOB–2016–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number PCAOB–2016–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/pcaob.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rules that are filed with the Commission, and all written communications relating to the proposed rules 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, on official business days between the hours of 10:00 a.m. and 3:00 p.m.

Copies of such filing will also be available for inspection and copying at the principal office of the PCAOB. All comments received will be posted without charge; we do 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 PCAOB–2016–01 and should be submitted on or before March 8, 2016.

[123] 17 CFR 200.30–11(b)(2).

For the Commission, by the Office of the Chief Accountant, by delegated authority.[123]

Brent J. Fields,

Secretary.

[FR Doc. 2016–02875 Filed 2–12–16; 8:45 am]

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Part IV

The President

Executive Order 13719—Establishment of the Federal Privacy Council: Republication

Federal Register
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Presidential Documents

Title 3—

The President

Executive Order 13719 of February 9, 2016

Establishment of the Federal Privacy Council

Republication

[Editorial Note: Executive Order 13719, originally published on pages 7685–7689 in the **Federal Register** of Friday, February 12, 2016, is being republished due to an inadvertent extra section line in the document.]

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Policy.* The mission of the United States Government is to serve its people. In order to accomplish its mission, the Government lawfully collects, maintains, and uses large amounts of information about people in a wide range of contexts. Protecting privacy in the collection and handling of this information is fundamental to the successful accomplishment of the Government's mission. The proper functioning of Government requires the public's trust, and to maintain that trust the Government must strive to uphold the highest standards for collecting, maintaining, and using personal data. Privacy has been at the heart of our democracy from its inception, and we need it now more than ever.

Executive departments and agencies (agencies) already take seriously their mission to protect privacy and have been working diligently to advance that mission through existing interagency mechanisms. Today's challenges, however, require that we find even more effective and innovative ways to improve the Government's efforts. Our efforts to meet these new challenges and preserve our core value of privacy, while delivering better and more effective Government services for the American people, demand leadership and enhanced coordination and collaboration among a diverse group of stakeholders and experts.

Therefore, it shall be the policy of the United States Government that agencies shall establish an interagency support structure that: builds on existing interagency efforts to protect privacy and provides expertise and assistance to agencies; expands the skill and career development opportunities of agency privacy professionals; improves the management of agency privacy programs by identifying and sharing lessons learned and best practices; and promotes collaboration between and among agency privacy professionals to reduce unnecessary duplication of efforts and to ensure the effective, efficient, and consistent implementation of privacy policy Government-wide.

Sec. 2. *Policy on Senior Agency Officials for Privacy.* Within 120 days of the date of this order, the Director of the Office of Management and Budget (Director) shall issue a revised policy on the role and designation of the Senior Agency Officials for Privacy. The policy shall provide guidance on the Senior Agency Official for Privacy's responsibilities at their agencies, required level of expertise, adequate level of resources, and other matters as determined by the Director. Agencies shall implement the requirements of the policy within a reasonable time frame as prescribed by the Director and consistent with applicable law.

Sec. 3. *Responsibilities of Agency Heads.* The head of each agency, consistent with guidance to be issued by the Director as required in section 2 of this order, shall designate or re-designate a Senior Agency Official for Privacy with the experience and skills necessary to manage an agency-wide privacy

program. In addition, the head of each agency, to the extent permitted by law and consistent with ongoing activities, shall work with the Federal Privacy Council, established in section 4 of this order.

Sec. 4. *The Federal Privacy Council.*

(a) *Establishment.* There is hereby established the Federal Privacy Council (Privacy Council) as the principal interagency forum to improve the Government privacy practices of agencies and entities acting on their behalf. The establishment of the Privacy Council will help Senior Agency Officials for Privacy at agencies better coordinate and collaborate, educate the Federal workforce, and exchange best practices. The activities of the Privacy Council will reinforce the essential work that agency privacy officials undertake every day to protect privacy.

(b) *Membership.* The Chair of the Privacy Council shall be the Deputy Director for Management of the Office of Management and Budget. The Chair may designate a Vice Chair, establish working groups, and assign responsibilities for operations of the Privacy Council as he or she deems necessary. In addition to the Chair, the Privacy Council shall be composed of the Senior Agency Officials for Privacy at the following agencies:

(i) Department of State;

(ii) Department of the Treasury;

(iii) Department of Defense;

(iv) Department of Justice;

(v) Department of the Interior;

(vi) Department of Agriculture;

(vii) Department of Commerce;

(viii) Department of Labor;

(ix) Department of Health and Human Services;

(x) Department of Homeland Security;

(xi) Department of Housing and Urban Development;

(xii) Department of Transportation;

(xiii) Department of Energy;

(xiv) Department of Education;

(xv) Department of Veterans Affairs;

(xvi) Environmental Protection Agency;

(xvii) Office of the Director of National Intelligence;

(xviii) Small Business Administration;

(xix) National Aeronautics and Space Administration;

(xx) Agency for International Development;

(xxi) General Services Administration;

(xxii) National Science Foundation;

(xxiii) Office of Personnel Management; and

(xxiv) National Archives and Records Administration.

The Privacy Council may also include other officials from agencies and offices, as the Chair may designate, and the Chair may invite the participation of officials from such independent agencies as he or she deems appropriate.

(c) *Functions.* The Privacy Council shall:

(i) develop recommendations for the Office of Management and Budget on Federal Government privacy policies and requirements;

(ii) coordinate and share ideas, best practices, and approaches for protecting privacy and implementing appropriate privacy safeguards;

(iii) assess and recommend how best to address the hiring, training, and professional development needs of the Federal Government with respect to privacy matters; and

(iv) perform other privacy-related functions, consistent with law, as designated by the Chair.

(d) *Coordination.*

(i) The Chair and the Privacy Council shall coordinate with the Federal Chief Information Officers Council (CIO Council) to promote consistency and efficiency across the executive branch when addressing privacy and information security issues. In addition, the Chairs of the Privacy Council and the CIO Council shall coordinate to ensure that the work of the two councils is complementary and not duplicative.

(ii) The Chair and the Privacy Council should coordinate, as appropriate, with such other interagency councils and councils and offices within the Executive Office of the President, as appropriate, including the President's Management Council, the Chief Financial Officers Council, the President's Council on Integrity and Efficiency, the National Science and Technology Council, the National Economic Council, the Domestic Policy Council, the National Security Council staff, the Office of Science and Technology Policy, the Interagency Council on Statistical Policy, the Federal Acquisition Regulatory Council, and the Small Agency Council.

Sec. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to a department, agency, or the head thereof; or

(ii) the functions of the Director 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) Independent agencies are encouraged to comply with the requirements of this order.

(d) 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.

THE WHITE HOUSE,
February 9, 2016.

[FR Doc. R1–2016–03141
Filed 2–12–16; 1:30 pm]
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